

1 S.220

2 Representative Botzow of Pownal, on behalf of the Committee on
3 Commerce and Economic Development, moves that the House concur in the
4 Senate Further Proposal of Amendment with further amendment thereto by
5 striking out all after the enacting clause and inserting in lieu thereof the
6 following:

7 * * * One-Stop Business Support Services * * *

8 Sec. 1. ONE-STOP SHOP WEB PORTAL

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

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

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

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

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

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

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

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

8 (1) Phase 1. Complete necessary partner outreach and collaboration and
9 an inventory of existing websites, determine the appropriate content to be
10 included on the One-Stop website, and update current websites to include links
11 to State agencies and departments with regulatory oversight and authority over
12 Vermont businesses.

13 (2) Phase 2. Edit and organize the content to be included on the
14 One-Stop website.

15 (3) Phase 3. Complete the design and mapping of the One-Stop website.

16 (4) Phase 4. Complete a communications and outreach plan with a final
17 funding proposal for the project.

18 * * * Vermont Enterprise Fund * * *

19 Sec. 2. VERMONT ENTERPRISE FUND

20 (a) There is created a Vermont Enterprise Fund, the sums of which may be
21 used by the Governor, with the approval of the Emergency Board, for the

1 purpose of making economic and financial resources available to businesses
2 facing circumstances that necessitate State government support and response
3 more rapidly than would otherwise be available from, or that would be in
4 addition to, other economic incentives.

5 (b)(1) The Fund shall be administered by the Commissioner of Finance and
6 Management as a special fund under the provisions of chapter 7, subchapter 5
7 of this title.

8 (2) The Fund shall contain any amounts transferred or appropriated to it
9 by the General Assembly.

10 (3) Interest earned on the Fund and any balance remaining at the end of
11 the fiscal year shall remain in the Fund.

12 (4) The Commissioner shall maintain records that indicate the amount of
13 money in the Fund at any given time.

14 (c) The Governor is authorized to use amounts available in the Fund to
15 offer economic and financial resources to an eligible business pursuant to this
16 section, subject to approval by the Emergency Board as provided in subsection
17 (e) of this section.

18 (d) To be eligible for an investment through the Fund, the Governor shall
19 determine that a business:

20 (1) adequately demonstrates:

1 (A) a substantial statewide or regional economic or employment
2 impact; or

3 (B) approval or eligibility for other economic development incentives
4 and programs offered by the State of Vermont; and

5 (2) is experiencing one or more of the following circumstances:

6 (A) a merger or acquisition may cause the closing of all or a portion
7 of a Vermont business, or closure or relocation outside Vermont will cause the
8 loss of employment in Vermont;

9 (B) a prospective purchaser is considering the acquisition of an
10 existing business in Vermont;

11 (C) an existing employer in Vermont, which is a division or
12 subsidiary of a multistate or multinational company, may be closed or have its
13 employment significantly reduced; or

14 (D) is considering Vermont for relocation or expansion.

15 (e)(1) Any economic and financial resources offered by the Governor under
16 this section must be approved by the Emergency Board before an eligible
17 business may receive assistance from the Fund.

18 (2) The Board shall invite the Chair of the Senate Committee on
19 Economic Development, Housing and General Affairs and the Chair of the
20 House Committee on Commerce and Economic Development to participate in
21 Board deliberations under this section in an advisory capacity.

1 (3) The Governor or designee, shall present to the Emergency Board for
2 its approval:

3 (A) information on the company;

4 (B) the circumstances supporting the offer of economic and financial
5 resources;

6 (C) a summary of the economic activity proposed or that would be
7 forgone;

8 (D) other State incentives and programs offered or involved;

9 (E) the economic and financial resources offered by the Governor
10 requiring use of monies from the Fund;

11 (F) employment, investment, and economic impact of Fund support
12 on the employer, including a fiscal cost-benefit analysis; and

13 (G) terms and conditions of the economic and financial resources
14 offered, including:

15 (i) the total dollar amount and form of the economic and financial
16 resources offered;

17 (ii) employment creation, employment retention, and capital
18 investment performance requirements; and

19 (iii) disallowance and recapture provisions.

1 (4) The Emergency Board shall have the authority to approve,
2 disapprove, or modify an offer of economic and financial resources in its
3 discretion, including consideration of the following:

4 (A) whether the business has presented sufficient documentation to
5 demonstrate compliance with subsection (d) of this section;

6 (B) whether the Governor has presented sufficient information to the
7 Board under subdivision (3) of this subsection (e);

8 (C) whether the business has received other State resources and
9 incentives, and if so, the type and amount; and

10 (D) whether the business and the Governor have made available to
11 the Board sufficient information and documentation for the Auditor of
12 Accounts to perform an adequate performance audit of the program, including
13 the extent to which necessary information or documentation is or will be
14 withheld under a claim that it is confidential, proprietary, or subject to
15 executive privilege.

16 (f)(1) Proprietary business information and materials or other confidential
17 financial information submitted by a business to the State, or submitted by the
18 Governor to the Emergency Board, for the purpose of negotiating or approving
19 economic and financial resources under this section shall not be subject to
20 public disclosure under the State's public records law in 1 V.S.A. chapter 5,
21 but shall be available to the Joint Fiscal Office or its agent upon authorization

1 of the Chair of the Joint Fiscal Committee, and shall also be available to the
2 Auditor of Accounts in connection with the performance of duties under
3 section 163 of this title; provided, however, that the Joint Fiscal Office or its
4 agent, and the Auditor of Accounts, shall not disclose, directly or indirectly, to
5 any person any proprietary business or other confidential information or any
6 information which would identify a business except in accordance with a
7 judicial order or as otherwise specifically provided by law.

8 (2) Nothing in this subsection shall be construed to prohibit the
9 publication of statistical information, rulings, determinations, reports, opinions,
10 policies, or other information so long as the data are disclosed in a form that
11 cannot identify or be associated with a particular business.

12 (g) On or before January 15 of each year following a year in which
13 economic and financial resources were made available pursuant to this section,
14 the Secretary of Commerce and Community Development shall submit to the
15 House Committees on Commerce and Economic Development and on Ways
16 and Means and to the Senate Committees on Finance and on Economic
17 Development, Housing and General Affairs a report on the resources made
18 available pursuant to this section, including:

19 (1) the name of the recipient;

20 (2) the amount and type of the resources;

1 (3) the aggregate number of jobs created or retained as a result of the
2 resources;

3 (4) a statement of costs and benefits to the State; and

4 (5) whether any offer of resources was disallowed or recaptured.

5 (h) This section shall sunset on June 30, 2016 and any remaining balance in
6 the Fund shall be transferred to the General Fund.

7 Sec. 3. CONTINGENT FISCAL YEAR 2014 APPROPRIATION

8 After satisfying the requirements of 32 V.S.A. § 308, and after other reserve
9 requirements have been met and prior to any funds reserved pursuant to
10 32 V.S.A. § 308c, any remaining unreserved and undesignated end of fiscal
11 year General Fund surplus up to \$5,000,000.00 shall be appropriated to the
12 extent available, in the following order:

13 (1) \$500,000.00 to the Vermont Economic Development Authority for
14 loan loss reserves within the Vermont Entrepreneurial Lending Program for the
15 purposes specified in 10 V.S.A. § 280bb;

16 (2) \$4,500,000.00 to the Vermont Enterprise Fund for the purposes
17 specified in Sec. E.100.5 of this act.

1 * * * Vermont Economic Development Authority * * *

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

3 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

4 AUTHORITY

5 * * *

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

7 Program

8 § 280aa. FINDINGS AND PURPOSE

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

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

20 (b) To support the growth of ~~technology-based companies~~ Vermont-based
21 businesses in seed, start-up, and growth stages and the resultant creation of

1 ~~high wage~~ higher wage employment in Vermont, a ~~technology loan program~~ is
2 ~~established under this subchapter~~ the General Assembly hereby creates in this
3 subchapter the Vermont Entrepreneurial Lending Program.

4 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL
5 LENDING PROGRAM

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

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

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

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

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

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

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

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

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

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

3 (d) The Authority shall include provisions in the terms of a loan made
4 under the Program to ensure that a loan recipient shall maintain operations
5 within the State for a minimum of five years from the date on which the
6 recipient receives the loan funds from the Authority or shall otherwise be
7 required to repay the outstanding funds in full.

8 * * *

9 Sec. 5. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN
10 LOSS RESERVE FUNDS; CAPITALIZATION

11 (a) The Vermont Economic Development Authority shall capitalize loan
12 loss reserves for the Vermont Entrepreneurial Lending Program created in
13 10 V.S.A. § 280bb with the following funding from the following sources:

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

16 (2) Fiscal Year 2014 funds appropriated to the Program pursuant to
17 Sec. 1b of this act.

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

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

2 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

3 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT
4 PROGRAM

5 * * *

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

10 § 374b. DEFINITIONS

11 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

10 * * *

11 * * * Connecting Capital Providers and Entrepreneurs * * *

12 Sec. 7. NETWORKING INITIATIVES

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

18 (b) The Agency shall submit to the House Committee on Commerce and
19 Economic Development and to the Senate Committee on Economic
20 Development, Housing and General Affairs:

1 (1) a status report on or before January 15, 2015 concerning the
2 structure of networking initiatives, the relevant provisions of governing
3 performance contracts, and the benchmarks and measures of performance; and

4 (2) a report on or before December 15, 2015 concerning the outcomes of
5 and further recommendations for the program.

