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H.453

Introduced by Representatives McFaun of Barre Town, Gamache of Swanton,
and Parent of St. Albans Town

Referred to Committee on

Date:

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to provide
economic and tax incentives to businesses to promote economic development
throughout Vermont.

An act relating to creating Start Up Vermont

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 18A is added to read:

CHAPTER 18A. START UP VERMONT

§ 381. DEFINITIONS

As used in this chapter:

(1) “Community college” means a college that provides two-year or
four-year postsecondary programs in general and technical educational
subjects and receives financial assistance from the State.

(2) “Eligible land” means land eligible pursuant to section 382 of this
title for approval as a Tax-Free VT area.

- 1 (3) “Net new job” means a job created in a Tax-Free VT area that
2 satisfies the following criteria:
- 3 (A) is new to the State;
- 4 (B) has not been transferred from employment with another business
5 located in this State through an acquisition, merger, consolidation, or other
6 reorganization of businesses or the acquisition of assets of another business, or
7 except as provided in subdivision (6)(D) of this subsection, has not been
8 transferred from employment with a related person in this State;
- 9 (C) is not filled by an individual employed within the State within the
10 immediately preceding 60 months by a related person;
- 11 (D) is either a full-time wage-paying job or equivalent to a full-time
12 wage-paying job requiring at least 35 hours per week; and
- 13 (E) is filled for more than six months.
- 14 (4) “New business” means a business that satisfies the following
15 criteria:
- 16 (A) the business is not operating or located within the State at the
17 time it submits its application to participate in the Start Up Vermont Program;
- 18 (B) the business is not moving existing jobs into the Tax-Free VT
19 area from another area in the State;
- 20 (C) the business is not substantially similar in operation and in
21 ownership to a business entity taxable, or previously taxable within the last

1 five taxable years under the individual income tax, corporate income tax, or
2 bank franchise or insurance premiums tax laws of this State; and

3 (D) the business does not cause individuals to transfer from existing
4 employment with a related person located in the State to similar employment
5 with the business, unless the business has received approval for the transfer
6 from the Secretary after demonstrating that the related person has not
7 eliminated those existing positions.

8 (5) "Private college or university" means a not-for-profit two-year or
9 four-year college or university that confers an associate, baccalaureate, or
10 higher degree in this State.

11 (6) "Related person" shall have the same meaning as in 26 U.S.C.
12 § 465(b)(3)(C).

13 (7) "Secretary" means the Secretary of Commerce and Community
14 Development.

15 (8) "Sponsoring campus, college, or university" means a college or
16 university that has received approval to sponsor a Tax-Free VT area pursuant
17 to section 385 of this title.

18 (9) "Start Up Vermont Board" means a Board consisting of three
19 members, one each appointed by the Governor, the Speaker of the House of
20 Representatives, and the President Pro Tempore of the Senate, each of whom

1 shall have significant expertise and experience in economic development and
2 may not have a personal interest in any project that comes before the Board.

3 (10) “State university campus” means the University of Vermont and
4 the Vermont State Colleges.

5 (11) “Strategic State asset” means land or a building or group of
6 buildings owned by the State that is:

7 (A) closed;

8 (B) vacant; or

9 (C) for which notice of closure has been given pursuant to any
10 statutory notice requirement or which is otherwise authorized to be closed
11 pursuant to the laws of this State.

12 (12) “Tax-Free VT area” means the land or vacant space of a university
13 or college that meets the eligibility criteria specified in section 382 of this title
14 and that has been approved as a Tax-Free VT area pursuant to the provisions in
15 section 385 of this title; the term also means a strategic State asset that has
16 been approved by the Start Up Vermont Board pursuant to the provisions of
17 section 385 of this title.

18 (13) “Underutilized property” means vacant or abandoned land or space
19 in an existing industrial park, manufacturing facility, a brownfield site, or a
20 distressed or abandoned property, which shall be determined by factors

1 including poverty, identified by the municipality or regional planning
2 commission in which the property is located.

3 § 382. ELIGIBILITY CRITERIA FOR COLLEGES AND UNIVERSITIES

4 (a) State university campuses and community colleges.

