

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 220 entitled “An act relating to amending
4 the workers’ compensation law, establishing a registry of sole contractors,
5 increasing the funds available to the Department of Tourism and Marketing for
6 advertising, and regulating legacy insurance transfers” respectfully reports that
7 it has considered the same and recommends that the bill be amended by
8 striking all after the enacting clause and inserting in lieu thereof the following:

9 * * * One-Stop Business Support Services * * *

10 Sec. 1. ONE-STOP SHOP WEB PORTAL

11 (a) Purpose. The State of Vermont seeks to simplify the process for
12 businesses creation and growth by providing:

13 (1) a clear guide to resources and technical assistance for all phases of
14 growth;

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

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

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

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

1 (b) Administration. The Agency of Commerce and Community
2 Development shall coordinate with relevant agencies and departments within
3 State government and its outside partners, including regional development
4 corporations and small business development centers, to provide
5 comprehensive business services, including a “First Stop” website, regional
6 coaching teams, print materials, and other outreach.

7 (c) Implementation.

8 (1) Phase 1. On or before the end of fiscal year 2015, the Agency of
9 Commerce and Community Development shall complete necessary partner
10 outreach and collaboration and an inventory of existing websites, shall
11 determine the appropriate content to be included on the web portal, and shall
12 update its current website to include links to State agencies and departments
13 with regulatory oversight and authority over Vermont businesses.

14 (2) Phase 2. On or before the end of fiscal year 2015, the Agency of
15 Commerce and Community Development shall edit and organize the content to
16 be included on the website.

17 (3) Phase 3. On or before the end of fiscal year 2016, the Agency of
18 Commerce and Community Development shall complete the design and
19 mapping of the website.

1 (4) Phase 4. On or before the end of fiscal year 2016, the Agency of
2 Commerce and Community Development shall complete a communications
3 and outreach plan with a final funding proposal for the project.

4 (d) Future funding. The Agency of Commerce and Community
5 Development shall develop funding proposals for Phases 3 and 4 for fiscal year
6 2016.

7 * * * Vermont Entrepreneurial Lending Program;

8 Vermont Entrepreneurial Investment Tax Credit * * *

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

10 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

11 AUTHORITY

12 * * *

13 Subchapter 12. ~~Technology Loan~~ Vermont Entrepreneurial Lending
14 Program

15 § 280aa. FINDINGS AND PURPOSE

16 (a)(1) ~~Technology-based companies~~ Vermont-based seed, start-up, and
17 early growth-stage businesses are a vital source of innovation, employment,
18 and economic growth in Vermont. The continued development and success of
19 ~~this increasingly important sector of Vermont's economy~~ these businesses is
20 dependent upon the availability of flexible, risk-based capital.

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

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

12 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL
13 LENDING PROGRAM

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

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

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

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

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

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

1 10 V.S.A. § 280bb with up to \$1,000,000.00 from Authority funds or eligible
2 federal funds currently administered by the Authority.

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

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

8 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

9 CREDITS

10 (a) A person may receive a credit against his or her income tax imposed
11 by this chapter in an amount equal to 35 percent of his or her direct investment
12 in a Vermont-domiciled business that had gross revenues in the preceding
13 12 months of less than \$3,000,000.00.

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

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

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

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

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

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

15 Secs. 5–7. RESERVED

16 * * * Energy Rates for Businesses * * *

17 Sec. 8. PUBLIC SERVICE BOARD STUDY; BUSINESS RATES

18 (a) On or before December 1, 2014, the Public Service Board shall conduct
19 and complete an investigation of how best to advance the public good through
20 improved competitiveness for Vermont’s energy-intensive businesses with
21 regard to energy costs. As used in this section, “energy-intensive business” or

1 “business” means a business that uses more than 1,000 MWh of electricity or
2 more than 50,000 million BTU of combustible fuel per year.

