

# House Calendar

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Saturday, May 10, 2014

124th DAY OF THE ADJOURNED SESSION

House Convenes at 11:00 A.M.

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**ACTION CALENDAR**

**Action Postponed Until May 10, 2014**

**Senate Proposal of Amendment**

**H. 645**

An act relating to workers' compensation

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

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

§ 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~  
BURIAL AND FUNERAL EXPENSES

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

\* \* \*

Sec. 2. 21 V.S.A. § 639 is amended to read:

§ 639. DEATH, PAYMENT TO DEPENDENTS

In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, but ~~not exceeding \$5,500.00 for burial and funeral expenses~~ no more than the actual

burial and funeral expenses not to exceed \$10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~ \$5,000.00, shall be paid in a lump sum to the proper person. Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted.

Sec. 3. 21 V.S.A. § 640c is added to read:

§ 640c. OPIOID USAGE DETERRENCE

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee's health and the employee's expedient return to work.

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

Sec. 4. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

\* \* \*

(e)(1) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly that, following a workplace accident, an employee returns to work as soon as possible but remains cognizant of the limitations imposed by his or her medical condition.

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

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

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer ~~not already filed, shall be filed with the notice~~ shall be provided to the injured worker. With the notice of discontinuance, the employer shall file only evidence relevant to the discontinuance, including evidence that does not support the discontinuance, with the Commissioner. The liability for the payments shall continue for ~~seven~~ 14 days after the notice is received by the ~~commissioner~~ Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of the 14-day limit. The Commissioner may grant an extension up to 21 days. The request for an extension shall be specific as to the number of days needed and the reason for the extension and must be received by the Commissioner prior to the end of the 14-day limit. A copy of the request for an extension shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 6. 21 V.S.A. § 696 is amended to read:

§ 696. CANCELLATION OF INSURANCE CONTRACTS

A policy or contract shall not be cancelled within the time ~~limited~~ specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the ~~commissioner~~ Commissioner and provided to the employer. The notice shall be filed with the Commissioner in accordance with rules adopted by the Commissioner and provided to the employer by certified mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.

Sec. 7. 21 V.S.A. § 697 is amended to read:

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

An insurance carrier who does not intend to renew a workers' compensation insurance policy ~~of workers' compensation insurance~~ or guarantee contract covering the liability of an employer under the provisions of this chapter, ~~45 days prior to the expiration of the policy or contract~~, shall give notice of ~~the its~~ intention to the ~~commissioner of labor~~ Commissioner and ~~to the covered employer~~ at least 45 days prior to the expiration date stated in the policy or contract. The notice shall be given to the employer by certified mail ~~or certificate of mailing~~. An insurance carrier who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days from the day the notice is received by the ~~commissioner~~ Commissioner and the employer. However, ~~this latter provision shall not apply if, prior to such expiration date, on or before the expiration of the existing insurance or guarantee contract the insurance carrier has, by delivery of a renewal contract or otherwise, offered to continue the insurance beyond the date by delivery of a renewal contract or otherwise,~~ or if the employer notifies the insurance carrier in writing that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687 of this title, ~~on or before the expiration of the existing insurance or guarantee contract~~ then the policy will expire upon notice to the Commissioner.

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

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

\* \* \*

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

\* \* \*

(4) the Commissioner of Labor or designee;

- (5) the Director of the Blueprint for Health or designee;
- ~~(5)~~(6) the Chair of the Board of Medical Practice or designee, who shall be a clinician;
- ~~(6)~~(7) a representative of the Vermont State Dental Society, who shall be a dentist;
- ~~(7)~~(8) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;
- ~~(8)~~(9) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;
- ~~(9)~~(10) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;
- ~~(10)~~(11) a representative of the Vermont Medical Society, who shall be a primary care clinician;
- ~~(11)~~(12) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;
- ~~(12)~~(13) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;
- ~~(13)~~(14) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;
- ~~(14)~~(15) a representative of the Vermont Ethics Network;
- ~~(15)~~(16) a representative of the Hospice and Palliative Care Council of Vermont;
- ~~(16)~~(17) a representative of the Office of the Health Care Ombudsman;
- ~~(17)~~(18) the Medical Director for the Department of Vermont Health Access;
- ~~(18)~~(19) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;
- ~~(19)~~(20) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;
- ~~(20)~~(21) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

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

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

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

~~(24)~~(25) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and

~~(25)~~(26) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;

(27) a clinician who specializes in occupational medicine;

(28) a clinician who specializes in physical medicine and rehabilitation;  
and

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

\* \* \*

Sec. 9. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

\* \* \*

Sec. 10. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and ~~places~~ within a 50-mile radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the 50-mile radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 11. 21 V.S.A. § 624 is amended to read:

§ 624. DUAL LIABILITY; CLAIMS, SETTLEMENT PROCEDURE

\* \* \*

(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including



uninsured-under insured motorist coverage, or any other first party insurance payments or benefits.