5 (1) The following shall constitute the eligible land of a State university
6 campus or community college:

7 (A) vacant land or space in a building located on the campus of a
8 State university campus or community college;

9 (B) a total of 200,000 square feet of vacant land or vacant building
10 space that, except as provided in subdivision (2) of this subsection, is located
11 within one mile of a campus of the State university campus or community
12 college; and

13 (C) a Vermont State Incubator, as the term is used in subsection
14 383(d) of this title, with a bona fide affiliation to the State university campus or
15 community college, with approval of the Secretary, and provided that the
16 incubator and the State university campus or community college:

17 (i) have a partnership to provide assistance and physical space to a
18 business;

19 (ii) directly work towards the goals of jointly creating jobs and
20 incubating new startup businesses; and

1 (iii) the mission and activities of the incubator align with or
2 further the academic mission of the State university campus or community
3 college.

4 (2)(A) A State university campus or community college that qualifies
5 under subdivision (1)(B) of this subsection may apply to the Secretary for a
6 determination that identified vacant land or identified vacant space in a
7 building that is located more than one mile from its campus is eligible land for
8 purposes of this program.

9 (B) The Secretary shall give consideration to factors including rural,
10 suburban, and urban geographic considerations and may qualify the identified
11 land or space in a building as eligible land if the Secretary, in consultation with
12 the leader of the State university or community college, determines that the
13 State university campus or community college has shown that the use of the
14 land or space will be consistent with the requirements of this program and the
15 plan submitted by the State university campus or community college pursuant
16 to section 385 of this title.

17 (C) The aggregate amount of qualified land or space under this
18 subdivision and subdivision (1)(B) of this subsection may not exceed 200,000
19 square feet for a State university campus or community college.

1 (b) Private colleges and universities and certain other campuses.

2 (1) Subject to the limitations in subdivision (3) of this subsection, the
3 following constitutes the eligible land of a private college or university:

4 (A) any vacant space in any building located on a campus of a private
5 university or college;

6 (B) any vacant land on a campus of a private university or college;

7 (C) any vacant land or vacant space in a building; and

8 (D) a Vermont State incubator, as the term is used in subsection
9 383(d) of this title, with a bona fide affiliation to the private university or
10 college, with approval of the Secretary, and provided that the incubator and the
11 private university or college:

12 (i) have a partnership to provide assistance and physical space to a
13 business;

14 (ii) directly work towards the goals of jointly creating jobs and
15 incubating new startup businesses; and

16 (iii) the mission and activities of the incubator align with or
17 further the academic mission of the private university or college.

18 (2)(A) Subject to the limitations in subdivision (3) of this subsection,
19 three million square feet is the maximum aggregate amount of Tax-Free VT
20 areas of private universities and colleges that may be utilized for this program.

1 which shall be designated in a manner that ensures regional balance and
2 balance among eligible rural, urban, and suburban areas in the State.

3 (B) The Secretary shall maintain an accounting of the vacant land
4 and space of private universities and colleges that have been approved as Tax-
5 Free VT areas and shall stop accepting applications for approval of Tax-Free
6 VT areas when that maximum amount has been reached.

7 (3)(A) Of the maximum aggregate amount in subdivision (2) of this
8 subsection, an initial amount of 75,000 square feet shall be designated as Tax-
9 Free VT areas in each Vermont county.

10 (B) The Board may approve the designation of additional square
11 footage for any county that reaches the initial 75,000 square foot limit.

12 (c) Prohibition. A State university campus or community college is
13 prohibited from relocating or eliminating any academic programs; any
14 administrative programs; offices; housing facilities; dining facilities; athletic
15 facilities; or any other facility, space, or program that actively serves students,
16 faculty, or staff in order to create vacant land or space to be utilized for the
17 program authorized by this chapter.

18 § 383. ELIGIBILITY CRITERIA FOR BUSINESSES

19 (a) In order to participate in the Start Up Vermont Program, a business
20 shall satisfy all of the following criteria:

1 (1) The mission and activities of the business shall align with or further
2 the academic mission of the campus, college, or university sponsoring the Tax-
3 Free VT area in which it seeks to locate, and the business's participation in the
4 Start Up Vermont Program shall have positive community and economic
5 benefits.

6 (2)(A) The business shall demonstrate that it will, in its first year of
7 operation, create net new jobs.