3 (b) In conducting the investigation required by this section, the Board shall
4 consider:

5 (1) potential changes to the method used to assess rates for businesses
6 and, if such changes serve the public good, how to implement them in the rate
7 design of Vermont utilities;

8 (2) potential changes to the delivery, funding, and financing of energy
9 efficiency services to businesses, including an opt-out provision for businesses
10 with regard to the energy efficiency charge established under 30 V.S.A. § 209;

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

14 (4) programs or policies that would authorize retail choice for
15 businesses with respect to contracts for electricity supply;

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

17 (6) whether and to what extent any programs or policies considered by
18 the Board under this section would impose cost shifts onto other customers,
19 result in stranded costs, or conflict with mandatory renewable energy
20 requirements in Vermont and whether such cost shifts, stranded costs, or
21 conflicts would nonetheless promote the public good.

1 (c) On or before January 15, 2015, the Board shall report to the General
2 Assembly its findings and recommendations regarding regulatory or statutory
3 changes that would reduce energy costs for Vermont businesses and promote
4 the public good.

5 (d) The investigation required by this section need not conform with the
6 contested case procedures of 3 V.S.A. chapter 25 but shall provide the public,
7 including affected parties and State agencies, notice and opportunity for
8 written and oral comments.

9 * * * Domestic Export Program * * *

10 Sec. 9. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT
11 AGRICULTURE AND FOREST PRODUCTS

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

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

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

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

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

7 * * * Cloud Tax * * *

8 Secs. 10–14. RESERVED

9 Sec. 15. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY

10 TO REMOTELY ACCESSED SOFTWARE

11 (a) The imposition of sales and use tax on prewritten computer software by
12 32 V.S.A. chapter 233 shall not apply to charges for remotely accessed
13 software made after December 31, 2006.

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

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

4 Secs. 16–18. RESERVED

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

6 Sec. 21. 13 V.S.A. chapter 87 is amended to read:

7 CHAPTER 87. COMPUTER CRIMES

8 * * *

9 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

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

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

3 § 4105. THEFT OR DESTRUCTION

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

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

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

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

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

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

1 § 4106. CIVIL LIABILITY

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

5 * * *

6 * * * Statute of Limitations to Commence Action

7 for Misappropriation of Trade Secrets * * *

8 Sec. 22. 12 V.S.A. § 523 is amended to read:

9 § 523. TRADE SECRETS

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

15 * * * Protection of Trade Secrets * * *

16 Sec. 23. 9 V.S.A. chapter 143 is amended to read:

17 CHAPTER 143. TRADE SECRETS

18 § 4601. DEFINITIONS

19 As used in this chapter:

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

4 (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

9 § 4602. INJUNCTIVE RELIEF

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

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

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

3 § 4603. DAMAGES

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

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

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

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

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

1 § 4605. PRESERVATION OF SECRECY

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

8 § 4607. EFFECT ON OTHER LAW

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

12 (b) This chapter does not affect:

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

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

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

19 * * *

1 * * * Technology Businesses and Government

2 Contracting * * *

3 Sec. 24. 3 V.S.A. §§ 346 and 347 are added to read:

4 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

5 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

6 (a) The Secretary of Administration shall adopt standard provisions to
7 include in State procurement contracts under which a contractor will develop
8 software applications, computer coding, or other intellectual property, that:

9 (1) authorizes the State to use the intellectual property for purposes of
10 the contract; and

11 (2) authorizes the contractor to use the intellectual property for
12 additional commercial purposes.

13 (b) When adopting provisions pursuant to subsection (a) of this section, the
14 Secretary may include provisions authorizing the state to negotiate with a
15 contractor to secure license fees, royalty rights, or other payment mechanisms
16 for the contractor's additional commercial use of intellectual property
17 developed under a state contract.

18 [Proposed language from BGS:]

19 (a) The Secretary of Administration shall include in Administrative
20 Bulletin 3.5 a policy direction applicable to State procurement contracts that
21 include services for the development of software applications, computer

1 coding, or other intellectual property, which would allow the State of Vermont
2 to grant permission to the contractor to use the intellectual property created
3 under the contract for the contractor’s commercial purposes.

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

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

12
13 **[BGS recommends striking § 347:]**

14 § 347. STATE CONTRACTING; INTELLECTUAL PROPERTY,

15 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY;

16 E-RFP PROCESS

17 (a) The Secretary of Administration shall adopt an e-RFP process to
18 provide knowledge-based businesses with early electronic notice of requests
19 for proposals and State contracts to provide software design services, computer
20 coding, or other intellectual property-based services to State agencies and
21 departments.