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

7 (3) “Qualified code or technology improvement project” means a
8 project:

9 (A)(i) ~~To~~ to install or improve platform lifts suitable for transporting
10 personal mobility devices, elevators, sprinkler systems, and capital
11 improvements in a qualified building, and the installations or improvements
12 are required to bring the building into compliance with the statutory
13 requirements and rules regarding fire prevention, life safety, and electrical,
14 plumbing, and accessibility codes as determined by the ~~department of public~~
15 safety. Department of Public Safety; or

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

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

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

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

7 (7) “Qualified project” means a qualified code or technology
8 improvement, qualified façade improvement, qualified technology
9 infrastructure project, or qualified historic rehabilitation project as defined by
10 this subchapter.

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

12 § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

17 * * *

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

19 (c) Code or technology improvement tax credit. The qualified applicant of
20 a qualified code or technology improvement project shall be entitled, upon the
21 approval of the State Board, to claim against the taxpayer’s State individual

1 income tax, State corporate income tax, or bank franchise or insurance
2 premiums tax liability a credit of 50 percent of qualified expenditures up to a
3 maximum tax credit of \$12,000.00 for installation or improvement of a
4 platform lift, a maximum tax credit of \$50,000.00 for installation or
5 improvement of an elevator, a maximum tax credit of \$50,000.00 for
6 installation or improvement of a sprinkler system, a maximum tax credit of
7 \$30,000.00 for the combined costs of installation or improvement of data or
8 network wiring or a heating, ventilating, or cooling system, and a maximum
9 tax credit of \$25,000.00 for the combined costs of all other qualified code
10 improvements.

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

12 § 218e. IMPLEMENTING STATE ENERGY POLICY;

13 MANUFACTURING

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

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

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

6 Sec. 13. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

7 (a) The Commissioner of Public Service and the Secretary of Commerce
8 and Community Development, in consultation with the Public Service Board, a
9 private organization that represents the interests of manufacturers, a
10 cooperative electric company, an efficiency utility, a shareholder-owned
11 utility, the Vermont Public Power Supply Authority (VPPSA), a municipal
12 utility that is not a member of VPPSA, and the Vermont Electric Power
13 Company (VELCO), shall conduct an investigation of how best to advance the
14 public good through consideration of the competitiveness of Vermont's
15 industrial or manufacturing businesses with regard to electricity costs.

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

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

1 (2) with regard to the energy efficiency programs established under
2 section 209 of this title, potential changes to their delivery, funding, financing,
3 and participation requirements;

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

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

10 (5) any other programs or policies the Commissioner and the Secretary
11 deem relevant;

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

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

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

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

7 (1) consumer and business advocacy groups;

8 (2) regional development corporations and regional planning
9 commissions; and

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

12 (d) On or before December 15, 2014, the Commissioner and Secretary shall
13 provide a status report to the General Assembly of its findings and
14 recommendations regarding regulatory or statutory changes that would reduce
15 energy costs for Vermont businesses and promote the public good. On or
16 before December 15, 2015, the Commissioner and Secretary shall provide a
17 final report to the General Assembly of such findings and recommendations.

1 * * * Domestic Export Program * * *

2 Sec. 14. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

3 AGRICULTURE AND FOREST PRODUCTS

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

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

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

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

16 (b) The Secretary shall collect data on the activities and outcomes of the
17 pilot project authorized under this section and shall report his or her findings
18 and recommendations for further action on or before January 15, 2015, to the
19 House Committees on Agriculture and Forest Products and on Commerce and
20 Economic Development and to the Senate Committees on Agriculture and on
21 Economic Development, Housing and General Affairs.

* * * Criminal Penalties for Computer Crimes * * *

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

CHAPTER 87. COMPUTER CRIMES

* * *

§ 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

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

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

§ 4105. THEFT OR DESTRUCTION

(a)(1) A person shall not intentionally and without claim of right deprive the owner of possession, take, transfer, copy, conceal, or retain possession of,

1 or intentionally and without lawful authority, destroy any computer system,
2 computer network, computer software, computer program, or data contained in
3 such computer, computer system, computer program, or computer network.

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

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

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

12 (2) if the damage or loss does not exceed \$500.00 for a second or
13 subsequent offense, imprisoned not more than two years or fined not more than
14 ~~\$1,000.00~~ \$10,000.00, or both; or

15 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
16 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

17 § 4106. CIVIL LIABILITY

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

21 * * *

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

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

4 § 523. TRADE SECRETS

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

10 * * * Protection of Trade Secrets * * *

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

12 CHAPTER 143. TRADE SECRETS

13 § 4601. DEFINITIONS

14 As used in this chapter:

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

18 (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

3 § 4602. INJUNCTIVE RELIEF

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

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

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

18 § 4603. DAMAGES

19 (a)(1) Except to the extent that a material and prejudicial change of position
20 prior to acquiring knowledge or reason to know of misappropriation renders a

1 monetary recovery inequitable, a complainant is entitled to recover damages
2 for misappropriation.

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

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

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

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

15 § 4605. PRESERVATION OF SECRECY

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

1 § 4607. EFFECT ON OTHER LAW

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

5 (b) This chapter does not affect:

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

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

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

12 * * *

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

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

15 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

16 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

17 (a) The Secretary of Administration shall include in Administrative
18 Bulletin 3.5 a policy direction applicable to State procurement contracts that
19 include services for the development of software applications, computer
20 coding, or other intellectual property, which would allow the State of Vermont

1 to grant permission to the contractor to use or own the intellectual property
2 created under the contract for the contractor's commercial purposes.

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

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

11 * * * Department of Financial Regulation * * *

12 Sec. 19. SMALL BUSINESS ACCESS TO CAPITAL

13 (a) Crowdfunding study. The Department of Financial Regulation shall
14 study the opportunities and limitations for crowdfunding to increase access to
15 capital for Vermont's small businesses. On or before January 15, 2015, the
16 Department shall report its findings and recommendations to the House
17 Committee on Commerce and Economic Development and the Senate
18 Committee on Economic Development, Housing and General Affairs.

19 (b) Small business issuer education and outreach. On or before January 15,
20 2015, the Department of Financial Regulation shall conduct at least two
21 educational events to inform the legal, small business, and investor

1 communities and other interested parties, of opportunities for small businesses
2 to access capital in Vermont, including, the Vermont Small Business Offering
3 Exemption regulation and other securities registration exemptions.

4 (c) Vermont Small Business Offering Exemption. The Commissioner of
5 Financial Regulation shall exercise his or her rulemaking authority under
6 9 V.S.A. chapter 150 to review and revise the Vermont Small Business
7 Offering Exemption and any other state securities exemptions, specifically
8 including those designed to complement exemptions from federal registration
9 requirements available under Regulation D, in order to recognize and reflect
10 the evolution of capital markets and to ensure that Vermont remains current
11 and competitive in its securities regulations, particularly with respect to access
12 to capital for small businesses.

13 Sec. 20. STUDY; DEPARTMENT OF FINANCIAL REGULATION;
14 LICENSED LENDER REQUIREMENTS; COMMERCIAL
15 LENDERS

16 On or before January 15, 2015, the Department of Financial Regulation
17 shall solicit public comment on, evaluate, and report to the House Committee
18 on Commerce and Economic Development and to the Senate Committees on
19 Finance and on Economic Development, Housing and General Affairs any
20 statutory and regulatory changes to the State's licensed lender requirements

1 that are necessary to open private capital markets and remove unnecessary
2 barriers to business investment in Vermont.

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

4 Lending Activity * * *

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

6 2201. LICENSES REQUIRED

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

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

12 (2) act as a mortgage broker;

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

14 (4) act as a sales finance company.

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

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

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

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

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

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

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

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

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

6 (4) a A depository institution or a financial institution as defined in
7 8 V.S.A. § 11101(32);

8 (5) a A pawnbroker;

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

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

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

19 (9) ~~lenders~~ Lenders that conduct their lending activities, other than
20 residential mortgage loan activities, through revolving loan funds, that are
21 nonprofit organizations exempt from taxation under Section 501(c) of the

1 Internal Revenue Code, 26 U.S.C. § 501(c), and that register with the
2 ~~commissioner of economic development~~ Commissioner of Economic
3 Development under 10 V.S.A. § 690a;

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

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

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

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

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

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

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

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

16 (15) a A housing finance agency.

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

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

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

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

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

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

16 (5) A licensed attorney who negotiates the terms of a residential
17 mortgage loan on behalf of a client as an ancillary matter to the attorney's
18 representation of the client, unless the attorney is compensated by a lender, a
19 mortgage broker, or other mortgage loan originator or by any agent of such
20 lender, mortgage broker, or other mortgage loan originator. To the extent an
21 attorney licensed in this State undertakes activities that are covered by the

1 definition of a mortgage loan originator, such activities do not constitute
2 engaging in the business of a mortgage loan originator, provided that:

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

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

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

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

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

16 (g) Independent contractor loan processors or underwriters. A loan
17 processor or underwriter who is an independent contractor may not engage in
18 the activities of a loan processor or underwriter unless such independent
19 contractor loan processor or underwriter obtains and maintains a mortgage loan
20 originator license. Each independent contractor loan processor or underwriter

1 licensed as a mortgage loan originator must have and maintain a valid unique
2 identifier issued by the Nationwide Mortgage Licensing System and Registry.

