

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 growth-stage businesses are a vital source of innovation, employment, and
18 economic growth in Vermont. The continued development and success of ~~this~~
19 ~~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 growth-stage businesses often consist almost
3 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 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 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 growth-stage
19 businesses in Vermont. The Program shall specifically seek to fulfill capital
20 requirement needs that are unmet in Vermont, including:

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

3 (2) investments from \$250,000.00 through \$2,000,000.00 in
4 growth-stage companies whose capital needs exceed the current capacity of
5 public and private entrepreneurial financing sources; and

6 (3) investments in 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 50 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 contribution and thereby
4 qualifies for a credit pursuant to this section shall not have a right to receive a
5 return of the person’s principal for a period of five years; provided, however,
6 that the investor may have the right to receive stock options, warrants, or other
7 forms 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 Manufacturers * * *

17 Sec. 8. CREATION OF MANUFACTURING RATE CLASSES

18 (a) As used in this section, a “manufacturing business” means a business
19 engaged in one or more of the activities classified under North American
20 Industry Classification System (NAICS) Sector 31–33.

1 (b) Notwithstanding 30 V.S.A. § 209 and any other provision of law to the
2 contrary, a manufacturing business shall have the right to opt out of the energy
3 efficiency charge, provided that if a business exercises its right to opt out of the
4 energy efficiency charge:

5 (1) that business shall have no further eligibility to participate in
6 State-sponsored energy efficiency programs under 30 V.S.A. § 209 or other
7 relevant provision of law; and

8 (2) the energy efficiency charge shall not be increased on any other
9 person, but rather, the total amounts available from the charge shall be
10 reduced.

11 (c)(1) On or before July 15, 2014, the Public Service Board shall open a
12 docket or convene a working group to explore potential changes to the method
13 used to assess utility rates for manufacturing businesses in order to achieve a
14 minimum 10 percent reduction in electricity costs from the amount paid by
15 manufacturers in 2012.

16 (2) The Board shall report to the General Assembly, as soon as
17 practicable, its findings, potential regulatory or statutory changes, potential
18 increase in net economic activity realized by a decrease in rates, and any other
19 information the Board determines appropriate.

1 (i) interest income from non-Vermont state and local obligations;
2 (ii) dividends or other distributions from any fund to the extent
3 they are attributable to non-Vermont state or local obligations; and

4 (iii) the amount in excess of \$5,000.00 of state and local income
5 taxes deducted from federal adjusted gross income for the taxable year, but in
6 no case in an amount that will reduce total itemized deductions below the
7 standard deduction allowable to the taxpayer; and

8 (B) Decreased by the following items of income (to the extent such
9 income is included in federal adjusted gross income):

10 (i) income from United States government obligations;

11 (ii) with respect to adjusted net capital gain income as defined in
12 Section 1(h) of the Internal Revenue Code: ~~either~~ the first \$5,000.00 of
13 adjusted net capital gain income; or 40 percent of adjusted net capital gain
14 income from the sale of assets held by the taxpayer for more than three years,
15 except not adjusted net capital gain income from:

16 (I) the sale of any real estate or portion of real estate used by
17 the taxpayer as a primary or nonprimary residence; or

18 (II) the sale of depreciable personal property other than farm
19 property and standing timber; or stocks or bonds publicly traded or traded on
20 an exchange, or any other financial instruments; regardless of whether sold by
21 an individual or business;

1 and provided that the total amount of decrease under this subdivision
2 (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

3 (iii) recapture of ~~state~~ State and local income tax deductions not
4 taken against Vermont income tax.

5 Secs. 17–18. RESERVED

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

7 Sec. 21. 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~~ \$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 changes to the State's licensed lender requirements that are necessary to open
2 private capital markets and remove unnecessary barriers to business investment
3 in Vermont.

4 Sec. 27. RESERVED

5 * * * Tourism Funding * * *

6 Sec. 28. 10 V.S.A. § 668 is added to read:

7 § 668. TOURISM FUNDING

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

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

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

17 Sec. 28A. ENTERPRISE ZONE; DESIGNATION; INCENTIVES

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

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

5 (2) functions as a single, integrated area and provides functional
6 connections, namely connections to existing or planned public or private
7 infrastructure.

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

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

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

18 (3) financing of up to 50 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 his or her
2 discretion.

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

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

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

6 * * *

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

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

12 (aa) the regional planning commission, with the approval of
13 the Commissioner of Housing and Community Development, has designated
14 as a Vermont Enterprise Zone under [INSERT STATUTE]; and

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

17 (II) within a municipality that:

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

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

1 (cc) Has adopted a development review board.

2 (dd) Has elected by ordinance, adopted under 24 V.S.A.

3 chapter 59, to have municipal jurisdiction under this subdivision (3)(D)(vi)

4 apply, in lieu of jurisdiction that would otherwise apply under this chapter. A

5 municipality that has elected by ordinance to exercise jurisdiction over

6 improvements under this subsection (viii) shall implement and enforce all

7 provisions and conditions of the applicable master permit.