1 (b) The Secretary shall have the authority to require all State agencies and
2 departments to participate in the e-RFP process adopted pursuant to subsection
3 (a) of this section, and to adopt such policies and procedures as are necessary
4 to improve the transparency and function of the State procurement process in
5 order to increase the number of State contracts awarded to qualified
6 knowledge-based businesses.

7 * * * Study; Effective Date * * *

8 Sec. 25. RESERVED

9 Sec. 26. STUDY; DEPARTMENT OF FINANCIAL REGULATION;

10 LICENSED LENDER REQUIREMENTS; COMMERCIAL

11 LENDERS

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

1 Sec. 27. RESERVED

2 * * * Tourism Funding; Study * * *

3 Sec. 28. TOURISM FUNDING; PILOT PROJECT STUDY

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

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

12 ~~Sec. 28A. 24 V.S.A. § 4352 is added to read:~~

13 ~~§ 4352. ENTERPRISE ZONE; DESIGNATION; INCENTIVES~~

14 ~~(a) Upon approval of the Commissioner of Housing and Community~~
15 ~~Development, a regional planning commission shall have the authority to~~
16 ~~designate as a Vermont Enterprise Zone one or more geographic areas within~~
17 ~~its service area that, at minimum:~~

18 ~~(1) has clearly defined boundaries that are zoned or permitted for~~
19 ~~industrial use and has been approved by one or more municipalities in their~~
20 ~~municipal plans to accommodate a share of the industrial growth anticipated by~~
21 ~~the municipality or municipalities over a 20 year period;~~

1 ~~(2) functions as a single, integrated area and provides functional~~
2 ~~connections, namely connections to existing or planned public or private~~
3 ~~infrastructure.~~

4 ~~(b) Notwithstanding any other provision of law to the contrary, the~~
5 ~~developer of a project in an approved Vermont Enterprise Zone shall be~~
6 ~~eligible for the following incentives:~~

7 ~~(1) access to the loans and assistance available to a local development~~
8 ~~corporation from the Vermont Economic Development Authority for the~~
9 ~~creation or improvement of industrial parks under 10 V.S.A.~~
10 ~~chapter 12, subchapter 3 (Industrial Parks, Speculative Buildings, and Small~~
11 ~~Business Incubator Facilities);~~

12 ~~(2) site planning assistance from the Department of Housing and~~
13 ~~Community Development in an amount up to 50 percent of the project cost;~~

14 ~~(3) financing of up to 50 percent of site acquisition and infrastructure~~
15 ~~development costs from the Department of Housing and Community~~
16 ~~Development, through grants, loans, or other mechanisms as determined by the~~
17 ~~Commissioner of Housing and Community Development in his or her~~
18 ~~discretion.~~

19 *** Act 250; Exemption; Master Permitted Industrial Park ***

20 Sec. 29. 10 V.S.A. § 6001(3)(D) is amended to read:

21 (D) The word “development” does not include:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

* * *

~~(viii) The construction or modification of improvements for industrial purposes, on a tract or tracts of land, owned or controlled by a person, that lie entirely:~~

~~(I) within an industrial park defined in section 212 of this title or a commercial park that:~~

~~(aa) the regional planning commission, with the approval of the Commissioner of Housing and Community Development, has designated as a Vermont Enterprise Zone under 24 V.S.A. § 4352 and~~

~~(bb) has obtained a master permit issued pursuant to this chapter; and~~

~~(II) within a municipality that:~~

~~(aa) Has a duly adopted municipal plan regionally approved pursuant to 24 V.S.A. § 4350.~~

~~(bb) Has duly adopted permanent zoning and subdivision bylaws necessary to implement the municipal plan.~~

~~(cc) Has adopted a development review board.~~

~~(dd) Has elected by ordinance, adopted under 24 V.S.A. chapter 59, to have municipal jurisdiction under this subdivision (3)(D)(vi) apply, in lieu of jurisdiction that would otherwise apply under this chapter. A municipality that has elected by ordinance to exercise jurisdiction over~~