8 (B) After its first year of operation, the business shall maintain net
9 new jobs.

10 (C) In addition, the average number of employees of the business and
11 its related persons in the State during the year shall equal or exceed the sum of:

12 (i) the average number of employees of the business and its related
13 persons in the State during the year immediately preceding the year in which
14 the business submits its application to locate in a Tax-Free VT area; and

15 (ii) net new jobs of the business in the Tax-Free VT area during
16 the year.

17 (D) The average number of employees of the business and its related
18 persons in the State shall be determined by adding together the total number of
19 employees of the business and its related persons in the State on March 31,
20 June 30, September 30, and December 31, and dividing the total by the number
21 of the dates occurring within the year.

1 (3) Except as provided in subdivisions (7) and (8) of this subsection, at
2 the time it submits its application for the Start Up Vermont Program, the
3 business shall be a new business to the State.

4 (4) The business may be organized as a corporation, a partnership,
5 limited liability company, mutual benefit enterprise, or a sole proprietorship.

6 (5) Upon completion of its first year in the Start Up Vermont Program
7 and thereafter, the business shall complete and timely file the annual report
8 required under section 338 of this title.

9 (6) Except as provided in subdivisions (7) and (8) of this subsection, the
10 business shall not be engaged in a line of business that is currently or was
11 previously conducted by the business or a related person in the last five years
12 in this State.

13 (7) If a business does not satisfy the eligibility standard set forth in
14 subdivision (3) or (6) of this subsection, because at one point in time it
15 operated in Vermont but moved its operations out of Vermont on or before
16 June 1, 2014, the Secretary shall grant that business permission to apply to
17 participate in the Start Up Vermont Program if the Secretary determines that
18 the business has demonstrated that it will substantially restore the jobs in
19 Vermont that it previously had moved out of State.

20 (8) If a business seeks to expand its current operations in Vermont into a
21 Tax-Free VT area but the business does not qualify as a new business because

1 it does not satisfy the criteria in subdivision 381(4)(C) of this title or the
2 business does not satisfy the eligibility standard set forth in subdivision (6) of
3 this subsection, the Secretary shall grant the business permission to apply to
4 participate in the Start Up Vermont Program if the Secretary determines that
5 the business has demonstrated that it will create net new jobs in the Tax-
6 Free VT area and that it or any related person has not eliminated any jobs in
7 the State in connection with this expansion.

8 (b) The following types of businesses are prohibited from participating in
9 the Start Up Vermont Program.

10 (1) retail and wholesale businesses;

11 (2) restaurants;

12 (3) real estate brokers;

13 (4) law firms;

14 (5) medical or dental practices;

15 (6) real estate management companies;

16 (7) hospitality;

17 (8) finance and financial services;

18 (9) businesses providing personal services;

19 (10) businesses providing business administrative or support services,

20 unless the business has received permission from the Secretary to apply to

1 participate in the Start Up Vermont Program upon demonstration that the
2 business would create no fewer than 100 net new jobs in the Tax-Free VT area;

3 (11) accounting firms;

4 (12) businesses providing utilities; and

5 (13) businesses engaged in the generation or distribution of electricity,
6 the distribution of natural gas, or the production of steam associated with the
7 generation of electricity.

8 (c) A business shall be in compliance with all worker protection and
9 environmental laws and regulations. In addition, a business may not owe past
10 due federal or State taxes or local property taxes.

11 (d) Any business that has successfully completed residency in a Vermont
12 State incubator, subject to approval of the Secretary, may apply to participate
13 in the Start Up Vermont Program provided that the business locates in a Tax-
14 Free VT area, notwithstanding the fact that the business may not constitute a
15 new business.

16 § 384. TAX BENEFITS

17 A business that is accepted into the Start Up Vermont Program and locates
18 in a Tax-Free VT area or the owner of a business that is accepted into the
19 Start Up Vermont Program and locates in a Tax-Free VT area is eligible for the
20 tax benefits specified in section 391 of this title.