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

9 (h) Regulatory incentives; Vermont Enterprise Zones.

10 (1) Master plan permit application. A person who owns or controls an

11 area encompassing all or part of a Vermont Enterprise Zone designated under

12 [INSERT STATUTE] may apply to the District Commission for a master plan

13 permit for that area or any portion of that area pursuant to the procedures and

14 policies of the Natural Resources Board. However, a municipality may apply

15 under this subdivision without owning or controlling the affected property. In

16 approving a master permit, the District Commission may include conditions

17 that an applicant for an individual industrial project permit shall be required to

18 meet during the review by a Development Review Board in a municipality that

19 has elected by ordinance to assume such regulatory authority pursuant to

20 subdivision 6001(3)(D)(iv) of this title.

1 (2) Individual project permits within a Vermont Enterprise Zone. A
2 Development Review Board created pursuant 24 V.S.A. chapter 117 shall
3 review individual industrial permit applications within a Vermont Enterprise
4 Zone in accordance with the specific findings of fact and conclusions of law
5 determinations on the criteria of section 6086(a) of this title issued by the
6 District Environmental Commission in the applicable master plan permit. A
7 person proposing a development or subdivision within a Vermont Enterprise
8 Zone where no master plan permit is in effect shall be required to file an
9 application with the District Commission for review under the criteria of of
10 6086(a) of this title.

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

12 Sec. 31. 10 V.S.A. § 6093(a)(4) is amended to read:

13 (4) Industrial parks.

14 (A) Notwithstanding any provision of this chapter to the contrary, a
15 conversion of primary agricultural soils located in an industrial park as defined
16 in subdivision 212(7) of this title ~~and permitted under this chapter and in~~
17 ~~existence as of January 1, 2006,~~ shall be allowed to pay a mitigation fee
18 ~~computed according to the provisions of subdivision (1) of this subsection,~~
19 ~~except that it shall be entitled to a ratio of 1:1, protected acres to by~~
20 multiplying the acres of affected primary agricultural soil by the price-per-acre
21 value that the Secretary of Agriculture, Food and Markets has determined to be

1 the recent, per-acre cost to acquire conservation easements for primary
2 agricultural soils in the same geographic region as the industrial park. ~~If an~~
3 ~~industrial park is developed to the fullest extent before any expansion, this~~
4 ~~ratio shall apply to any contiguous expansion of such an industrial park that~~
5 ~~totals no more than 25 percent of the area of the park or no more than 10 acres,~~
6 ~~whichever is larger; provided any expansion based on percentage does not~~
7 ~~exceed 50 acres. Any expansion larger than that described in this subdivision~~
8 ~~shall be subject to the mitigation provisions of this subsection at ratios that~~
9 ~~depend upon the location of the expansion.~~

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

1 Sec. 32. 10 V.S.A. § 6001 is amended to read:

2 § 6001. DEFINITIONS

3 In this chapter:

4 * * *

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

6 * * *

7 (B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the
8 provisions of subdivision (3)(A) of this section, if a project consists
9 exclusively of mixed income housing or mixed use, or any combination
10 thereof, and is located entirely within a growth center designated pursuant to
11 24 V.S.A. 2793c ~~or~~ entirely within a downtown development district
12 designated pursuant to 24 V.S.A. § 2793, or entirely within a village center that
13 is also a neighborhood development area and both the center and area are
14 designated under 24 V.S.A. chapter 76A, “development” means:

15 (I) Construction of mixed income housing with ~~200~~ 275 or
16 more housing units or a mixed use project with ~~200~~ 275 or more housing units,
17 in a municipality with a population of 15,000 or more.

18 (II) Construction of mixed income housing with ~~400~~ 150 or
19 more housing units or a mixed use project with ~~400~~ 150 or more housing units,
20 in a municipality with a population of 10,000 or more but less than 15,000.

1 (III) Construction of mixed income housing with ~~50~~ 75 or more
2 housing units or a mixed use project with ~~50~~ 75 or more housing units, in a
3 municipality with a population of 6,000 or more and less than 10,000.

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

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

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

1 (ii) Mixed Income Housing Jurisdictional Thresholds.

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

7 (I) Construction of mixed income housing with ~~200~~ 275 or
8 more housing units, in a municipality with a population of 15,000 or more.

9 (II) Construction of mixed income housing with ~~400~~ 150 or
10 more housing units, in a municipality with a population of 10,000 or more but
11 less than 15,000.

12 (III) Construction of mixed income housing with ~~50~~ 75 or more
13 housing units, in a municipality with a population of 6,000 or more and less
14 than 10,000.

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

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

20 (VI) Historic Buildings. Construction of 10 or more units of
21 mixed income housing ~~where~~ if the construction involves the demolition of one

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

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

11 (i) Incentive for Growth Inside Designated Areas.

