

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 out all after the enacting clause and inserting in lieu thereof the
9 following:

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

11 Sec. 1. ONE STOP SHOP WEB PORTAL

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

18 (b) On or before January 15, 2015, the Business Portal Committee shall
19 report to the Senate Committee on Economic Development, Housing and
20 General Affairs and the House Committee on Commerce and Economic

1 Development to inform the committees of the status of the project and a
2 timeline for its completion.

3 * * * Vermont Entrepreneurial Lending Program;

4 Vermont Entrepreneurial Investment Tax Credit * * *

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

6 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

7 AUTHORITY

8 * * *

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

10 Program

11 § 280aa. FINDINGS AND PURPOSE

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

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

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

7 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL
8 LENDING PROGRAM

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

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

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

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

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

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

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

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

1 for the purpose of establishing and maintaining loan loss reserves to guarantee
2 entrepreneurial loans.

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

4 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

5 CREDITS

6 (a) A person may receive a credit against his or her income tax imposed
7 by this chapter in an amount equal to 35 percent of his or her direct investment
8 in a Vermont-domiciled business that had gross revenues in the preceding
9 12 months of less than \$3,000,000.00.

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

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

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

19 (d) A person who makes a direct investment and thereby qualifies for a
20 credit pursuant to this section shall not have a right to receive a return of the
21 person's investment for a period of five years; provided, however, that the

1 investor may have the right to receive stock options, warrants, or other forms
2 of return that are not in the nature of return of principal.

3 (e) A person that receives an investment that qualifies for a credit pursuant
4 to this section shall annually report to the Department of Taxes the total
5 number and amounts of investments received, the number of employees, the
6 number of jobs created and retained, annual payroll, total sales revenue in the
7 12 months preceding the date of the report, and any additional information
8 required by the Department.

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

11 * * * Electricity Rates for Businesses * * *

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

14 (a) The Commissioner of Public Service, in consultation with the Public
15 Service Board and the Secretary of Commerce and Community Development,
16 shall conduct a study of how best to advance the public good through
17 consideration of the competitiveness of Vermont’s energy-intensive businesses
18 with regard to electricity costs. As used in this section, “energy-intensive
19 business” or “business” means a manufacturer, a business that uses 1,000
20 MWh or more of electricity per year, or a business that meets another energy
21 threshold deemed more appropriate by the Commissioner.

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

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

6 (2) with regard to the energy efficiency programs established under
7 30 V.S.A. § 209, potential changes to their delivery, funding, financing, and
8 participation requirements;

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

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

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

17 (6) whether and to what extent any programs or policies considered by
18 the Commissioner under this section would impose cost shifts onto other
19 customers, result in stranded costs (costs that cannot be recovered by a
20 regulated utility due to a change in regulatory structure or policy), or conflict

1 with renewable energy requirements in Vermont and, if so, whether such
2 programs or policies would nonetheless promote the public good.

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

6 (1) consumer and business advocacy groups;

7 (2) regional development corporations; and

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

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

15 * * * Domestic Export Program * * *

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

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

1 to access and use prewritten software that is also commercially available in a
2 tangible form.

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

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

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

8 CHAPTER 87. COMPUTER CRIMES

9 * * *

10 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

19 (2) if the damage or loss does not exceed \$500.00 for a second or
20 subsequent offense, imprisoned not more than two years or fined not more than
21 ~~\$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~~ \$100,000.00, 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~~ \$100,000.00, 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. 9. 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. 10. 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~~ 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 * * * Land Use; Housing; Industrial Development * * *

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

3 § 238. AVAILABILITY OF LOANS AND ASSISTANCE FOR
4 INDUSTRIAL PARKS

5 Notwithstanding any provision of this chapter to the contrary, the developer
6 of a project in an industrial park permitted under chapter 151 of this title shall
7 have 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 this subchapter.

10 Sec. 15. 3 V.S.A. § 2875 is added to read:

11 § 2875. ASSISTANCE FROM THE DEPARTMENT OF HOUSING AND
12 COMMUNITY DEVELOPMENT

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

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

18 (2) financing of up to 25 percent of site acquisition and infrastructure
19 development costs from the Department of Housing and Community
20 Development through grants, loans, or other mechanisms as determined by the

1 Commissioner of Housing and Community Development in the
2 Commissioner’s discretion.

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

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

10 Sec. 17. REVIEW OF MASTER PLAN POLICY

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

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

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

18 (4) Industrial parks.