(2) In an instance where the recovery amount is less than the full value of the claim for personal injuries or death, the employer or its workers' compensation insurance carrier shall be reimbursed less than the amount paid or payable under this chapter. Reimbursement shall be limited to the proportion which the recovery allowed in the previous subsection bears to the total recovery for all damages. In determining the full value of the claim for personal injuries or death, the Commissioner shall make that administrative determination by considering the same evidence that a Superior Court would consider in determining damages in a personal injury or wrongful death action, or the Commissioner may order that the valuation of the claim be determined by a single arbitrator, which shall be adopted as a decision of the Commissioner. An appeal from the Commissioner's decision shall be made pursuant to section 670 of this title, except that the action shall be tried to the presiding judge of the Superior Court.

\* \* \*

Sec. 12. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Claims of fraud submitted by an employer or insurance carrier shall be investigated by the Commissioner, and the Commissioner shall make a decision on the claim within 30 days of receipt of the claim. A party may appeal the decision of the Commissioner.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation received. The employer shall not be charged for these payments when the employer's experience rating is determined.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 3, 4, and 9–12 shall take effect on passage.

(b) Secs. 1, 2, and 5–8 shall take effect on July 1, 2014.

(For text see House Journal March 18 & 19, 2014 )

**Amendment to be offered by Reps. Botzow of Pownal and Marcotte of Coventry to H. 645**

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

\* \* \* One-Stop Business Support Services \* \* \*

Sec. 1. ONE-STOP SHOP WEB PORTAL

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

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

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

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

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

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

(b) Administration. On or before June 30, 2015, the Secretary of State, the Department of Taxes, the Department of Labor, the Vermont Attorney General, the Agency of Commerce and Community Development, and the Agency of Administration shall coordinate with other relevant agencies and departments within State government and outside partners, including regional development corporations, regional planning commissions, and small business development centers, to provide comprehensive business services, regional coaching teams, print materials, other outreach, and a “One-Stop Shop” website.

(c) On or before January 15, 2015, the Secretary of State and partners shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development to inform the committees of the status of the project and a timeline for its completion.

Secs. 2–3. RESERVED

\* \* \* Vermont Economic Development Authority \* \* \*

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

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT  
AUTHORITY

\* \* \*

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

§ 280aa. FINDINGS AND PURPOSE

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

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

(b) To support the growth of ~~technology-based companies~~ Vermont-based businesses in seed, start-up, and growth stages and the resultant creation of ~~high wage~~ higher wage employment in Vermont, a ~~technology loan program is established under this subchapter~~ the General Assembly hereby creates in this subchapter the Vermont Entrepreneurial Lending Program.

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

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

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

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

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

(b) The ~~economic development authority~~ Authority shall ~~establish such adopt regulations, policies, and procedures for the program~~ Program as are necessary to ~~carry out the purposes of this subchapter~~. The authority's lending

~~criteria shall include consideration of in state competition and whether a company has made reasonable efforts to secure capital in the private sector~~  
increase the amount of investment funds available to Vermont businesses whose capital requirements are not being met by conventional lending sources.

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

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

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

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

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

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

\* \* \*

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

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

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

(2) any fiscal year 2014 or fiscal year 2015 funds, or both, appropriated or authorized by the General Assembly.

(b) The Authority shall use the funds in subsection (a) of this section solely for the purpose of establishing and maintaining loan loss reserves to guarantee

loans made pursuant to 10 V.S.A. § 280bb.