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

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

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

7 Sec. 8. INVESTMENT OF STATE MONIES

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

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

12 LOCAL INVESTMENTS

13 (a) Notwithstanding any other provision of law to the contrary, the
14 Vermont State Treasurer shall have the authority to establish a credit facility of
15 up to 10 percent of the State's average cash balance on terms acceptable to the
16 Treasurer consistent with the provisions of the Uniform Prudent Investor Act,
17 14A V.S.A. chapter 9.

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

1 Sec. 24. TREASURER’S LOCAL INVESTMENT ADVISORY
2 COMMITTEE; REPORT

3 (a) Creation of committee. The Treasurer’s Local Investment Advisory

4 Committee is established to:

5 (1) advise the Treasurer on funding priorities for credit facilities

6 authorized by current law; and

7 (2) address other mechanisms to increase local investment.

8 (b) Membership.

9 (1) The Committee shall be composed of the following members:

10 (A) the State Treasurer or designee, who shall serve as Chair of the

11 Committee;

12 (B) the Commissioner of Financial Regulation or designee;

13 (C) the Secretary of Commerce and Community Development or

14 designee;

15 (D) a senior officer of a Vermont bank, who shall be appointed by the

16 Governor;

17 (E) a member of the public, who shall be appointed by the Speaker of

18 the House;

19 (F) a member of the public, who shall be appointed by the President

20 Pro Tempore of the Senate;

1 (G) the executive director of a Vermont nonprofit organization that,
2 as part of its mission, directly lends or services loans or other similar
3 obligations, who shall be appointed by the Governor;

4 (H) the manager of the Vermont Economic Development Authority
5 or designee;

6 (I) the executive director of the Vermont Housing Finance Agency or
7 designee;

8 (J) the President of the Vermont Student Assistance Corporation or
9 designee; and

10 (K) the executive director of the Vermont Municipal Bond Bank or
11 designee.

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

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

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

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

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

6 (d) Meetings.

7 (1) Meetings of the Advisory Committee shall occur at the call of the
8 Treasurer.

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

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

14 (e) Report. On or before January 15, 2015, and annually thereafter, the
15 Advisory Committee shall submit a report to the Senate Committees on
16 Economic Development, Housing and General Affairs, on Finance, and on
17 Government Operations and the House Committees on Commerce and
18 Economic Development, on Ways and Means, and on Government Operations.

19 The report shall include the following:

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

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

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

8 Sec. 25. SUNSET

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

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

11 § 2481w. UNLICENSED LOAN TRANSACTIONS

12 (a) In this subchapter:

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

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

19 (3) “Process” or “processing” includes printing a check, draft, or other
20 form of negotiable instrument drawn on or debited against a consumer’s
21 financial account, formatting or transferring data for use in connection with the

1 debiting of a consumer's financial account by means of such an instrument or
2 an electronic funds transfer, or arranging for such services to be provided to a
3 lender.

4 (4) "Processor" means a person who engages in processing, as defined
5 in subdivision (3) of this subsection. In this section, "processor" does not
6 include an interbank clearinghouse.

7 (5) "Interbank clearinghouse" means a person that operates an exchange
8 of automated clearinghouse items, checks, or check images solely between
9 insured depository institutions.

10 (b) It is an unfair and deceptive act and practice in commerce for a lender
11 directly or through an agent to solicit or make a loan to a consumer by any
12 means unless the lender is in compliance with all provisions of 8 V.S.A.
13 chapter 73 or is otherwise exempt from the requirements of 8 V.S.A.
14 chapter 73.

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

1 (d) It is an unfair and deceptive act and practice in commerce for any
2 person, including the lender’s financial institution as defined in 8 V.S.A.
3 § 10202(5), but not including the consumer’s financial institution as defined in
4 8 V.S.A. § 10202(5) or an interbank clearinghouse as defined in subsection (a)
5 of this section, to provide substantial assistance to a lender or processor when
6 the person or the person’s authorized agent receives notice from a regulatory,
7 law enforcement, or similar governmental authority, or knows from its normal
8 monitoring and compliance systems, or consciously avoids knowing that the
9 lender or processor is in violation of subsection (b) or (c) of this section, or is
10 engaging in an unfair or deceptive act or practice in commerce.

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

12 § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS
13 FACILITIES

14 * * *

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

16 * * *

17 (4) “Telecommunications facility” means a communications facility that
18 transmits and receives signals to and from a local, State, national, or
19 international network used primarily for two-way communications for
20 commercial, industrial, municipal, county, or State purposes and any
21 associated support structure that is proposed for construction or installation

1 which is primarily for communications purposes, and any ancillary
2 improvements that are proposed for construction or installation and are
3 primarily intended to serve the communications facilities or support structure.

4 An applicant may seek approval of construction or installation of a
5 telecommunications facility whether or not the telecommunications facility is
6 attached to an existing structure.

7 (5) “Wireless service” means any commercial mobile radio service,
8 wireless service, common carrier wireless exchange service, cellular service,
9 personal communications service (PCS), specialized mobile radio service,
10 paging service, wireless data service, or public or private radio dispatch
11 service.

12 * * *

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

15 (1) The proposed facility will not have an undue adverse effect on
16 aesthetics, historic sites, air and water purity, the natural environment, and the
17 public health and safety, and the public’s use and enjoyment of the I-89 and
18 I-91 scenic corridors or of any highway that has been designated as a scenic
19 road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C.
20 § 162, with due consideration having been given to the relevant criteria
21 specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K).

1 However, with respect to telecommunications facilities of limited size and
2 scope, the Board shall waive all criteria of this subdivision other than
3 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty,
4 historic sites, rare and irreplaceable natural areas; endangered species;
5 necessary wildlife habitat). Such waiver shall be on condition that:

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

9 (B) ~~A~~ a telecommunications facility of limited size and scope shall
10 comply, at a minimum, with the requirements of the Low Risk Site Handbook
11 for Erosion Prevention and Sediment Control issued by the Department of
12 Environmental Conservation, regardless of any provisions in that handbook
13 that limit its applicability.

14 (2) Unless there is good cause to find otherwise, substantial deference
15 has been given to the land conservation measures in the plans of the affected
16 municipalities and the recommendations of the municipal legislative bodies
17 and the municipal and regional planning commissions regarding the municipal
18 and regional plans, respectively. Nothing in this section or other provision of
19 law shall prevent a municipal body from basing its recommendations on an
20 ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under
21 24 V.S.A. chapter 117 by the municipality in which the facility is located.

1 A rebuttable presumption respecting compliance with the applicable plan shall
2 be created by a letter from an affected municipal legislative body or municipal
3 planning commission concerning compliance with the municipal plan and by a
4 letter from a regional planning commission concerning compliance with the
5 regional plan.

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

10 * * *

11 (e) Notice. No less than 45 days prior to filing an application for a
12 certificate of public good under this section, the applicant shall serve written
13 notice of an application to be filed with the Board pursuant to this section to
14 the legislative bodies and municipal and regional planning commissions in the
15 communities in which the applicant proposes to construct or install facilities;
16 the Secretary of Natural Resources; the Secretary of Transportation; the
17 Division for Historic Preservation; the Commissioner of Public Service and its
18 Director for Public Advocacy; the Natural Resources Board if the application
19 concerns a telecommunications facility for which a permit previously has been
20 issued under 10 V.S.A. chapter 151; and the landowners of record of property

1 adjoining the project sites. In addition, at least one copy of each application
2 shall be filed with each of these municipal and regional planning commissions.

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

7 (2) On the request of the municipal legislative body or the planning
8 commission, the applicant shall attend a public meeting with the municipal
9 legislative body or planning commission, or both, within the 45-day notice
10 period before filing an application for a certificate of public good. The
11 Department of Public Service shall attend the public meeting on the request of
12 the municipality. The Department shall consider the comments made and
13 information obtained at the meeting in making recommendations to the Board
14 on the application and in determining whether to retain additional personnel
15 under subsection (o) of this section.

16 * * *

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

20 * * *

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

5 (n) Municipal recommendations. The Board shall consider the comments
6 and recommendations submitted by the municipal legislative body and
7 planning commission. The Board's decision to issue or deny a certificate of
8 public good shall include a detailed written response to each recommendation
9 of the municipal legislative body and planning commission.

10 (o) Retention; experts. The Department of Public Service may retain
11 experts and other personnel as identified in section 20 of this title to provide
12 information essential to a full consideration of an application for a certificate
13 of public good under this section. The Department may allocate the expenses
14 incurred in retaining these personnel to the applicant in accordance with
15 section 21 of this title. The Department may commence retention of these
16 personnel once the applicant has filed the 45-day notice under subsection (e) of
17 this section. A municipal legislative body or planning commission may
18 request that the Department retain these personnel. Granting such a request
19 shall not oblige the Department or the personnel it retains to agree with the
20 position of the municipality.

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

8 Sec. 28. PUBLIC SERVICE BOARD; ORDER REVISION

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

12 (1) Within 30 days of the effective date of this section, the Board shall
13 provide direct notice to each municipal legislative body and planning
14 commission, the Vermont League of Cities and Towns, the Department of
15 Public Service, and such other persons as the Board considers appropriate, that
16 it will be amending its procedures order issued under 30 V.S.A. § 248a(1) to
17 include definitions of these terms. The notice shall provide an opportunity for
18 submission of comments and recommendations and include the date and time
19 of the workshop to be held.