1 § 385. APPROVAL OF TAX-FREE VT AREAS

2 (a)(1) The president or chief executive officer of any State university
3 campus or community college seeking to sponsor a Tax-Free VT area and have
4 some of its eligible land specified under section 382 be designated as a Tax-
5 Free VT area shall submit a plan to the Secretary that specifies the land or
6 space the campus or college wants to include, describes the type of business or
7 businesses that may locate on that land or in that space, explains how those
8 types of businesses align with or further the academic mission of the campus or
9 college and how participation by those types of businesses in the Start Up
10 Vermont Program would have positive community and economic benefits, and
11 describes the process the campus or college will follow to select participating
12 businesses.

13 (2)(A) At least 30 days prior to submitting the plan, the campus or
14 college shall provide the municipality or municipalities in which the proposed
15 Tax-Free VT area is located, local economic development entities, the
16 applicable campus or college faculty senate, union representatives, and the
17 campus student government with a copy of the plan.

18 (B) In addition, if the plan of the campus or college includes land or
19 space located outside of the campus boundaries, the campus or college shall
20 consult with the municipality or municipalities in which the land or space is

1 located prior to including the space or land in its proposed Tax-Free VT area
2 and shall give preference to underutilized properties.

3 (3) Before approving or rejecting the plan submitted by a State
4 university campus or community college, the Secretary shall consult with the
5 chancellor of the applicable university system or his or her designee.

6 (b)(1) The president or chief executive officer of any private college or
7 university or of any State university campus or community college seeking to
8 sponsor a Tax-Free VT area and have some of its eligible land specified under
9 section 382 of this title be designated as a Tax-Free VT area shall submit a
10 plan to the Secretary that specifies the land or space the college or university
11 wants to include, describes the type of business or businesses that may locate
12 on that land or in that space, explains how those types of businesses align with
13 or further the academic mission of the college or university and how
14 participation by those types of businesses in the Start Up Vermont Program
15 would have positive community and economic benefits, and describes the
16 process the campus or college will follow to select participating businesses.

17 (2) If the plan of the campus or college includes land or space located
18 outside of the campus boundaries, the campus or college shall consult with the
19 municipality or municipalities in which the land or space is located prior to
20 including the space or land in its proposed Tax-Free VT area and shall notify
21 local economic development entities.

1 (3) The Secretary shall forward the plan submitted under this subsection
2 to the Start Up Vermont Board.

3 (4) In evaluating the plans, the Board shall examine the merits of each
4 proposal, including compliance with the provisions of this chapter,
5 reasonableness of the economic and fiscal assumptions contained in the
6 application and in any supporting documentation and potential of the proposed
7 project to create new jobs.

8 (5) No preference shall be given based on the time of submission of the
9 plan, provided that any submission deadlines established by the Board are met.

10 (6) The Board shall give preference to private colleges or universities
11 that include underutilized properties within their proposed Tax-Free VT areas.

12 (7) The Board by a majority vote shall approve or reject each plan
13 forwarded to it by the Secretary.

14 (c)(1) A campus, university, or college may amend its approved plan,
15 provided that the campus, university, or college may not violate the terms of
16 any lease with a business located in the approved Tax-Free VT area.

17 (2) If a business located in a Tax-Free VT area does not have a lease
18 with a campus, university, or college, and the business is terminated from the
19 Start Up Vermont Program pursuant to subdivision 386(d)(2) of this title, and
20 subsequently does not relocate outside of the Tax-Free VT area, a campus,
21 university, or college may amend its approved plan to allocate an amount of

1 vacant land or space equal to the amount of space occupied by the business
2 that is terminated.

3 (3) The amendment shall be approved pursuant to the procedures and
4 requirements of this section as applicable.

5 (d)(1) The Start Up Vermont Board, by majority vote, shall designate up to
6 20 strategic State assets as Tax-Free VT areas.

7 (2) Each shall be affiliated with a State university campus, community
8 college, or private college or university and the designation shall require the
9 support of the affiliated campus, college, or university.

10 (3) Each strategic State asset may not exceed a maximum of 200,000
11 square feet of vacant land or vacant building space designated as a Tax-Free
12 VT area.

13 (4) Designation of strategic State assets as Tax-Free VT areas shall not
14 count against any square footage limitations in section 382 of this title.

15 (e) The Secretary shall adopt regulations to effectuate the purposes of this
16 section, including establishing the process for the plan submissions and
17 approvals of Tax-Free VT areas and the eligibility criteria that will be applied
18 in evaluating those plans.