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

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

\* \* \*

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

§ 374b. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

(7) “Farmer” means an individual directly engaged in the management or operation of an agricultural facility or farm operation for whom the

agricultural facility or farm operation constitutes two or more of the following:

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

(B) the majority of the farmer's assets; and

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

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

\* \* \*

\* \* \* Connecting Capital Providers and Entrepreneurs \* \* \*

#### Sec. 7. NETWORKING INITIATIVES

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

(b) The Agency shall submit to the House Committee on Commerce and Economic Development and to the Senate Committee on Economic Development, Housing and General Affairs a report on or before January 15, 2015 concerning the structure of networking initiatives, the relevant provisions of governing performance contracts, the benchmarks and measures of performance, and the outcomes of and further recommendations for the program.

\* \* \* Downtown Tax Credits \* \* \*

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

(3) "Qualified code or technology improvement project" means a project:

(A)(i) ~~To~~ to install or improve platform lifts suitable for transporting personal mobility devices, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory

requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the ~~department of public safety~~. Department of Public Safety; or

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

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

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

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

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

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

#### § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

\* \* \*

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

(c) Code or technology improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer’s State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$12,000.00 for installation or improvement of a platform lift, a maximum tax credit of \$50,000.00 for installation or improvement of an elevator, a maximum tax credit of \$50,000.00 for installation or improvement of a sprinkler system, a maximum tax credit of \$30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating, ventilating, or cooling system, and a maximum

tax credit of \$25,000.00 for the combined costs of all other qualified code improvements.

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

§ 218e. IMPLEMENTING STATE ENERGY POLICY;  
MANUFACTURING

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

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

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

Sec. 13. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

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

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

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

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

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



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

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

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

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

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

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

(1) consumer and business advocacy groups;

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

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

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

\* \* \* Domestic Export Program \* \* \*

#### Sec. 14. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

##### AGRICULTURE AND FOREST PRODUCTS

(a) The Secretary of Agriculture, Food and Markets, in collaboration with the Agency of Commerce and Community Development and the Chief

Marketing Officer, shall, subject to available funding, create a Domestic Export Program Pilot Project within the “Made in Vermont” designation program, the purpose of which shall be to:

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

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

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

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

\* \* \* Criminal Penalties for Computer Crimes \* \* \*

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

#### CHAPTER 87. COMPUTER CRIMES

\* \* \*

#### § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

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

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

§ 4105. THEFT OR DESTRUCTION

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

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

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

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

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

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

§ 4106. CIVIL LIABILITY

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

\* \* \*

\* \* \* Statute of Limitations to Commence Action  
for Misappropriation of Trade Secrets \* \* \*

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

§ 523. TRADE SECRETS

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

\* \* \* Protection of Trade Secrets \* \* \*

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

## CHAPTER 143. TRADE SECRETS

### § 4601. DEFINITIONS

As used in this chapter:

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

(2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

### § 4602. INJUNCTIVE RELIEF

(a) ~~Actual~~ A court may enjoin actual or threatened misappropriation ~~may~~

~~be enjoined of a trade secret.~~ Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.

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

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

#### § 4603. DAMAGES

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

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

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

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

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

#### § 4605. PRESERVATION OF SECRECY

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

§ 4607. EFFECT ON OTHER LAW

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

(b) This chapter does not affect:

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

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

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

\* \* \*

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

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

§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY, SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

(a) The Secretary of Administration shall include in Administrative Bulletin 3.5 a policy direction applicable to State procurement contracts that include services for the development of software applications, computer coding, or other intellectual property, which would allow the State of Vermont to grant permission to the contractor to use or own the intellectual property created under the contract for the contractor's commercial purposes.

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

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

\* \* \* Department of Financial Regulation \* \* \*

Sec. 19. SMALL BUSINESS ACCESS TO CAPITAL

(a) Crowdfunding study. The Department of Financial Regulation shall study the opportunities and limitations for crowdfunding to increase access to capital for Vermont's small businesses. On or before January 15, 2015, the

Department shall report its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) Small business issuer education and outreach. On or before January 15, 2015, the Department of Financial Regulation shall conduct at least two educational events to inform the legal, small business, and investor communities and other interested parties, of opportunities for small businesses to access capital in Vermont, including, the Vermont Small Business Offering Exemption regulation and other securities registration exemptions.

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

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

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

\* \* \* Licensed Lender Requirements; Exemption for De Minimis  
Lending Activity \* \* \*

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

2201. LICENSES REQUIRED

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

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

- (2) act as a mortgage broker;
- (3) engage in the business of a mortgage loan originator; or
- (4) act as a sales finance company.