19 (A) Notwithstanding any provision of this chapter to the contrary, a
20 conversion of primary agricultural soils located in an industrial park ~~as defined~~
21 ~~in subdivision 212(7) of this title and~~ permitted under this chapter and in

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

12 (B) In any application to a ~~district commission for expansion of~~
13 District Commission to amend a permit for an existing industrial park, compact
14 development patterns shall be encouraged that assure the most efficient and
15 full use of land and the realization of maximum economic development
16 potential through appropriate densities, taking into account any long term
17 needs for project expansion within the industrial park shall be allowed
18 consistent with all applicable criteria of subsection 6086(a) of this title.

19 Industrial park expansions and industrial park infill shall not be subject to
20 requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to
21 requirements established in subdivision 6086(a)(9)(C)(iii).

1 (dd) 50 or more, in a municipality with a population of
2 3,000 or more but less than 6,000;

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

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

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

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

19 * * *

20 ~~(B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the~~
21 ~~provisions of subdivision (3)(A) of this section, if a project consists~~

1 ~~exclusively of mixed income housing or mixed use, or any combination~~
2 ~~thereof, and is located entirely within a growth center designated pursuant to~~
3 ~~24 V.S.A. 2793c or, entirely within a downtown development district~~
4 ~~designated pursuant to 24 V.S.A. § 2793, “development” means:~~

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

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

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

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

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

20 ~~(VI) Historic Buildings. Construction of 10 or more units of~~
21 ~~mixed income housing or a mixed use project with 10 or more housing units~~

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

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

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

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

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

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

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

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

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

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

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

2 ~~Notwithstanding subdivision (3)(A)(iv) of this section, housing units~~
3 ~~constructed by a person partially or completely outside a designated downtown~~
4 ~~development district, designated growth center, designated Vermont~~
5 ~~neighborhood, or designated neighborhood development area shall not be~~
6 ~~counted to determine jurisdiction over housing units constructed by that person~~
7 ~~entirely within a designated downtown development district, designated~~
8 ~~growth center, designated Vermont neighborhood, or designated neighborhood~~
9 ~~development area. [Repealed.]~~

10 (ii) ~~Five-Year, Five-Mile Radius Jurisdiction Analysis. Within~~
11 ~~any continuous period of five years, housing units constructed by a person~~
12 ~~entirely within a designated downtown district, designated growth center,~~
13 ~~designated Vermont neighborhood, or designated neighborhood development~~
14 ~~area shall be counted together with housing units constructed by that person~~
15 ~~partially or completely outside a designated downtown development district,~~
16 ~~designated growth center, designated Vermont neighborhood, or designated~~
17 ~~neighborhood development area to determine jurisdiction over the housing~~
18 ~~units constructed by a person partially or completely outside the designated~~
19 ~~downtown development district, designated growth center, designated Vermont~~
20 ~~neighborhood, or designated neighborhood development area and within a~~

1 ~~five mile radius in accordance with subdivision (3)(A)(iv) of this section.~~

2 [Repealed.]

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

11 * * *

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

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

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

20 (ii) at least 20 percent of the housing units have a purchase price
21 which at the time of first sale does not exceed 90 percent of the new

1 construction, targeted area purchase price limits established and published
2 annually by the Vermont Housing Finance Agency;

3 (B) ~~Affordable~~ Rental Housing. At least 20 percent of the housing
4 units that ~~is~~ are rented by the occupants whose gross annual household income
5 does not exceed 60 percent of the county median income, or 60 percent of the
6 standard metropolitan statistical area income if the municipality is located in
7 such an area, as defined by the United States Department of Housing and
8 Urban Development for use with the Housing Credit Program under Section
9 42(g) of the Internal Revenue Code, and the total annual cost of the housing, as
10 defined at Section 42(g)(2)(B), is not more than 30 percent of the gross annual
11 household income as defined at Section 42(g)(2)(C), and with constitute
12 affordable housing and have a duration of affordability of no less than ~~30~~
13 20 years.

14 (28) “Mixed use” means construction of both mixed income housing
15 and construction of space for any combination of retail, office, services,
16 artisan, and recreational and community facilities, provided at least 40 percent
17 of the gross floor area of the buildings involved is mixed income housing.

18 “Mixed use” does not include industrial use.

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

20 (A) Housing that is owned by its occupants whose gross annual
21 household income does not exceed 80 percent of the county median income, or

1 80 percent of the standard metropolitan statistical area income if the
2 municipality is located in such an area, as defined by the United States
3 Department of Housing and Urban Development, and the total annual cost of
4 the housing, including principal, interest, taxes, insurance, and condominium
5 association fees, is not more than 30 percent of the gross annual household
6 income.