19 § 386. BUSINESSES LOCATING IN TAX-FREE VT AREAS

20 (a)(1) A campus, university, or college that has sponsored a Tax-Free VT
21 area, including any strategic State asset affiliated with the campus, university,

1 or college, shall solicit and accept applications from businesses to locate in the
2 area that are consistent with the plan of the campus, university, or college or
3 strategic State asset that has been approved pursuant to section 385 of this title.

4 (2) Any business that wants to locate in a Tax-Free VT area shall submit
5 an application to the campus, university, or college that is sponsoring the Tax-
6 Free VT area by December 31, 2020.

7 (3) Prior to the date, the Secretary shall prepare an evaluation on the
8 effectiveness of the Start Up Vermont Program and deliver it to the Governor
9 and the General Assembly to determine continued eligibility for application
10 submissions.

11 (b)(1)(A) The sponsoring campus, university, or college shall provide the
12 application and all supporting documentation of any business it decides to
13 accept into its Tax-Free VT area to the Secretary for review.

14 (B) The application shall be in a form prescribed by the Secretary and
15 shall contain all information the Secretary determines is necessary to properly
16 evaluate the business's application, including the name, address, and employer
17 identification number of the business; a description of the land or space the
18 business will use, the terms of the lease agreement, if applicable, between the
19 sponsoring campus, university, or college and the business, and whether or not
20 the land or space being used by the business is being transferred or sublet to
21 the business from some other business.

1 (C) The application shall include a certification by the business that it
2 meets the eligibility criteria specified in section 383 of this title and will align
3 with or further the academic mission of the sponsoring campus, college, or
4 university, and that the business's participation in the Start Up Vermont
5 Program will have positive community and economic benefits.

6 (D) The application shall also describe whether or not the business
7 competes with other businesses in the same community but outside the Tax-
8 Free VT area.

9 (E) The application shall also include a description of how the
10 business plans to recruit employees from the local workforce.

11 (2)(A) The Secretary shall review the application and documentation
12 within 60 days and may reject the application upon a determination that the
13 business does not meet the eligibility criteria in section 383 of this title, has
14 submitted an incomplete application, has failed to comply with subsection (c)
15 of this section, or has failed to demonstrate that the business's participation in
16 the Start Up Vermont Program will have positive community and economic
17 benefits, which shall be evaluated based on factors including whether or not
18 the business competes with other businesses in the same community but
19 outside the Tax-Free VT area as prohibited by section 390 of this title.

20 (B) If the Secretary rejects the application, it shall provide notice of
21 the rejection to the sponsoring campus, university, or college and business.

1 (C) If the Secretary does not reject the application within 60 days, the
2 business is accepted to locate in the Tax-Free VT area, and the application of
3 the business shall constitute a contract between the business and the sponsoring
4 campus, university, or college.

5 (D) The sponsoring campus, university, or college shall provide
6 accepted businesses with documentation of their acceptances in the form as
7 prescribed by the Department of Taxes which will be used to demonstrate the
8 business's eligibility for the tax benefits specified in section 391 of this title.

9 (3)(A) If a State university campus proposes to enter into a lease with a
10 business for eligible land in a Tax-Free VT area with a term greater than
11 40 years, including any options to renew, or for eligible land in a Tax-Free VT
12 area of one million or more square feet, the State university campus, at the
13 same time as the application is provided to the Secretary, also shall submit the
14 lease for review to the Start Up Vermont Board.

15 (B) If the Board does not disapprove of the lease terms within
16 30 days, the lease is deemed approved.

17 (C) If the Board disapproves the lease terms, the State university
18 campus shall submit modified lease terms to the Secretary for review.

19 (D) The Secretary's 60-day review period is suspended while the
20 Board is reviewing the lease and during the time it takes for the State
21 university campus to modify the lease terms.

1 (4)(A) Except as otherwise provided in this chapter, proprietary
2 information or supporting documentation submitted by a business to a
3 sponsoring campus, university, or college shall only be used for the purpose of
4 evaluating the business's application or compliance with the provisions of this
5 article and shall not be otherwise disclosed.

6 (B) Any person who willfully discloses the information to a third
7 party for any other purpose shall be guilty of a misdemeanor.