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

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

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

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

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

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

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

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

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

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



(5) ~~a~~ A pawnbroker;

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

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

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

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

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

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

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

(B) ~~for purposes of~~ As used in this subdivision (12), "senior indebtedness" means:

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

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

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

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

(15) a A housing finance agency.

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

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

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

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

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

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

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

attorney licensed in this State undertakes activities that are covered by the definition of a mortgage loan originator, such activities do not constitute engaging in the business of a mortgage loan originator, provided that:

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

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

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

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

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

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

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

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

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

#### Sec. 8. INVESTMENT OF STATE MONIES

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

#### Sec. 23. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any other provision of law to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the

Treasurer consistent with the provisions of the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

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

Sec. 24. TREASURER'S LOCAL INVESTMENT ADVISORY  
COMMITTEE; REPORT

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

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

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

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

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

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

(d) Meetings.

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

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

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

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

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

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

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

Sec. 25. SUNSET

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

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

§ 2481w. UNLICENSED LOAN TRANSACTIONS

(a) In this subchapter:

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

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

(3) “Process” or “processing” includes printing a check, draft, or other form of negotiable instrument drawn on or debited against a consumer’s financial account, formatting or transferring data for use in connection with the debiting of a consumer’s financial account by means of such an instrument or an electronic funds transfer, or arranging for such services to be provided to a lender.

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

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

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

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

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

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

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

\* \* \*

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

\* \* \*

(4) “Telecommunications facility” means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

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

\* \* \*

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

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public’s use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

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

(B) ~~A~~ a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook

for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

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

\* \* \*

(e) Notice. No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

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

(2) On the request of the municipal legislative body or the planning commission, the applicant shall attend a public meeting with the municipal



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

\* \* \*

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

\* \* \*

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

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

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

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

Sec. 28. PUBLIC SERVICE BOARD; ORDER REVISION

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

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

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

Sec. 29. REPORT; TELECOMMUNICATIONS FACILITY REVIEW

PROCESS

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

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

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:

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

(2) The Secretary shall issue a decision on the application within

60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.

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

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the ~~public service board~~ Public Service Board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, ~~2014~~ 2017.

\* \* \*

Sec. 32. REPEAL

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

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

§ 2809. REIMBURSEMENT OF AGENCY COSTS

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

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

(B) ~~the~~ The Secretary does have such expertise but has made a determination that it is beyond the ~~agency's~~ Agency's internal capacity to effectively utilize that expertise to process the application for the permit, license, certification, or order. In addition, the Secretary shall determine that

such expertise is required for the processing of the application for the permit, license, certification, or order.

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

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

\* \* \*

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

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

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

#### Sec. 34. JFO ACCD DEMOGRAPHIC STUDY

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

\* \* \* Tourism Funding; Study \* \* \*

#### Sec. 35. TOURISM FUNDING; PILOT PROJECT STUDY

On or before January 15, 2015, the Secretary of Commerce and Community Development shall submit to the House Committees on Appropriations and on Commerce and Economic Development and the Senate Committees on

Appropriations and on Economic Development, Housing and General Affairs a report that analyzes the results of the performance-based funding pilot project for the Department of Tourism and Marketing and recommends appropriate legislative or administrative changes to the funding mechanism for tourism and marketing programs.

\* \* \* Land Use; Housing; Industrial Development \* \* \*

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

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

\* \* \*

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

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

\* \* \*

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

(N) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities; or

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

\* \* \*

§ 261. ADDITIONAL POWERS

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

\* \* \*

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

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

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

Sec. 38. REVIEW OF MASTER PLAN POLICY

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

\* \* \* Primary Agricultural Soils; Industrial Parks \* \* \*

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

(4) Industrial parks.

(A) Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils located in an industrial park ~~as defined in subdivision 212(7) of this title and~~ permitted under this chapter and in existence as of January 1, 2006, shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1, protected acres to acres of affected primary agricultural soil. If an industrial park is developed to the fullest extent before any expansion, this ratio shall apply to any contiguous expansion of such an industrial park that totals no more than 25 percent of the area of the park or no more than 10 acres, whichever is larger; provided any expansion based on percentage does not exceed 50 acres. Any expansion larger than that described in this subdivision shall be subject to the mitigation provisions of this subsection at ratios that depend upon the location of the expansion.