12 (I) Notwithstanding subdivision (3)(A)(iv) of this section,
13 ~~housing units constructed by a person partially or~~ the determination of
14 jurisdiction over a discrete housing project that is located completely ~~outside~~
15 inside a designated downtown development district, designated growth center,
16 designated Vermont neighborhood, or designated neighborhood development
17 area shall ~~not be counted to determine jurisdiction over housing units~~
18 ~~constructed by that person entirely within a designated downtown development~~
19 ~~district, designated growth center, designated Vermont neighborhood, or~~
20 ~~designated neighborhood development area~~ count only the housing units
21 included in that discrete project.

1 (II) Notwithstanding subdivision (3)(A) of this section,
2 improvements within a downtown development district designated under
3 24 V.S.A. § 2793 shall be treated as exempt from the requirement to obtain a
4 permit under section 6081 of this title if there is compliance with a final
5 jurisdictional opinion issued under section 6007 of this title that concludes that
6 the improvements constitute a development or subdivision or a material change
7 to a permitted project and that the requestor has demonstrated each of the
8 following:

9 (aa) The State Historic Preservation Officer or designee has
10 determined that the improvements will have no undue adverse effect on any
11 historic site.

12 (bb) The improvements will meet or exceed the applicable
13 energy conservation and building energy standards under subdivision
14 6086(a)(9) of this title.

15 (cc) The Secretary of Transportation or designee has
16 determined that the improvements will have no significant impact on any
17 highway, transportation facility, or other land or structure under the Secretary's
18 jurisdiction.

19 (dd) The Commissioner of Buildings and General Services
20 or designee has determined that the improvements will have no significant

1 impact on any adjacent land or facilities under the Commissioner's
2 jurisdiction.

3 (ee) The Agency of Natural Resources has determined that
4 the project will have no significant impact on any land or facilities under its
5 jurisdiction or on any important natural resources, other than primary
6 agricultural soils. In this subdivision (ee), important natural resources shall
7 have the same meaning as under 24 V.S.A. § 2791.

8 (ff) The Secretary of Agriculture, Food and Markets or
9 designee has determined that the improvements will not reduce or convert
10 primary agricultural soils or that there will be appropriate mitigation for any
11 reduction in or conversion of those soils.

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

1 neighborhood, or designated neighborhood development area and within a
2 five-mile radius in accordance with subdivision (3)(A)(iv) of this section.

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~~ 80 percent of the county median income, or ~~60~~ 80 percent
6 of the standard metropolitan statistical area income if the municipality is
7 located in such an area, as defined by the United States Department of Housing
8 and Urban Development for use with the Housing Credit Program under
9 Section 42(g) of the Internal Revenue Code, and the total annual cost of the
10 housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the
11 gross annual household income as defined at Section 42(g)(2)(C), and with a
12 duration of affordability of no less than ~~30~~ 20 years.

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

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

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

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

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

13 * * *

14 Sec. 33. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

15 Sec. 8. INVESTMENT OF STATE MONIES

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

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

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

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

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

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

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

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

5 (5) a pawnbroker;

6 (6) an insurance company;

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

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

16 (9) lenders that conduct their lending activities, other than residential
17 mortgage loan activities, through revolving loan funds, that are nonprofit
18 organizations exempt from taxation under Section 501(c) of the Internal
19 Revenue Code, 26 U.S.C. § 501(c), and that register with the ~~commissioner of~~
20 ~~economic development~~ Commissioner of Economic Development under
21 10 V.S.A. § 690a;

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

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

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

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

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

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

3 (13) nonprofit organizations established under testamentary instruments,
4 exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,
5 26 U.S.C. § 501(c)(3), and which make loans for postsecondary educational
6 costs to students and their parents, provided that the organizations provide
7 annual accountings to the Probate Division of the Superior Court;

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

11 (15) a housing finance agency;

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

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

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

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

20 (3) Any individual who offers or negotiates terms of a residential
21 mortgage loan secured by a dwelling that served as the individual's residence,

1 including a vacation home, or inherited property that served as the deceased's
2 dwelling, provided that the individual does not act as a mortgage loan
3 originator or provide financing for such sales so frequently and under such
4 circumstances that it constitutes a habitual activity and acting in a commercial
5 context.

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

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

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

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

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

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

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

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

18 * * * Regional Economic Development * * *

19 Sec. 9. 24 V.S.A. § 2784 is amended to read:

20 2784. TERMS OF PERFORMANCE CONTRACTS

1 (a)(1) Funds available under a performance contract may only be used by
2 an applicant to perform the duties or provide the services set forth in the
3 performance contract.

4 (2) The amount and terms of the performance contract award shall be
5 determined by the parties to the contract.

6 (b) A performance contract shall be made for a period agreed to by the
7 parties.

8 (c) Payments to a service provider shall be made pursuant to the terms of
9 the performance contract.

10 (d) The Secretary shall include in each performance contract a provision for
11 one or more incentive payments that are contingent upon the number and type
12 of new jobs created by, and attributable to, the performance of the service
13 provider.

14 * * * Effective Date * * *

15 Sec. **X**. EFFECTIVE DATE

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

17

18 (Committee vote: _____)

19

20

Senator [surname]

21

FOR THE COMMITTEE