1 ~~improvements under this subsection (viii) shall implement and enforce all~~
2 ~~provisions and conditions of the applicable master permit.~~

3 Sec. 30. 10 V.S.A. § 6083(h) is added to read:

4 ~~(h) Regulatory incentives; Vermont Enterprise Zones.~~

5 ~~(1) Master plan permit application. A person who owns or controls an~~
6 ~~area encompassing all or part of a Vermont Enterprise Zone designated under~~
7 ~~24 V.S.A. § 4352 may apply to the District Commission for a master plan~~
8 ~~permit for that area or any portion of that area pursuant to the procedures and~~
9 ~~policies of the Natural Resources Board. However, a municipality may apply~~
10 ~~under this subdivision without owning or controlling the affected property. In~~
11 ~~approving a master permit, the District Commission may include conditions~~
12 ~~that an applicant for an individual industrial project permit shall be required to~~
13 ~~meet during the review by a Development Review Board in a municipality that~~
14 ~~has elected by ordinance to assume such regulatory authority pursuant to~~
15 ~~subdivision 6001(3)(D)(iv) of this title.~~

16 ~~(2) Individual project permits within a Vermont Enterprise Zone. A~~
17 ~~Development Review Board created pursuant 24 V.S.A. chapter 117 shall~~
18 ~~review individual industrial permit applications within a Vermont Enterprise~~
19 ~~Zone in accordance with the specific findings of fact and conclusions of law~~
20 ~~determinations on the criteria of section 6086(a) of this title issued by the~~
21 ~~District Environmental Commission in the applicable master plan permit. A~~

1 ~~person proposing a development or subdivision within a Vermont Enterprise~~
2 ~~Zone where no master plan permit is in effect shall be required to file an~~
3 ~~application with the District Commission for review under the criteria of of~~
4 ~~6086(a) of this title.~~

5 Sec. 29. 10 V.S.A. § 238 is added to read:

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

11 Sec. 30. 3 V.S.A. § 2875 is added to read:

12 The developer of a project in an industrial park permitted under chapter 151
13 of this title shall have access to:

14 (1) site planning assistance from the Department of Housing and
15 Community Development in an amount up to 50 percent of the project cost;

16 and

17 (2) financing of up to 50 percent of site acquisition and infrastructure
18 development costs from the Department of Housing and Community
19 Development, through grants, loans, or other mechanisms as determined by the
20 Commissioner of Housing and Community Development in the
21 Commissioner's discretion.

1 Sec. 31. 10 V.S.A. § 6001(35) is added to read:

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

8 Sec. 32. REVIEW OF MASTER PLAN POLICY

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

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

15 Sec. 33. 10 V.S.A. § s(a)(4) is amended to read:

16 (4) Industrial parks.

17 (A) Notwithstanding any provision of this chapter to the contrary, a
18 conversion of primary agricultural soils located in an industrial park ~~as defined~~
19 ~~in subdivision 212(7) of this title and~~ permitted under this chapter and in
20 existence as of January 1, 2006, shall be allowed to pay a mitigation fee
21 computed according to the provisions of subdivision (1) of this subsection,

1 except that it shall be entitled to a ratio of 1:1, protected acres to acres of
2 affected primary agricultural soil. If an industrial park is developed to the
3 fullest extent before any expansion, this ratio shall apply to any contiguous
4 expansion of such an industrial park that totals no more than 25 percent of the
5 area of the park or no more than 10 acres, whichever is larger; provided any
6 expansion based on percentage does not exceed 50 acres. Any expansion larger
7 than that described in this subdivision shall be subject to the mitigation
8 provisions of this subsection at ratios that depend upon the location of the
9 expansion.