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

14 * * *

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

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

1 (4) act as a sales finance company.

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

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

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

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

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

1 section 2209 of this title, or pursuant to section 2208 of this title, and shall pay
2 the applicable fees required by subsection 2202(b) of this title for a mortgage
3 broker license or sales finance company license.

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

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

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

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

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

13 (5) a pawnbroker;

14 (6) an insurance company;

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

17 (8) any individual who offers or negotiates the terms of a residential
18 mortgage loan secured by a dwelling that served as the individual's residence,
19 including a vacation home, or inherited property that served as the deceased's
20 dwelling, provided that the individual does not act as a mortgage loan
21 originator or provide financing for such sales so frequently and under such

1 circumstances that it constitutes a habitual activity and acting in a commercial
2 context;

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

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

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

19 (12)(A) a person making an unsecured commercial loan, which loan is
20 expressly subordinate to the prior payment of all senior indebtedness of the
21 commercial borrower regardless of whether such senior indebtedness exists at

1 the time of the loan or arises thereafter. The loan may or may not include the
2 right to convert all or a portion of the amount due on the loan to an equity
3 interest in the commercial borrower;

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

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

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

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

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

19 (15) a housing finance agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (g) Independent contractor loan processors or underwriters. A loan
20 processor or underwriter who is an independent contractor may not engage in
21 the activities of a loan processor or underwriter unless such independent

1 contractor loan processor or underwriter obtains and maintains a mortgage loan
2 originator license. Each independent contractor loan processor or underwriter
3 licensed as a mortgage loan originator must have and maintain a valid unique
4 identifier issued by the Nationwide Mortgage Licensing System and Registry.

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

7 * * * Workforce Education and Training * * *

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

9 § 545. WORKFORCE EDUCATION AND TRAINING LEADER

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

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

19 (c) In conducting the inventory pursuant to subsection (b) of this section,
20 the Workforce Leader shall design and implement a stakeholder engagement

1 process that brings together employers with potential employees, including
2 students, the unemployed, and incumbent employees seeking further training.

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

8 Sec. 23. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

9 On or before January 15, 2015, the Commissioner of Labor shall submit to
10 the House Committee on Commerce and Economic Development and the
11 Senate Committee on Economic Development, Housing and General Affairs a
12 report that details the internship opportunities available to Vermonters between
13 15 and 18 years of age and recommends one or more means to expand these
14 opportunities through the Vermont Career Internship Program, 10 V.S.A.
15 § 544, or through other appropriate mechanisms.

16 * * * Vermont Strong Scholars Program * * *

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

18 CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS

19 EDUCATION

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

21 § 2888. VERMONT STRONG SCHOLARS PROGRAM

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

7 (b) Academic majors; projections.

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

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

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

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

20 (3) Based upon the identified majors, the Secretary of Administration
21 shall annually provide the General Assembly with the estimated cost of the

1 Corporation's loan forgiveness awards under the Program during the
2 then-current fiscal year and each of the four following fiscal years.

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

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

7 (2) is a graduate of an eligible institution;

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

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

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

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

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

16 (d) Loan forgiveness.

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

19 (A) for an individual awarded an associate's degree by an eligible
20 institution, in an amount equal to the tuition rate for 15 credits at the

1 Community College of Vermont during the individual's final semester of
2 enrollment, to be prorated over the three years following graduation; and

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

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

10 (e) Program management and funding. The Secretary shall develop all
11 organizational details of the Program consistent with the purposes and
12 requirements of this section, including the identification of eligible major
13 programs and eligible jobs. The Secretary may contract with the Corporation
14 for management of the Program. The Secretary may adopt rules pursuant to
15 3 V.S.A. chapter 25 necessary to implement the Program. The availability and
16 payment of loan forgiveness awards under this section are subject to funding
17 available to the Corporation for the awards.

18 (f) Fund creation.

19 (1) There is created a special fund to be known as the Vermont Strong
20 Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund shall
21 be used and administered solely for the purposes of this section. The Secretary

1 may draw warrants for disbursements from the Fund in anticipation of receipts.
2 Any remaining balance at the end of the fiscal year shall be carried forward in
3 the Fund.

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

7 * * * Effective Date * * *

8 Sec. 25. EFFECTIVE DATE

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

10

11 (Committee vote: _____)

12

13

Senator [surname]

14

FOR THE COMMITTEE