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

4 Sec. 29. REPORT; TELECOMMUNICATIONS FACILITY REVIEW
5 PROCESS

6 On or before October 1, 2015, the Department of Public Service shall
7 submit to the House Committee on Commerce and Economic Development
8 and the Senate Committee on Finance a report assessing the
9 telecommunications facility review process under 30 V.S.A § 248a. The report
10 shall include the number of applications for the construction or installation of
11 telecommunications facilities filed with the Board, the number of applications
12 for which a certificate of public good was granted, the number of applications
13 for which notice was filed but were then withdrawn, and the number of times
14 the Department used its authority under 30 V.S.A. § 248(o) to allocate
15 expenses incurred in retaining expert personnel to the applicant, during the
16 year ending August 31, 2015.

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

18 (j) Notwithstanding any other provision of law, if an application to
19 discharge stormwater runoff pertains to a telecommunications facility as
20 defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the

1 discharge will be to a water that is not principally impaired by stormwater
2 runoff:

3 (1) The Secretary shall issue a decision on the application within
4 40 days of the date the Secretary determines the application to be complete, if
5 the application seeks authorization under a general permit.

6 (2) The Secretary shall issue a decision on the application within
7 60 days of the date the Secretary determines the application to be complete, if
8 the application seeks or requires authorization under an individual permit.

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

10 § 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS
11 FACILITY; APPEALS

12 (a) Within 30 days of the date of the act or decision, any person aggrieved
13 by an act or decision of the ~~secretary~~ Secretary, under the provisions of law
14 listed in section 8503 of this title, or any party by right may appeal to the
15 ~~public service board~~ Public Service Board if the act or decision concerns a
16 renewable energy plant for which a certificate of public good is required under
17 30 V.S.A. § 248 or a telecommunications facility for which the applicant has
18 applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for
19 approval under 30 V.S.A. § 248a. This section shall not apply to a facility that
20 is subject to section 1004 (dams before the Federal Energy Regulatory
21 Commission) or 1006 (certification of hydroelectric projects) or chapter 43

1 (dams) of this title. This section shall not apply to an appeal of an act or
2 decision of the secretary regarding a telecommunications facility made on or
3 after July 1, ~~2014~~ 2017.

4 * * *

5 Sec. 32. REPEAL

6 2011 Acts and Resolves No. 53, Sec. 14d (repeal of limitations on
7 municipal bylaws; municipal ordinances; wireless telecommunications
8 facilities) is repealed.

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

10 § 2809. REIMBURSEMENT OF AGENCY COSTS

11 (a)(1) The Secretary may require an applicant for a permit, license,
12 certification, or order issued under a program that the Secretary enforces under
13 10 V.S.A. § 8003(a) to pay for the cost of research, scientific, programmatic,
14 or engineering expertise provided by the Agency of Natural Resources,
15 provided that the following apply:

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

19 (B) ~~the~~ The Secretary does have such expertise but has made a
20 determination that it is beyond the ~~agency's~~ Agency's internal capacity to
21 effectively utilize that expertise to process the application for the permit,

1 license, certification, or order. In addition, the Secretary shall determine that
2 such expertise is required for the processing of the application for the permit,
3 license, certification, or order.

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

9 (3) In addition to the authority set forth under 10 V.S.A. chapters 59 and
10 159 and § section 1283, the Secretary may require a person who caused the
11 ~~agency~~ Agency to incur expenditures or a person in violation of a permit,
12 license, certification, or order issued by the Secretary to pay for the time of
13 ~~agency~~ Agency personnel or the cost of other research, scientific, or
14 engineering services incurred by the ~~agency~~ Agency in response to a threat to
15 public health or the environment presented by an emergency or exigent
16 circumstance.

17 * * *

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

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

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

5 Sec. 34. JFO ACCD DEMOGRAPHIC STUDY

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

14 * * * Tourism Funding; Study * * *

15 Sec. 35. TOURISM FUNDING; PILOT PROJECT STUDY

16 On or before January 15, 2015, the Secretary of Commerce and Community
17 Development shall submit to the House Committees on Appropriations and on
18 Commerce and Economic Development and the Senate Committees on
19 Appropriations and on Economic Development, Housing and General Affairs a
20 report that analyzes the results of the performance-based funding pilot project
21 for the Department of Tourism and Marketing and recommends appropriate

1 legislative or administrative changes to the funding mechanism for tourism and
2 marketing programs.

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

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

5 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

6 * * *

7 § 212. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (6) “Eligible facility” or “eligible project” means any industrial,
11 commercial, or agricultural enterprise or endeavor approved by the authority
12 that meets the criteria established in the Vermont Sustainable Jobs Strategy
13 adopted by the Governor under section 280b of this title, including land and
14 rights in land, air, or water, buildings, structures, machinery, and equipment of
15 such eligible facilities or eligible projects, except that an eligible facility or
16 project shall not include the portion of an enterprise or endeavor relating to the
17 sale of goods at retail where such goods are manufactured primarily out of
18 state, and except further that an eligible facility or project shall not include the
19 portion of an enterprise or endeavor relating to housing. Such enterprises or
20 endeavors may include:

21 * * *

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

3 (N) any combination of the foregoing activities, uses, or purposes.

4 An eligible facility may include structures, appurtenances incidental to the
5 foregoing such as utility lines, storage accommodations, offices, dependent
6 care facilities, or transportation facilities; or

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

8 * * *

9 § 261. ADDITIONAL POWERS

10 In addition to powers enumerated elsewhere in this chapter, the
11 authority may:

12 * * *

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

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

17 (35) “Industrial park” means an area of land permitted under this chapter
18 that is planned, designed, and zoned as a location for one or more industrial
19 buildings, that includes adequate access roads, utilities, water, sewer, and other
20 services necessary for the uses of the industrial buildings, and includes no

1 retail use except that which is incidental to an industrial use, and no office use
2 except that which is incidental or secondary to an industrial use.

3 Sec. 38. REVIEW OF MASTER PLAN POLICY

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

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

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

11 (4) Industrial parks.

12 (A) Notwithstanding any provision of this chapter to the contrary, a
13 conversion of primary agricultural soils located in an industrial park ~~as defined~~
14 ~~in subdivision 212(7) of this title and~~ permitted under this chapter and in
15 existence as of January 1, 2006, shall be allowed to pay a mitigation fee
16 computed according to the provisions of subdivision (1) of this subsection,
17 except that it shall be entitled to a ratio of 1:1, protected acres to acres of
18 affected primary agricultural soil. If an industrial park is developed to the
19 fullest extent before any expansion, this ratio shall apply to any contiguous
20 expansion of such an industrial park that totals no more than 25 percent of the
21 area of the park or no more than 10 acres, whichever is larger; provided any

1 expansion based on percentage does not exceed 50 acres. Any expansion
2 larger than that described in this subdivision shall be subject to the mitigation
3 provisions of this subsection at ratios that depend upon the location of the
4 expansion.

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

14 * * * Affordable Housing * * *

15 Sec. 40. 10 V.S.A. § 6001 is amended to read:

16 § 6001. DEFINITIONS

17 In this chapter:

18 * * *

19 (3)(A) “Development” means each of the following:

20 * * *

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

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

9 (aa) 275 or more, in a municipality with a population of
10 15,000 or more;

11 (bb) 150 or more, in a municipality with a population of
12 10,000 or more but less than 15,000;

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

15 (dd) 50 or more, in a municipality with a population of
16 3,000 or more but less than 6,000;

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

19 (ff) notwithstanding subdivisions (aa) through (ee) of this
20 subdivision (iv)(I), 10 or more if the construction involves the demolition of
21 one or more buildings that are listed on or eligible to be listed on the State or

1 National Register of Historic Places. However, demolition shall not be
2 considered to create jurisdiction under this subdivision if the Division for
3 Historic Preservation has determined the proposed demolition will have no
4 adverse effect; no adverse effect provided that specified conditions are met; or
5 will have an adverse effect but that adverse effect will be adequately mitigated.
6 Any imposed conditions shall be enforceable through a grant condition, deed
7 covenant, or other legally binding document.

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

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

12 * * *

13 ~~(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the~~
14 ~~provisions of subdivision (3)(A) of this section, if a project consists~~
15 ~~exclusively of mixed income housing or mixed use, or any combination~~
16 ~~thereof, and is located entirely within a growth center designated pursuant to~~
17 ~~24 V.S.A. 2793e or entirely within a downtown development district~~
18 ~~designated pursuant to 24 V.S.A. § 2793, “development” means:~~

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

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

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

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

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

13 ~~(VI) Historic Buildings. Construction of 10 or more units of~~
14 ~~mixed income housing or a mixed use project with 10 or more housing units~~
15 ~~where the construction involves the demolition of one or more buildings that~~
16 ~~are listed on or eligible to be listed on the State or National Register of Historic~~
17 ~~Places. However, demolition shall not be considered to create jurisdiction~~
18 ~~under this subdivision if the Division for Historic Preservation has determined~~
19 ~~the proposed demolition will have: no adverse effect; no adverse effect~~
20 ~~provided that specified conditions are met; or, will have an adverse effect, but~~
21 ~~that adverse effect will be adequately mitigated. Any imposed conditions shall~~

1 ~~be enforceable through a grant condition, deed covenant, or other legally~~
2 ~~binding document.~~

3 ~~(ii) Mixed Income Housing Jurisdictional Thresholds.~~

4 ~~Notwithstanding the provisions of subdivision (3)(A) of this section, if a~~
5 ~~project consists exclusively of mixed income housing and is located entirely~~
6 ~~within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a~~
7 ~~neighborhood development area as defined in 24 V.S.A. § 2791(16),~~
8 ~~“development” means:~~

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

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

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

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

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

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

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

13 ~~(i) Incentive for Growth Inside Designated Areas.~~

14 ~~Notwithstanding subdivision (3)(A)(iv) of this section, housing units~~
15 ~~constructed by a person partially or completely outside a designated downtown~~
16 ~~development district, designated growth center, designated Vermont~~
17 ~~neighborhood, or designated neighborhood development area shall not be~~
18 ~~counted to determine jurisdiction over housing units constructed by that person~~
19 ~~entirely within a designated downtown development district, designated~~
20 ~~growth center, designated Vermont neighborhood, or designated neighborhood~~
21 ~~development area. [Repealed.]~~

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

13 [Repealed.]