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

20 Sec. 34. 10 V.S.A. § 6001 is amended to read:

21 § 6001. DEFINITIONS

1 In this chapter:

2 * * *

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

4 * * *

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

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

13 (aa) 275 or more, in a municipality with a population of
14 15,000 or more;

15 (bb) 150 or more, in a municipality with a population of
16 10,000 or more but less than 15,000;

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

19 (dd) 50 or more, in a municipality with a population of
20 3,000 or more but less than 6,000;

1 (ee) 25 or more, in a municipality with a population of less
2 than 3,000; and
3 (ff) notwithstanding subdivisions (aa) through (ee) of this
4 subdivision (iv)(I), 10 or more if the construction involves the demolition of
5 one or more buildings that are listed on or eligible to be listed on the State or
6 National Register of Historic Places. However, demolition shall not be
7 considered to create jurisdiction under this subdivision if the Division for
8 Historic Preservation has determined the proposed demolition will have no
9 adverse effect; no adverse effect provided that specified conditions are met; or
10 will have an adverse effect but that adverse effect will be adequately mitigated.
11 Any imposed conditions shall be enforceable through a grant condition, deed
12 covenant, or other legally binding document.

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

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

17 * * *

18 ~~(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the~~
19 ~~provisions of subdivision (3)(A) of this section, if a project consists~~
20 ~~exclusively of mixed income housing or mixed use, or any combination~~
21 ~~thereof, and is located entirely within a growth center designated pursuant to~~

1 ~~24 V.S.A. 2793c or, entirely within a downtown development district~~
2 ~~designated pursuant to 24 V.S.A. § 2793, “development” means:~~

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

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

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

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

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

18 ~~(VI) Historic Buildings. Construction of 10 or more units of~~
19 ~~mixed income housing or a mixed use project with 10 or more housing units~~
20 ~~where if the construction involves the demolition of one or more buildings that~~
21 ~~are listed on or eligible to be listed on the State or National Register of Historic~~

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

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

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

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

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

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

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

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

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

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

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

19 ~~Notwithstanding subdivision (3)(A)(iv) of this section, housing units~~
20 ~~constructed by a person partially or completely outside a designated downtown~~
21 ~~development district, designated growth center, designated Vermont~~

1 ~~neighborhood, or designated neighborhood development area shall not be~~
2 ~~counted to determine jurisdiction over housing units constructed by that person~~
3 ~~entirely within a designated downtown development district, designated~~
4 ~~growth center, designated Vermont neighborhood, or designated neighborhood~~
5 ~~development area. [Repealed.]~~

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

18 [Repealed.]

19 (iii) ~~Discrete Housing Projects in Designated Areas and Exclusive~~
20 ~~Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19)~~
21 ~~of this section, jurisdiction shall be determined exclusively by counting~~

1 ~~housing units constructed by a person within a designated downtown~~
2 ~~development district, designated growth center, designated Vermont~~
3 ~~neighborhood, or designated neighborhood development area, provided that~~
4 ~~the housing units are part of a discrete project located on a single tract or~~
5 ~~multiple contiguous tracts of land. [Repealed.]~~

6 * * *

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

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

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

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

19 (B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing
20 units that is are rented by the occupants whose gross annual household income
21 does not exceed 60 percent of the county median income, or 60 percent of the

1 ~~standard metropolitan statistical area income if the municipality is located in~~
2 ~~such an area, as defined by the United States Department of Housing and~~
3 ~~Urban Development for use with the Housing Credit Program under Section~~
4 ~~42(g) of the Internal Revenue Code, and the total annual cost of the housing, as~~
5 ~~defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual~~
6 ~~household income as defined at Section 42(g)(2)(C), and with constitute~~
7 ~~affordable housing and have a duration of affordability of no less than ~~30~~ 20~~
8 ~~years.~~

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

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

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

1 association fees, is not more than 30 percent of the gross annual household
2 income.

3 (B) Housing that is rented by the occupants whose gross annual
4 household income does not exceed 80 percent of the county median income, or
5 80 percent of the standard metropolitan statistical area income if the
6 municipality is located in such an area, as defined by the United States
7 Department of Housing and Urban Development, and the total annual cost of
8 the housing, including rent, utilities, and condominium association fees, is not
9 more than 30 percent of the gross annual household income.

10 * * *

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

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

17 (B) mixed income housing and is located entirely within a designated
18 Vermont neighborhood or designated neighborhood development area under
19 24 V.S.A. chapter 76A.