8 (c) The business submitting the application, as part of the application, shall:

9 (1) agree to allow the Department of Taxes to share its tax information
10 with the Department and the sponsoring campus, university, or college;

11 (2) agree to allow the Department of Labor to share its tax and employer
12 information with the Department of Taxes and the sponsoring campus,
13 university, or college;

14 (3) allow the Department of Taxes and its agents and the sponsoring
15 campus, university, or college access to any and all books and records the
16 Department or sponsoring campus, university, or college may require to
17 monitor compliance;

18 (4)(A) include performance benchmarks, including the number of net
19 new jobs that shall be created, the schedule for creating those jobs, and details
20 on job titles and expected salaries; and

1 (B) specify the consequences for failure to meet the benchmarks, as
2 determined by the business and the sponsoring campus, university, or college,
3 including:

4 (i) suspension of the business's participation in the Start Up
5 Vermont Program for one or more tax years as specified in the application;

6 (ii) termination of the business's participation in the Start Up
7 Vermont Program; or

8 (iii) proportional recovery of tax benefits awarded under the Start
9 Up Vermont Program as specified in section 391 of this title;

10 (5) provide the following information to the Department and sponsoring
11 campus, university, or college upon request:

12 (A) the prior three years of federal and State income or franchise tax
13 returns, unemployment insurance quarterly returns, real property tax bills, and
14 audited financial statements;

15 (B) the employer identification or Social Security numbers for all
16 related persons to the business, including those of any members of a limited
17 liability company or partners in a partnership;

18 (6) provide a clear and detailed presentation of all related persons to the
19 business to assure the Department that jobs are not being shifted within the
20 State; and

1 (7) certify, under penalty of perjury, that it is in substantial compliance
2 with all environmental, worker protection, and local, State, and federal tax
3 laws, and that it satisfies all the eligibility requirements to participate in the
4 Start Up Vermont Program.

5 (d)(1) At the conclusion of the lease term of a lease by the sponsoring
6 campus, university, or college to a business of land or space in a Tax-Free VT
7 area owned by the sponsoring campus, university, or college, the leased land or
8 space and any improvements thereon shall revert to the sponsoring campus,
9 university, or college, unless the lease is renewed.

10 (2)(A) If, at any time, the sponsoring campus, university, or college or
11 the Secretary determines that a business no longer satisfies any of the
12 eligibility criteria specified in section 383 of this title, the sponsoring campus,
13 university, or college shall recommend to the Secretary that the Secretary
14 terminate or the Secretary on his or her own initiative shall immediately
15 terminate the business's participation in the Start Up Vermont Program.

16 (B) A business shall be notified of the termination by a method which
17 allows for verification of receipt of the termination notice.

18 (C) A copy of the termination notice shall be sent to the Department
19 of Taxes.

1 (D) Upon the termination, the business shall not be eligible for the
2 tax benefits specified in section 391 of this title for that or any future taxable
3 year, calendar quarter, or sales tax quarter.

4 (E) The lease or contract between the sponsoring campus, university,
5 or college and the business shall be rescinded, effective on the 30th day after
6 the Secretary mailed the termination notice to the business and the land or
7 space and any improvements thereon shall revert to the sponsoring campus,
8 university, or college.

9 (e) The Secretary shall adopt regulations to effectuate the purposes of this
10 section, including establishing the process for the evaluation and possible
11 rejection of applications, the eligibility criteria that will be applied in
12 evaluating those applications, and the process for terminations from the Start
13 Up Vermont Program and administrative appeals of the terminations.

14 § 387. [RESERVED.]

15 § 388. DISCLOSURE AUTHORIZATION AND REPORTING

16 REQUIREMENTS

17 (a)(1) The Secretary and the Department of Taxes shall disclose publicly
18 the names and addresses of the businesses located within a Tax-Free VT area.

19 (2) The Secretary and the Department shall disclose publicly and
20 include in the annual report required under subsection (b) of this section the
21 other information contained in the businesses' applications and annual reports,

1 including the projected number of net new jobs to be created, as they
2 determine is relevant and necessary to evaluate the success of this program.

3 (b)(1)(A) The Secretary shall prepare an annual report to the Governor and
4 the General Assembly.