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

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* * *

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

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

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

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

(B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing units that ~~is~~ are ~~rented by the occupants whose gross annual household income does not exceed 60 percent of the county median income, or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development for use with the Housing Credit Program under Section 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual~~

1 ~~household income as defined at Section 42(g)(2)(C), and with~~ constitute
2 affordable housing and have a duration of affordability of no less than ~~30~~
3 20 years.

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

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

10 (A) Housing that is owned by its occupants whose gross annual
11 household income does not exceed 80 percent of the county median income, or
12 80 percent of the standard metropolitan statistical area income if the
13 municipality is located in such an area, as defined by the United States
14 Department of Housing and Urban Development, and the total annual cost of
15 the housing, including principal, interest, taxes, insurance, and condominium
16 association fees, is not more than 30 percent of the gross annual household
17 income.

18 (B) Housing that is rented by the occupants whose gross annual
19 household income does not exceed 80 percent of the county median income, or
20 80 percent of the standard metropolitan statistical area income if the
21 municipality is located in such an area, as defined by the United States

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

4 * * *

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

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

11 (B) mixed income housing and is located entirely within a designated
12 Vermont neighborhood or designated neighborhood development area under
13 24 V.S.A. chapter 76A.

14 * * *

15 * * * Workforce Education and Training * * *

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

17 CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

18 § 540. WORKFORCE EDUCATION AND TRAINING LEADER

19 The Commissioner of Labor shall be the leader of workforce education and
20 training in the State, and shall have the authority and responsibility for the

1 coordination of workforce education and training within State government,

2 including the following duties:

3 (1) perform the following duties in consultation with the State

4 Workforce Investment Board:

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

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

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

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

16 (E) ensure coordination and non-duplication of workforce education
17 and training activities;

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

20 (G) design and implement criteria and performance measures for
21 workforce education and training activities; and

1 (H) establish goals for the integrated workforce education and
2 training system.

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

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

9 (B) amount of funding;

10 (C) activities and training provided;

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

12 (E) employment status of trainees; and

13 (F) future needs for resources.

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

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

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

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

6 § 541. ~~WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE~~
7 ~~INVESTMENT BOARD; MEMBERS, TERMS~~

8 ~~(a) The Workforce education and training Council is created as the~~
9 ~~successor to and the continuation of the Governor's Human Resources~~
10 ~~Investment Council and shall be the State Workforce Investment Board under~~
11 ~~Public Law 105-220, the Workforce Investment Act of 1998, and any~~
12 ~~reauthorization of that act. The Council shall consist of the members required~~
13 ~~under the federal act and the following: the President of the University of~~
14 ~~Vermont or designee; the Chancellor of the Vermont State Colleges or~~
15 ~~designee; the President of the Vermont Student Assistance corporation or~~
16 ~~designee; the President of the Association of Vermont Independent Colleges or~~
17 ~~designee; a representative of the Abenaki Self Help Organization; at least two~~
18 ~~representatives of labor appointed by the Governor in addition to the two~~
19 ~~required under the federal act, who shall be chosen from a list of names~~
20 ~~submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont State~~
21 ~~Employees Association; one representative of the low income community~~

1 ~~appointed by the Governor; two members of the Senate appointed by the~~
2 ~~Senate Committee on Committees; and two members of the house appointed~~
3 ~~by the speaker. In addition, the Governor shall appoint enough other members~~
4 ~~who are representatives of business or employers so that one half plus one of~~
5 ~~the members of the council are representatives of business or employers. At~~
6 ~~least one third of those appointed by the Governor as representatives of~~
7 ~~business or employers shall be chosen from a list of names submitted by the~~
8 ~~regional technical centers. As used in this section, “representative of business”~~
9 ~~means a business owner, a chief executive operating officer, or other business~~
10 ~~executive, and “employer” means an individual with policy-making or hiring~~
11 ~~authority, including a public school superintendent or school board member~~
12 ~~and representatives from the nonprofit, social services, and health sectors of~~
13 ~~the economy. If there is a dispute as to who is to represent an interest as~~
14 ~~required under the federal law, the Governor shall decide who shall be the~~
15 ~~member of the Council.~~

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

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

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

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

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

9 ~~(g) The Workforce education and training Council shall be subject to~~
10 ~~1 V.S.A. chapter 5, subchapters 2 and 3, relating to public meetings and access~~
11 ~~to public records.~~

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

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

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

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

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

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

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

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

9 § 541a. STATE WORKFORCE INVESTMENT BOARD

10 (a) Board established; duties. Pursuant to the requirements of 29 U.S.C.
11 § 2821, the Governor shall establish a State Workforce Investment Board to
12 assist the Governor in the execution of his or her duties under the Workforce
13 Investment Act of 1998 and to assist the Commissioner of Labor as specified
14 in section 540 of this title.

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

18 (1) conduct an ongoing public engagement process throughout the State
19 at which Vermonters have the opportunity to provide feedback and information
20 concerning their workforce education and training needs; and

1 (2) maintain familiarity with the federal Comprehensive Economic
2 Development Strategy (CEDS) and other economic development planning
3 processes, and coordinate workforce and education activities in the State,
4 including the development and implementation of the state plan required under
5 the Workforce Investment Act of 1998, with economic development planning
6 processes occurring in the State, as appropriate.

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

10 (1) two Members of the Vermont House of Representatives appointed
11 by the Speaker of the House;

12 (2) two Members of the Vermont Senate appointed by the Senate
13 Committee on Committees;

14 (3) the President of the University of Vermont or designee;

15 (4) the Chancellor of the Vermont State Colleges or designee;

16 (5) the President of the Vermont Student Assistance Corporation or
17 designee;

18 (6) a representative of an independent Vermont college or university;

19 (7) the Secretary of Education or designee;

20 (8) a director of a regional technical center;

21 (9) a principal of a Vermont high school;

1 (10) two representatives of labor organizations who have been
2 nominated by State labor federations;

3 (11) two representatives of individuals and organizations who have
4 experience with respect to youth activities, as defined in 29 U.S.C. § 2801(52);

5 (12) two representatives of individuals and organizations who have
6 experience in the delivery of workforce investment activities, as defined in
7 29 U.S.C. § 2801(51);

8 (13) the lead State agency officials with responsibility for the programs
9 and activities carried out by one-stop partners, as described in 29 U.S.C.
10 § 2841(b), or if no official has that responsibility, a representative in the State
11 with expertise relating to these programs and activities;

12 (14) the Commissioner of Economic Development;

13 (15) the Commissioner of Labor;

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

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

17 (18) a number of appointees sufficient to constitute a majority of the
18 Board who:

19 (A) are owners, chief executives, or operating officers of businesses,
20 and other business executives or employers with optimum policymaking or
21 hiring authority;

1 (B) represent businesses with employment opportunities that reflect
2 the employment opportunities of the State; and

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

5 (d) Operation of Board.

6 (1) Member representation.

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

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

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

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

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

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

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

4 (5) Quorum; meetings; voting.

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

9 (B) The Board may permit one or more members to participate in a
10 regular or special meeting by, or conduct the meeting through the use of, any
11 means of communication, including an electronic, telecommunications, and
12 video- or audio-conferencing conference telephone call, by which all members
13 participating may simultaneously or sequentially communicate with each other
14 during the meeting. A member participating in a meeting by this means is
15 deemed to be present in person at the meeting.

16 (C) The Board shall deliver electronically the minutes for each of its
17 meetings to each member of the Board and to the Chairs of the House
18 Committees on Education and on Commerce and Economic Development, and
19 to the Senate Committees on Education and on Economic Development,
20 Housing and General Affairs.

1 (6) Reimbursement.

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

4 (B) Unless otherwise compensated by his or her employer for
5 performance of his or her duties on the Board, a nonlegislative member of the
6 Board shall be eligible for per diem compensation of \$50.00 per day for
7 attendance at a meeting of the Board, and for reimbursement of his or her
8 necessary expenses, which shall be paid by the Department of Labor solely
9 from funds available for that purpose under the Workforce Investment Act
10 of 1998.

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

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

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

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

17 (B) engage in any activity that the Governor determines constitutes a
18 conflict of interest as specified in the State Plan required under 29 U.S.C.
19 § 2822.

20 (8) Sunshine provision. The Board shall make available to the public,
21 on a regular basis through open meetings, information regarding the activities

1 of the Board, including information regarding the State Plan adopted
2 pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the
3 U.S. Secretary of Labor, information regarding membership, and, on request,
4 minutes of formal meetings of the Board.