20 * * *

21 Sec. 35. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

1 Sec. 8. INVESTMENT OF STATE MONIES

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

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

6 Lending Activity * * *

7 Sec. 36. 8 V.S.A. § 2201 is amended to read:

8 2201. LICENSES REQUIRED

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

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

14 (2) act as a mortgage broker;

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

16 (4) act as a sales finance company.

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

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

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

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

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

- 1 (d) No lender license, mortgage broker license, or sales finance company
2 license shall be required of:
- 3 (1) a ~~state~~ State agency, political subdivision, or other public
4 instrumentality of the ~~state~~ State;
- 5 (2) a federal agency or other public instrumentality of the United States;
- 6 (3) a gas or electric utility subject to the jurisdiction of the ~~public service~~
7 ~~board~~ Public Service Board engaging in energy conservation or safety loans;
- 8 (4) a depository institution or a financial institution as defined in
9 8 V.S.A. § 11101(32);
- 10 (5) a pawnbroker;
- 11 (6) an insurance company;
- 12 (7) a seller of goods or services that finances the sale of such goods or
13 services, other than a residential mortgage loan;
- 14 (8) any individual who offers or negotiates the terms of a residential
15 mortgage loan secured by a dwelling that served as the individual's residence,
16 including a vacation home, or inherited property that served as the deceased's
17 dwelling, provided that the individual does not act as a mortgage loan
18 originator or provide financing for such sales so frequently and under such
19 circumstances that it constitutes a habitual activity and acting in a commercial
20 context;

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

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

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

17 (12)(A) a person making an unsecured commercial loan, which loan is
18 expressly subordinate to the prior payment of all senior indebtedness of the
19 commercial borrower regardless of whether such senior indebtedness exists at
20 the time of the loan or arises thereafter. The loan may or may not include the

1 right to convert all or a portion of the amount due on the loan to an equity
2 interest in the commercial borrower;

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

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

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

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

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

18 (15) a housing finance agency;

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

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

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

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

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

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

18 (5) A licensed attorney who negotiates the terms of a residential
19 mortgage loan on behalf of a client as an ancillary matter to the attorney's
20 representation of the client, unless the attorney is compensated by a lender, a
21 mortgage broker, or other mortgage loan originator or by any agent of such

1 lender, mortgage broker, or other mortgage loan originator. To the extent an
2 attorney licensed in this State undertakes activities that are covered by the
3 definition of a mortgage loan originator, such activities do not constitute
4 engaging in the business of a mortgage loan originator, provided that:

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

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

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

12 (f) If a person who offers or negotiates the terms of a residential mortgage
13 loan is exempt from licensure pursuant to subdivision (d)(16) of this section,
14 there is a rebuttable presumption that he or she is not engaged in the business
15 of 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 Sec. 37. RESERVED

6 Sec. 38. 10 V.S.A. § 545 is added to read:

7 § 545. WORKFORCE EDUCATION AND TRAINING LEADER

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

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

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

1 encourage Vermonters majoring in fields that prepare them for employment in
2 Vermont in targeted workforce areas upon earning a bachelor's or associate's
3 degree from a Vermont public or independent postsecondary institution to
4 work in Vermont. The Secretary of Commerce and Community Development,
5 in consultation with the Secretary of Education and the Commissioner of
6 Labor, shall determine eligibility for the Program and develop all
7 organizational details consistent with the purposes and requirements of this
8 section.

9 (b) Fund creation.

10 (1) There is created a special fund to be known as the Vermont Strong
11 Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall
12 be established and held separate and apart from any other funds or monies of
13 the State and shall be used and administered solely for the purposes of this
14 section. The Secretary of Commerce and Community Development may draw
15 warrants for disbursements from the Fund in anticipation of receipts. Any
16 remaining balance at the end of the fiscal year shall be carried forward in the
17 Fund.

18 (2) The Fund shall consist of:

19 (A) sums appropriated or transferred from the General Fund from
20 time to time by the General Assembly;

21 (B) interest earned from the investment of Fund balances; and

1 (C) any other money from any other source accepted for the benefit
2 of the Fund.

3 (3) The Secretary of Commerce and Community Development shall
4 administer the Fund or may contract for its administration. The administrator
5 may require certification of compliance with this section prior to making an
6 award, including certification that the amount of the eligible individual's
7 outstanding debt arising solely from postsecondary tuition exceeds the total
8 amount to be paid under this section.