5 (B) The report shall include the number of business applicants,
6 number of businesses approved, the names and addresses of the businesses
7 located within a Tax-Free VT area, total amount of benefits distributed,
8 benefits received per business, number of net new jobs created, net new jobs
9 created per business, new investment per business, the types of industries
10 represented and the other information as the Secretary determines is necessary
11 to evaluate the progress of the Start Up Vermont Program.

12 (2)(A) Any business located in a Tax-Free VT area shall submit an
13 annual report to the Secretary in a form and at the time and with the
14 information as prescribed by the Secretary in consultation with the
15 Commissioner of Taxes.

16 (B) The information shall be sufficient for the Secretary and the
17 Commissioner to:

18 (i) monitor the continued eligibility of the business to participate
19 in the Start Up Vermont Program and receive the tax benefits described in
20 section 391 of this title;

21 (ii) evaluate the progress of the Start Up Vermont Program; and

1 (iii) prepare the annual report required by this subsection, which
2 shall also include information regarding the wages paid during the year to its
3 employees employed in the net new jobs created and maintained in the Tax-
4 Free VT area.

5 § 389. CONFLICT OF INTEREST GUIDELINES

6 (a)(1) Each campus, university, or college participating in the Start Up
7 Vermont Program shall adopt a conflict of interest policy.

8 (2) The conflict of interest policy shall provide, as it relates to the Start
9 Up Vermont Program:

10 (A) as a general principle, that service as an official of the campus,
11 university, or college shall not be used as a means for private benefit or
12 inurement for the official, a relative thereof, or any entity in which the official,
13 or relative thereof, has a business interest;

14 (B) no official who is a vendor or employee of a vendor of goods or
15 services to the campus, university, or college, or who has a business interest in
16 the vendor, or whose relative has a business interest in the vendor, shall vote
17 on, or participate in the administration by the campus, university, or college, as
18 the case may be, of any transaction with the vendor; and

19 (C) upon becoming aware of an actual or potential conflict of
20 interest, an official shall advise the president or chief executive officer of the
21 campus, university, or college, as the case may be, of his or her or a relative's

1 business interest in any the existing or proposed vendor with the campus,
2 university, or college.

3 (3) Each campus, university, or college shall maintain a written record
4 of all disclosures of actual or potential conflicts of interest made pursuant to
5 subdivision (2)(C) of this subsection, and shall report the disclosures, on a
6 calendar year basis, on or before January 31 of each year, to the auditor for the
7 campus, university, or college.

8 (4) The auditor shall forward the reports to the Secretary, who shall
9 make public the reports.

10 (b) For purposes of the conflict of interest policies:

11 (1) An official of a campus, university, or college has a “business
12 interest” in an entity if the individual:

13 (A) owns or controls ten percent or more of the stock of the entity, or
14 one percent in the case of an entity the stock of which is regularly traded on an
15 established securities exchange; or

16 (B) serves as an officer, director, or partner of the entity.

17 (2) A “relative” of an official of a campus, university, or college shall
18 mean any person living in the same household as the individual and any person
19 who is a direct descendant of that individual’s grandparents or the spouse of
20 the descendant.

1 (3) An “official” of a campus, university, or college shall mean an
2 employee at the level of dean and above as well as any other employee with
3 decision-making authority over the Start Up Vermont Program.

4 § 390. PROHIBITION OF ANTI-COMPETITIVE BEHAVIOR

5 A sponsoring campus, university, or college shall not accept any application
6 to locate in a Tax-Free VT area under subsection 386(a) of this title from a
7 business that would compete with other businesses in the same community but
8 outside the Tax-Free VT area, and the Secretary shall reject any application
9 under subsection 386(b) of this title upon determining that the business would
10 compete with other businesses in the same community but outside the Tax-
11 Free VT area. The Secretary shall issue and adopt the rules as are necessary to
12 implement this section.

13 § 391. TAX EXEMPTIONS FOR BUSINESSES LOCATED IN A

14 TAX-FREE VT AREA

15 (a) Notwithstanding any provision of law to the contrary, a business or
16 owner of a business in the case of a business taxed as a sole proprietorship,
17 partnership, or S corporation that is located in a Tax-Free VT area approved
18 pursuant to this chapter shall be exempt from the following taxes and fees:

19 (1) Business organization taxes imposed under Title 32.