5 § 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF
6 OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE
7 PARTNERS

8 (a) To ensure the Workforce Investment Board and the Commissioner of
9 Labor are able to fully perform their duties under this chapter, each agency and
10 department within State government, and each person who receives funding
11 from the State, shall comply within a reasonable period of time with a request
12 for data and information made by the Board or the Commissioner in
13 furtherance of their duties under this chapter.

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

1 § 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND
2 TRAINING

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

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

11 (c) The Commissioner of Labor and the Secretary of Commerce and
12 Community Development shall jointly develop a grant process and eligibility
13 criteria, as well as an outreach process for notifying potential participants of
14 the grant program. The Commissioner of Labor shall have final authority to
15 approve each grant.

16 § 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT
17 PROGRAMS

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

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

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

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

8 (3) apprenticeship-related instruction.

9 (c) Administrative Support. Administrative support for the grant award
10 process shall be provided by the ~~Departments~~ Department of Labor ~~and of~~
11 ~~Economic Development~~. Technical, ~~administrative, financial, and other~~
12 support shall be provided whenever appropriate and reasonable by the
13 Workforce ~~Development Council~~ Investment Board and all other public
14 entities involved in ~~Economic Development, workforce development and~~
15 ~~training, and education~~ economic development and workforce education and
16 training.

17 (d) Eligible Activities. Awards from the Fund shall be made to employers
18 and entities that offer programs that require collaboration between employees
19 and businesses, including private, public, and nonprofit entities, institutions of
20 higher education, high schools, technical centers, and workforce education and
21 training programs. Funding shall be for training programs and student

1 internship programs that offer education, training, apprenticeship, mentoring,
2 or work-based learning activities, or any combination; that employ innovative
3 intensive student-oriented competency-based or collaborative approaches to
4 workforce education and training; and that link workforce education and
5 economic development strategies. Training programs or projects that
6 demonstrate actual increased income and economic opportunity for employees
7 and employers may be funded for more than one year. Student internships and
8 training programs that involve the same employer may be funded multiple
9 times, provided that new students participate.

10 ~~(e) Award Criteria and Process. The Workforce education and training~~
11 ~~Council, in consultation with the Commissioners of Labor and of Economic~~
12 ~~Development and the Secretary of Education, shall develop criteria consistent~~
13 ~~with subsection (d) of this section for making awards under this section. The~~
14 ~~Commissioners of Labor and of Economic Development and the Secretary of~~
15 ~~Education, shall develop a process for making awards. [Repealed].~~

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

1 (1) Training Programs.

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

5 (i) train workers for trades or occupations that are expected to lead
6 to jobs paying at least 200 percent of the current minimum wage or at least
7 150 percent if benefits are included; this requirement may be waived when
8 warranted based on regional or occupational wages or economic reality;

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

11 (iii) articulate clear goals and demonstrate readily accountable,
12 reportable, and measurable results; and

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

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

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

20 ~~(B)~~(ii) address the needs of workers who are unemployed,
21 underemployed, or are at risk of becoming unemployed due to changing

1 workplace demands by increasing productivity and developing new skills for
2 incumbent workers; or

3 (iii) in the discretion of the Commissioner, otherwise serve the
4 purposes of this chapter.

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

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

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

13 ~~(F) demonstrate an integrated connection between training and~~
14 ~~specific employment opportunities, including an effort and consideration by~~
15 ~~participating employers to hire those who successfully complete a training~~
16 ~~program; and~~

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

20 (3) Apprenticeship Program. The Vermont Apprenticeship Program
21 established under 21 V.S.A. chapter 13. Awards under this subdivision may be

1 used to fund the cost of apprenticeship-related instruction provided by the
2 Department of Labor.

3 (g) [Repealed.]

4 § 544. VERMONT CAREER INTERNSHIP PROGRAM

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

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

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

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

19 (B) create real workplace expectations and consequences;

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

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

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

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

14 (4) ~~For the purposes of~~ As used in this section, “internship” means a
15 learning experience working with an employer where the intern may, but does
16 not necessarily, receive academic credit, financial remuneration, a stipend, or
17 any combination of these.

18 (b) The Department of Labor, in collaboration with the Agencies of
19 Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded
20 postsecondary educational institutions, the Workforce ~~Development Council~~

1 Investment Board, and other ~~state~~ State agencies and departments that have
2 workforce education and training and training monies, shall:

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

5 (2) collect data and establish program goals and quantifiable
6 performance measures for internship programs funded through the Vermont
7 Career Internship Program;

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

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

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

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

16 CHAPTER 22. ~~EMPLOYMENT~~ THE VERMONT
17 TRAINING PROGRAM

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

19 (a)(1) The Secretary of Commerce and Community Development ~~may, in~~
20 consultation with the Workforce Investment Board, shall have the authority to
21 design and implement a Vermont Training Program, the purpose of which shall

1 ~~be to~~ issue performance-based grants ~~to any employer, consortium of~~
2 ~~employers, or providers of training, either individuals or organizations, as~~
3 ~~necessary, to conduct training under the following circumstances: to~~
4 employers and to education and training providers to increase employment
5 opportunities in Vermont consistent with this chapter.

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

9 ~~(1) when issuing grants to an employer or consortium of employers, the~~
10 ~~employer promises as a condition of the grant to where eligible facility is~~
11 ~~defined as in subdivision 212(6) of this title relating to the Vermont Economic~~
12 ~~Development Authority, or the employer or consortium of employers promises~~
13 ~~to open an eligible facility within the State which will employ persons,~~
14 ~~provided that for the purposes of this section, eligible facility may be broadly~~
15 ~~interpreted to include employers in sectors other than manufacturing; and~~

16 ~~(2) training is required for potential employees, new employees, or long-~~
17 ~~standing employees in the methods, either singularly or in combination relating~~
18 ~~to pre-employment training, on the job training, upgrade training, and~~
19 ~~crossover training, or specialized instruction, either in plant or through a~~
20 ~~training provider.~~

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

3 (1) ~~the employer's new or expanded initiative will enhance employment~~
4 ~~opportunities for Vermont residents;~~ the training is for preemployment, new
5 employees, or incumbent employees in the methods, either singularly or in
6 combination, relating to preemployment training, on-the-job training, upgrade
7 training, crossover training, or specialized instruction, either on-site or through
8 a training provider;

9 (2) the employer provides its employees with at least three of the
10 following:

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

13 (B) dental assistance;

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

15 ~~(D)~~ paid holidays;

16 ~~(D)~~(E) child care;

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

18 ~~(F)~~(G) retirement benefits; ~~and~~

19 (H) other paid time off, including paid sick days;

20 (3) the training is directly related to the employment responsibilities of
21 the trainee; and

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

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

8 ~~(1) employ new persons at a wage which, at the completion of the~~
9 ~~training program, is two times the prevailing state or federal minimum wage,~~
10 ~~whichever is greater, reduced by the value of any existing health benefit~~
11 ~~package up to a limit of 30 percent of the gross program wage, or for existing~~
12 ~~employees, to increase the wage to two times the prevailing state and federal~~
13 ~~minimum wage, whichever is greater, reduced by the value of any existing~~
14 ~~health benefit package up to a limit of 20 percent of the gross program wage,~~
15 ~~upon completion of training; provided, however, that in areas defined by the~~
16 ~~Secretary of Commerce and Community Development in which the Secretary~~
17 ~~finds that the rate of unemployment is 50 percent greater than the average for~~
18 ~~the State, the wage rate under this subsection may be set by the Secretary at a~~
19 ~~rate no less than one and one half times the federal or state minimum wage,~~
20 ~~whichever is greater;~~

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

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

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

8 ~~(B) dental assistance;~~

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

10 ~~(D) child care;~~

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

12 ~~(F) retirement benefits.~~

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

16 In the case of a grant to a training provider, the Secretary shall require as a
17 condition of the grant that the provider shall disclose to the Secretary the name
18 of the employer and the number of employees trained prior to final payment
19 for the training.

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

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

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

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

17 (e) ~~The Secretary of Commerce and Community Development shall~~
18 ~~administer all training programs under this section, may select and use~~
19 ~~providers of training as appropriate, and shall adopt rules and may accept~~
20 ~~services, money, or property donated for the purposes of this section. The~~
21 ~~Secretary may promote awareness of, and may give priority to, training that~~

1 ~~enhances critical skills, productivity, innovation, quality, or competitiveness,~~
2 ~~such as training in Innovation Engineering, “Lean” systems, and ISO~~
3 ~~certification for expansion into new markets. [Repealed.]~~

4 (f) Upon completion of the training program for any individual, the
5 secretary of Commerce and Community Development shall review the records
6 and shall award to the trainee, if appropriate, a certificate of completion for the
7 training.

8 (g) ~~None of the criteria in subdivision (a)(1) of this section shall apply to a~~
9 ~~designated job development zone under chapter 29, subchapter 2 of this title.~~

10 [Repealed.]

11 (h) ~~The Secretary may designate the Commissioner of Economic~~
12 ~~Development to carry out his or her powers and duties under this chapter.~~

13 [Repealed.]