9 (c) Criteria.

10 (1) Tuition repayment awards shall be provided in exchange for a
11 commitment from an eligible individual to work in Vermont following
12 postsecondary graduation for the three- or five-year period of tuition
13 repayment under this section.

14 (2) An individual shall be eligible for an award under this section if he
15 or she:

16 (A) is a graduate of a Vermont public secondary school, a public
17 school in another state that is designated as the public school for the student's
18 district of residence, or an approved or recognized independent secondary
19 school located in Vermont, or was a home study student classified as a
20 Vermont resident by the postsecondary institution from which he or she was
21 graduated;

1 (B) is a graduate of a public or independent postsecondary institution
2 in Vermont;

3 (C) was a first-time, full-time, degree-seeking student while enrolled
4 in the postsecondary institution;

5 (D) was awarded an associate’s or bachelor’s degree in a field
6 identified by the Secretary of Commerce and Community Development, the
7 Secretary of Education, and the Commissioner of Labor in a collaborative
8 process that determines current and projected industry trends and identifies
9 current and future workforce needs;

10 (E) completed the associate’s degree within two years or the
11 bachelor’s degree within four years;

12 (F) was enrolled in the postsecondary institution from which the
13 degree was awarded or was enrolled in both that institution and another
14 Vermont postsecondary institution for the entire two- or four-year period;
15 provided, however, that an award shall be available on a prorated basis to an
16 otherwise eligible individual who is enrolled in a postsecondary institution
17 located outside Vermont and who transfers to and is graduated from a Vermont
18 postsecondary institution; and

19 (G) following graduation, is employed in a field or specific position
20 identified by the collaborative process referenced in this subdivision (2).

1 (3) The Secretary of Commerce and Community Development shall
2 make an award under this section to an eligible individual:

3 (A) in an amount equal to one semester of tuition at the Vermont
4 State Colleges' in-state tuition rate for the second year of enrollment for an
5 individual awarded an associate's degree, to be paid in installments during the
6 three years following graduation; and

7 (B) in an amount equal to one year of tuition at the Vermont State
8 Colleges' in-state tuition rate for the fourth year of enrollment for an individual
9 awarded a bachelor's degree, to be paid in installments during the five years
10 following graduation.

11 (4) Notwithstanding subdivision (3) of this subsection, an award to an
12 eligible individual shall be adjusted so that it does not exceed the amount of
13 the individual's debt arising solely from postsecondary tuition that is
14 outstanding at the time of graduation.

15 (d) Reports.

16 (1) Participating postsecondary schools shall report annually in
17 November to the Secretary of Commerce and Community Development
18 regarding the number of enrolled first-time, full-time Vermont students with an
19 eligible major who are expected to graduate within the required two- or
20 four-year period.

1 (2) Notwithstanding 2 V.S.A. § 20(d), the Secretary of Commerce and
2 Community Development shall report annually in January to the General
3 Assembly regarding implementation of the Program, including the projected
4 cost of making awards under this section during the then-current fiscal year
5 and each of the four years following.

6 (e) Rules. The Secretary of Commerce and Community Development shall
7 adopt rules pursuant to 3 V.S.A. chapter 25 to implement the Program created
8 by this section.

9 Sec. 41. REPORTS

10 On or before January 15, 2015, the Secretary of Commerce and Community
11 Development shall report to the General Assembly regarding implementation
12 of the Program created in Sec. 38 of this act, including the projected cost of
13 making awards under that section in fiscal year 2017 and after.

14 Sec. X. EFFECTIVE DATE

15 (a) Except as otherwise provided in this Section, this act shall take effect on
16 July 1, 2014.

17 (b) Secs. 39-41 (Vermont Strong Scholars Program) shall take effect on
18 July 1, 2014 and, pursuant to the terms of 16 V.S.A. § 2888, tuition repayment
19 awards shall be available to Vermont students graduating from high school in
20 2014 and after.

21

1

2 (Committee vote: _____)

3

4

Senator [surname]

5

FOR THE COMMITTEE