20 (2) Business organization fees imposed under Titles 11–11C.

1 (3) Income taxes, premium taxes, or franchise taxes imposed on a
2 business located within a Tax-Free VT area under Title 32.

3 (4) Sales and use tax.

4 (A) A qualifying business shall be eligible for a credit or refund for
5 sales and use taxes imposed on the retail sale of tangible personal property or
6 services.

7 (B) The credit or refund shall be allowed for 120 consecutive months
8 beginning with the month during which the business locates in the Tax-Free
9 VT area.

10 (5) Real estate transfer taxes. Any lease of property to a qualifying
11 business shall be exempt from any State or local real estate transfer tax or real
12 property transfer tax.

13 (b)(1) Notwithstanding any provision of this chapter to the contrary, the
14 Commissioner of Taxes, to the extent practicable, may disclose publicly the
15 names and addresses of the businesses receiving any of the tax benefits
16 specified in this section.

17 (2) The Commissioner may disclose publicly the amounts of the benefits
18 allowed to each the business, and whether or not a business created or
19 maintained net new jobs during the taxable year.

20 (3) The Commissioner may publicly disclose the number of net new
21 jobs the business reports on its tax return or report or any other information

1 necessary for the Secretary or the campus, college or university sponsoring the
2 Tax-Free VT area to monitor and enforce compliance with the law, rules, and
3 regulations governing the Start Up Vermont Program.

4 (c) Notwithstanding any provision of this chapter to the contrary, the
5 Commissioner, in determining whether a business or any of its owners is
6 entitled to the tax benefits described in this section, may use and if necessary,
7 disclose to the Secretary information derived from the tax returns of the
8 business or related persons of the business and wage reporting information
9 relating to any employees of the business or its related persons.

10 (d) A qualifying business shall not be allowed to claim any other tax credit
11 allowed under Title 32 with respect to its activities or employees in the Tax-
12 Free VT Area.

13 (e)(1) If the application of a business for participation in the Start Up
14 Vermont Program specifies that failure to meet the performance benchmarks
15 specified in the application shall result in proportional recovery of tax benefits
16 awarded under the Start Up Vermont Program, the business shall be required to
17 reduce the total amount of tax benefits described in this section that the
18 business or its owners claimed or received during the taxable year by the
19 percentage reduction in net new jobs promised by the performance
20 benchmarks, and if the tax benefits are reduced to an amount less than zero,
21 those negative amounts shall be added back as tax.

1 (2) The amount required to be added back shall be reported on the
2 business's tax return if the business is taxed as a corporation or on the personal
3 income tax returns of the owners of the business if the business is taxed as a
4 sole proprietorship, partnership, or S corporation.

5 (f) Unless otherwise specified, a business or owner of a business shall be
6 eligible for the tax benefits available under this section for a period of ten
7 consecutive taxable years, commencing with the taxable year during which it
8 locates in the Tax-Free VT area.

9 (g) In order to be eligible for these tax benefits during any taxable year,
10 calendar quarter, or sales tax quarter, a business must be approved to
11 participate in the Start Up Vermont Program, must operate at the approved
12 location in the Tax-Free VT area, and must satisfy the eligibility criteria
13 specified in this chapter.

14 § 392. PENALTIES FOR FRAUD IN THE START UP VERMONT
15 PROGRAM

16 (a) If the Secretary on his or her own initiative or on the recommendation
17 of a sponsoring campus, university, or college finally determines that any
18 business participating in the Start Up Vermont Program has acted fraudulently
19 in connection with its participation in the Program, the business:

20 (1) shall be immediately terminated from the Program;

21 (2) shall be subject to applicable criminal penalties; and

1 (3) shall be required in that year to add back to tax the total value of the
2 tax benefits that the business has received.

3 (b) The amount required to be added back shall be reported on the
4 business's tax return if the business is taxed as a corporation or on the personal
5 income tax returns of the owners of the business if the business is taxed as a
6 sole proprietorship, partnership, or S corporation.

7 Sec. 2. EFFECTIVE DATE

8 This act shall take effect on July 1, 2017.