14 (i) ~~Program Outcomes:~~

15 (1) ~~On or before September 1, 2011, the Agency of Commerce and~~
16 ~~Community Development, in coordination with the department of labor, and in~~
17 ~~consultation with the Workforce education and training Council and the~~
18 ~~legislative Joint Fiscal Office, shall develop, to the extent appropriate, a~~
19 ~~common set of benchmarks and performance measures for the training~~
20 ~~program established in this section and the Workforce Education and Training~~
21 ~~Fund established in section 543 of this title, and shall collect employee specific~~

1 ~~data on training outcomes regarding the performance measures; provided,~~
2 ~~however, that the Secretary shall redact personal identifying information from~~
3 ~~such data.~~

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

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

16 ~~(j) Consistent with the training program's goal of providing specialized~~
17 ~~training and increased employment opportunities for Vermonters, and~~
18 ~~notwithstanding provisions of this section to the contrary, the Secretary shall~~
19 ~~canvas apprenticeship sponsors to determine demand for various levels of~~
20 ~~training and classes and shall transfer up to \$250,000.00 annually to the~~
21 ~~regional technical centers to fund or provide supplemental funding for~~

1 ~~apprenticeship training programs leading up to certification or licensing as~~
2 ~~journeyman or master electricians or plumbers. The Secretary shall seek to~~
3 ~~provide these funds equitably throughout Vermont; however, the Secretary~~
4 ~~shall give priority to regions not currently served by apprenticeship programs~~
5 ~~offered through the Vermont Department of Labor pursuant to 21 V.S.A.~~
6 ~~chapter 13. [Repealed].~~

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

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

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

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

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

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

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

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

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

6 (4) the number of employees served, and ;

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

8 (6) any waivers granted;

9 (7) the identity of the employer, or, if unknown at the time of the report,
10 the category of employer;

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

12 (9) whether training results in a wage increase for a trainee, and the
13 amount of increase.

14 Sec. 43. REPEAL

15 2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and
16 Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013
17 Acts and Resolves No. 81, Sec. 2, is repealed.

18 Sec. 44. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND

19 COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

20 On or before November 1, 2014:

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

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

13 Sec. 45. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

14 On or before January 15, 2015, the Commissioner of Labor shall submit to
15 the House Committee on Commerce and Economic Development and the
16 Senate Committee on Economic Development, Housing and General Affairs a
17 report that details the internship opportunities available to Vermonters between
18 15 and 18 years of age and recommends one or more means to expand these
19 opportunities through the Vermont Career Internship Program, 10 V.S.A.
20 § 544, or through other appropriate mechanisms.

1 * * * Vermont Strong Scholars Program * * *

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

3 CHAPTER 90. FUNDING OF POSTSECONDARY ~~INSTITUTIONS~~
4 EDUCATION

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

6 § 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP
7 INITIATIVE

8 (a) Creation.

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

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

16 (A) encourage students to:

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

19 (ii) enroll and remain enrolled in a Vermont postsecondary
20 institution; and

21 (iii) live in Vermont upon graduation;

1 (B) reduce student loan debt for postsecondary education in targeted
2 fields;

3 (C) provide experiential learning through internship opportunities
4 with Vermont employers; and

5 (D) support a pipeline of qualified talent for employment with
6 Vermont’s employers.

7 (b) Vermont Strong Loan Forgiveness Program.

8 (1) Economic sectors; projections.

9 (A) Annually, on or before November 15, the Secretary of Commerce
10 and Community Development and the Commissioner of Labor, in consultation
11 with the Vermont State Colleges, the University of Vermont, the Vermont
12 Student Assistance Corporation, the Secretary of Human Services, and the
13 Secretary of Education, shall identify economic sectors, projecting at least four
14 years into the future, that are or will be critical to the Vermont economy.

15 (B) Based upon the identified economic sectors and the number of
16 students anticipated to qualify for loan forgiveness under this section, the
17 Secretary of Commerce and Community Development shall annually provide
18 the General Assembly with the estimated cost of the Vermont Student
19 Assistance Corporation’s loan forgiveness awards under the loan forgiveness
20 program during the then-current fiscal year and each of the four following
21 fiscal years.

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

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

7 (B) enrolled in a postsecondary institution on or after July 1, 2015
8 and completed an associate’s degree within three years, or a bachelor’s degree
9 within six years;

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

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

16 (E) remains a Vermont resident throughout the period of loan
17 forgiveness.

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

20 (A) for an individual awarded an associate’s degree, in an amount
21 equal to the comprehensive in-state tuition rate for 15 credits at the Vermont

1 State Colleges during the individual’s final semester of enrollment, to be
2 prorated over the three years following graduation; and

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

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

10 (4) Management.

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

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

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

19 (c) Vermont Strong Internship Program.

20 (1) Internship program management.

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

6 (B) The Commissioner, in consultation with the Secretary, shall issue
7 a request for proposals for a person to serve as an Internship Program
8 Intermediary, who shall perform the duties and responsibilities pursuant to the
9 terms of a performance contract negotiated by the Commissioner and the
10 Intermediary.

11 (C) The Department of Labor, the Agency of Commerce and
12 Community Development, the regional development corporations, and the
13 Intermediary, shall have responsibility for building connections within the
14 business community to ensure broad private sector participation in the
15 internship program.

16 (D) The Program Intermediary shall:

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

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

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

3 (iv) create and maintain a registry of participating employers and
4 associated internship opportunities;

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

7 (vi) develop and oversee a participation contract between each
8 student and employer, including terms governing the expectations for the
9 internship, a work plan, mentoring and supervision of the student, reporting by
10 the employer and student, and compensation terms; and

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

13 (2) Qualifying internships.

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

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

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

20 (iii) meet the quality standards and expectations as established by
21 the Intermediary.

1 (B) Employment of interns. Interns shall be employed by the
2 sponsoring employer except, with the approval of the Commissioner on a
3 case-by-case basis, interns may be employed by the Intermediary and assigned
4 to work with a participating Vermont employer, in which case the sponsoring
5 employer shall contribute funds as determined by the Commissioner.

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

8 (A) a Vermont resident enrolled in a post-secondary institution in or
9 outside Vermont;

10 (B) a student who graduated from a postsecondary institution within
11 24 months of entering the program who was classified as a Vermont resident
12 during that schooling or who is a student who attended a post-secondary
13 institution in Vermont; or

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

15 (d) Funding.

16 (1) Loan forgiveness program.

17 (A) Loan forgiveness; State funding.

18 (i) There is created a special fund to be known as the Vermont
19 Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which
20 shall be used and administered by the Secretary of Commerce and Community

1 Development solely for the purposes of loan forgiveness pursuant to this
2 section.

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

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

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

10 (B) Loan forgiveness; Vermont Student Assistance Corporation.
11 The Vermont Student Assistance Corporation shall have the authority to grant
12 loan forgiveness pursuant to this section by using the private loan forgiveness
13 capacity associated with bonds issued by the Corporation to raise funds for
14 private loans that are eligible for forgiveness under this section, if available.

15 (2) Internship program. Notwithstanding any provision of law to the
16 contrary, the Commissioner of Labor shall have the authority to use funds
17 allocated to the Workforce Education and Training Fund established in
18 10 V.S.A. § 543 to implement the internship program created in this section.

19 Sec. 48. VERMONT STRONG INTERIM REPORT

20 On or before November 1, 2014, the Secretary of Commerce and
21 Community Development shall report to the Joint Fiscal Committee on the

1 organizational and economic details of the Vermont Strong Scholars Initiative,

2 including:

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

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

5 (3) the proposed funding sources;

6 (4) programmatic proposals and economic projections on the feasibility

7 and impacts of expanding eligibility for the loan forgiveness program to

8 include Vermont residents who attend postsecondary institutions outside of

9 Vermont and out-of-state residents who attend Vermont postsecondary

10 institutions; and

11 (5) the projected balance of the Vermont Strong Scholars Fund for each

12 fiscal year through fiscal year 2018.

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

14 (a) The Secretary of Commerce and Community Development, the

15 Secretary of Agriculture, Food and Markets, and the Vermont Attorney

16 General, shall collaborate to identify the issues, stakeholders, and processes

17 necessary to consider whether and how to:

18 (1) provide Vermont businesses with a means of promoting and

19 marketing products and services that are manufactured, designed, engineered,

20 or formulated in Vermont and to avoid confusion by consumers when the

21 Vermont brand is used in marketing products or services; and

1 (2) harmonize the Vermont origin rule, the Made in Vermont initiative,
2 the proposed Vermont Products Program or similar initiative, and any other
3 programs or initiatives the Secretaries and the Attorney General determine
4 would be appropriate for such consideration.

5 (b) On or before September 1, 2015, the Secretaries and the Attorney
6 General shall submit a report to the Senate Committee on Economic
7 Development, Housing and General Affairs and the House Committee on
8 Commerce and Economic Development on their findings and
9 recommendations including:

10 (1) a licensing system, including the potential for self-certification, for
11 products and services that are manufactured, designed, engineered, or
12 formulated in Vermont;

13 (2) branding and marketing guidelines that concern whether and how
14 qualifying products or services manufactured, designed, engineered, or
15 formulated in Vermont can be properly claimed so as to be licensed;

16 (3) an appropriate annual fee for the issuance of a license;

17 (4) an application process; and

18 (5) a dispute resolution process.

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

2 § 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~

3 BURIAL AND FUNERAL EXPENSES

4 If death results from the injury, the employer shall pay to the persons
5 entitled to compensation or, if there is none, then to the personal representative
6 of the deceased employee, the actual burial and funeral expenses ~~in the amount~~
7 ~~of \$5,500.00~~ not to exceed \$10,000.00 and the actual expenses for out-of-state
8 transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~
9 \$5,000.00. Every two years, the Commissioner of Labor shall evaluate the
10 average burial and funeral expenses in the State and make a recommendation
11 to the House Committee on Commerce and Economic Development and the
12 Senate Committee on Finance as to whether an adjustment in compensation is
13 warranted. The employer shall also pay to or for the benefit of the following
14 persons, for the periods prescribed in section 635 of this title, a weekly
15 compensation equal to the following percentages of the deceased employee's
16 average weekly wages. The weekly compensation payment herein allowed
17 shall not exceed the maximum weekly compensation or be lower than the
18 minimum weekly compensation:

19 * * *

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

2 § 639. DEATH, PAYMENT TO DEPENDENTS

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

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

18 § 640c. OPIOID USAGE DETERRENCE

19 (a) In support of the State's fundamental interest in ensuring the well-being
20 of employees and employers, it is the intent of the General Assembly to protect
21 employees from the dangers of prescription drug abuse while maintaining a

1 balance between the employee's health and the employee's expedient return to
2 work.

3 (b) As it pertains to workers' compensation claims, the Commissioner of
4 Labor, in consultation with the Department of Health, the State
5 Pharmacologist, the Vermont Board of Medical Practice, and the Vermont
6 Medical Society, shall adopt rules, consistent with the best practices, governing
7 the prescription of opioids, including patient screening and drug screening for
8 patients prescribed opioids for chronic pain. In adopting rules, the
9 Commissioner shall consider guidelines and standards published by the
10 American College of Occupational and Environmental Medicine and other
11 medical authorities with expertise in the treatment of chronic pain. The rules
12 shall be consistent with the standards and guidelines provided under 18 V.S.A.
13 § 4289 and any rules adopted by the Department of Health pursuant to
14 18 V.S.A § 4289.

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

16 § 641. VOCATIONAL REHABILITATION

17 * * *

18 (e)(1) In support of the State's fundamental interest in ensuring the
19 well-being of employees and employers, it is the intent of the General
20 Assembly that, following a workplace accident, an employee returns to work

1 as soon as possible but remains cognizant of the limitations imposed by his or
2 her medical condition.

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

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

6 § 643a. DISCONTINUANCE OF BENEFITS

7 Unless an injured worker has successfully returned to work, an employer
8 shall notify both the Commissioner and the employee prior to terminating
9 benefits under either section 642 or 646 of this title. The notice of intention to
10 discontinue payments shall be filed on forms prescribed by the Commissioner
11 and shall include the date of the proposed discontinuance, the reasons for it,
12 and, if the employee has been out of work for 90 days, a verification that the
13 employer offered vocational rehabilitation screening and services as required
14 under this chapter. All relevant evidence, including evidence that does not
15 support discontinuance in the possession of the employer ~~not already filed,~~
16 ~~shall be filed with the notice~~ shall be provided to the injured worker. With the
17 notice of discontinuance, the employer shall file only evidence relevant to the
18 discontinuance, including evidence that does not support the discontinuance,
19 with the Commissioner. The liability for the payments shall continue for seven
20 days after the notice is received by the Commissioner and the employee. If the
21 claimant disputes the discontinuance, the claimant may file with the

1 Commissioner an objection to the discontinuance and seek an extension of the
2 seven-day limit. The Commissioner may grant an extension up to seven days.
3 The request for an extension shall be specific as to the reason for the extension
4 and must be received by the Commissioner prior to the end of the seven-day
5 limit. A copy of the request for an extension shall be provided to the employer
6 at the time the request is made to the Commissioner. Those payments shall be
7 made without prejudice to the employer and may be deducted from any
8 amounts due pursuant to section 648 of this title if the Commissioner
9 determines that the discontinuance is warranted or if otherwise ordered by the
10 Commissioner. Every notice shall be reviewed by the Commissioner to
11 determine the sufficiency of the basis for the proposed discontinuance. If, after
12 review of all the evidence in the file, the Commissioner finds that a
13 preponderance of all the evidence in the file does not reasonably support the
14 proposed discontinuance, the Commissioner shall order that payments continue
15 until a hearing is held and a decision is rendered. Prior to a formal hearing, an
16 injured worker may request reinstatement of benefits by providing additional
17 new evidence to the Department that establishes that a preponderance of all
18 evidence now supports the claim. If the Commissioner's decision, after a
19 hearing, is that the employee was not entitled to any or all benefits paid
20 between the discontinuance and the final decision, upon request of the
21 employer, the Commissioner may order that the employee repay all benefits to

1 which the employee was not entitled. The employer may enforce a repayment
2 order in any court of law having jurisdiction.

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

4 § 691a. POSTING OF SAFETY RECORDS

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
7 improve the safety experience in the workplace.

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

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

18 § 696. CANCELLATION OF INSURANCE CONTRACTS

19 A policy or contract shall not be cancelled within the time ~~limited~~ specified
20 in the policy or contract for its expiration, until at least 45 days after a notice of
21 intention to cancel the policy or contract, on a date specified in the notice, has

1 been filed in the office of the ~~commissioner~~ Commissioner and provided to the
2 employer. The notice shall be filed with the Commissioner in accordance with
3 rules adopted by the Commissioner and provided to the employer by certified
4 mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of
5 an insurance carrier on account of an injury occurring prior to cancellation.

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

7 § 697. NOTICE OF INTENT NOT TO RENEW POLICY

8 An insurance carrier who does not intend to renew a workers' compensation
9 insurance policy of workers' compensation insurance or guarantee contract
10 covering the liability of an employer under the provisions of this chapter, ~~45~~
11 ~~days prior to the expiration of the policy or contract~~, shall give notice of the its
12 intention to the ~~commissioner of labor~~ Commissioner and ~~to~~ the covered
13 employer at least 45 days prior to the expiration date stated in the policy or
14 contract. The notice shall be given to the employer by certified mail ~~or~~
15 ~~certificate of mailing~~. An insurance carrier who fails to give notice shall
16 continue the policy or contract in force beyond its expiration date for 45 days
17 from the day the notice is received by the ~~commissioner~~ Commissioner and the
18 employer. However, ~~this latter provision shall not apply if, prior to such~~
19 ~~expiration date, on or before the expiration of the existing insurance or~~
20 guarantee contract the insurance carrier has, by delivery of a renewal contract
21 or otherwise, offered to continue the insurance beyond the date by delivery of a

1 ~~renewal contract or otherwise,~~ or if the employer notifies the insurance carrier
2 in writing that the employer does not wish the insurance continued beyond the
3 expiration date, or if the employer complies with the provisions of section 687
4 of this title, ~~on or before the expiration of the existing insurance or guarantee~~
5 ~~contract~~ then the policy will expire upon notice to the Commissioner.

6 Sec. 58. ROBERT H. WOOD CRIMINAL JUSTICE AND FIRE SERVICE
7 TRAINING CENTER STUDY

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

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

16 (2) analyze preventive measures to avoid injuries;

17 (3) recommend who should bear the financial burden of the workers'
18 compensation premiums; and

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

1 Sec. 59. WORKPLACE SAFETY RANKING STUDY

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

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

9 Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY

10 COUNCIL

11 * * *

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

14 * * *

15 (4) the Commissioner of Labor or designee;

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

17 ~~(5)~~(6) the Chair of the Board of Medical Practice or designee, who shall
18 be a clinician;

19 ~~(6)~~(7) a representative of the Vermont State Dental Society, who shall
20 be a dentist;

1 ~~(7)~~(8) a representative of the Vermont Board of Pharmacy, who shall be
2 a pharmacist;

3 ~~(8)~~(9) a faculty member of the academic detailing program at the
4 University of Vermont's College of Medicine;

5 ~~(9)~~(10) a faculty member of the University of Vermont's College of
6 Medicine with expertise in the treatment of addiction or chronic pain
7 management;

8 ~~(10)~~(11) a representative of the Vermont Medical Society, who shall be
9 a primary care clinician;

10 ~~(11)~~(12) a representative of the American Academy of Family
11 Physicians, Vermont chapter, who shall be a primary care clinician;

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

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

17 ~~(14)~~(15) a representative of the Vermont Ethics Network;

18 ~~(15)~~(16) a representative of the Hospice and Palliative Care Council of
19 Vermont;

20 ~~(16)~~(17) a representative of the Office of the Health Care Ombudsman;

1 ~~(17)~~(18) the Medical Director for the Department of Vermont Health
2 Access;

3 ~~(18)~~(19) a clinician who works in the emergency department of a
4 hospital, to be selected by the Vermont Association of Hospitals and Health
5 Systems in consultation with any nonmember hospitals;

6 ~~(19)~~(20) a member of the Vermont Board of Nursing Subcommittee on
7 APRN Practice, who shall be an advanced practice registered nurse;

8 ~~(20)~~(21) a representative from the Vermont Assembly of Home Health
9 and Hospice Agencies;

10 ~~(21)~~(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who
11 has experience in treating chronic pain, to be selected by the Board of
12 Psychological Examiners;

13 ~~(22)~~(23) a drug and alcohol abuse counselor licensed pursuant to
14 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for
15 Alcohol and Drug Abuse Programs;

16 ~~(23)~~(24) a retail pharmacist, to be selected by the Vermont Pharmacists
17 Association;

18 ~~(24)~~(25) an advanced practice registered nurse full-time faculty member
19 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 or physical
5 medicine and rehabilitation; and

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

8 * * *

9 * * * Effective Dates * * *

10 Sec. 61. EFFECTIVE DATES

11 (a) This section, Secs. 20a (Public Service Board; order revision), 52, 53,
12 58, 59, and 60 (certain workers' compensation provisions) shall take effect on
13 passage.

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

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