(B) In any application to a ~~district commission for expansion of~~ District Commission to amend a permit for an existing industrial park, ~~compact development patterns shall be encouraged that assure~~ the most efficient and full use of land ~~and the realization of maximum economic development~~

potential through appropriate densities shall be allowed consistent with all applicable criteria of subsection 6086(a) of this title. Industrial park expansions and industrial park infill shall not be subject to requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to requirements established in subdivision 6086(a)(9)(C)(iii).

Sec. 40. RESERVED

\* \* \* Workforce Education and Training \* \* \*

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

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Investment Board:

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

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

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

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

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

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

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

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

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

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description;

(E) employment status of trainees; and

(F) future needs for resources.

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

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

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

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

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

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

~~(a) The Workforce education and training Council is created as the successor to and the continuation of the Governor's Human Resources Investment Council and shall be the State Workforce Investment Board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The Council shall consist of the members required under the federal act and the following: the President of the University of Vermont or designee; the Chancellor of the Vermont State Colleges or~~



~~designee; the President of the Vermont Student Assistance corporation or designee; the President of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the Governor in addition to the two required under the federal act, who shall be chosen from a list of names submitted by Vermont AFL CIO, Vermont NEA, and the Vermont State Employees Association; one representative of the low income community appointed by the Governor; two members of the Senate appointed by the Senate Committee on Committees; and two members of the house appointed by the speaker. In addition, the Governor shall appoint enough other members who are representatives of business or employers so that one half plus one of the members of the council are representatives of business or employers. At least one third of those appointed by the Governor as representatives of business or employers shall be chosen from a list of names submitted by the regional technical centers. As used in this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the Governor shall decide who shall be the member of the Council.~~

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

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

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

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

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

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

~~(h) [Repealed.]~~

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

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

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

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

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

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

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

#### § 541a. STATE WORKFORCE INVESTMENT BOARD

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

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

(1) conduct an ongoing public engagement process throughout the State that brings together employers and potential employees, including students, the unemployed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and training needs; and

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

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

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

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

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

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

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

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

(7) the Secretary of Education or designee;

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

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

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

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

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

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

(16) the Secretary of Human Services or designee;

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

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

(A) are owners, chief executives, or operating officers of businesses,

and other business executives or employers with optimum policymaking or hiring authority;

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

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

(d) Operation of Board.

(1) Member representation.

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

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

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

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

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

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

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

(5) Quorum; meetings; voting.

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

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

deemed to be present in person at the meeting.

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

(6) Reimbursement.

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

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

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

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

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

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

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

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF

OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the Workforce Investment Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and

department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

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

#### § 542. REGIONAL WORKFORCE ~~DEVELOPMENT~~ EDUCATION AND TRAINING

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

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

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

#### § 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

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

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

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

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

(3) apprenticeship-related instruction.

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

(d) Eligible Activities. Awards from the Fund shall be made to employers and entities that offer programs that require collaboration between employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that offer education, training, apprenticeship, mentoring, or work-based learning activities, or any combination; that employ innovative intensive student-oriented competency-based or collaborative approaches to workforce education and training; and that link workforce education and economic development strategies. Training programs or projects that demonstrate actual increased income and economic opportunity for employees and employers may be funded for more than one year. Student internships and training programs that involve the same employer may be funded multiple times, provided that new students participate.

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

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

(1) Training Programs.

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

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least

150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

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

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

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

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

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

(B)(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed due to changing workplace demands by increasing productivity and developing new skills for incumbent workers; or

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

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

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

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

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

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

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



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

(g) [Repealed.]

#### § 544. VERMONT CAREER INTERNSHIP PROGRAM

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

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

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

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

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

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

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

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

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

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded postsecondary educational institutions, the Workforce ~~Development Council~~ Investment Board, and other ~~state~~ State agencies and departments that have workforce education and training and training monies, shall:

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

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

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

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

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

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

## CHAPTER 22. EMPLOYMENT THE VERMONT

### TRAINING PROGRAM

#### § 531. EMPLOYMENT THE VERMONT TRAINING PROGRAM

(a)(1) The Secretary of Commerce and Community Development may, in consultation with the Workforce Investment Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to any employer, consortium of employers, or providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances: to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

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

(1) when issuing grants to an employer or consortium of employers, the employer promises as a condition of the grant to where eligible facility is defined as in subdivision 212(6) of this title relating to the Vermont Economic Development Authority, or the employer or consortium of employers promises to open an eligible facility within the State which will employ persons,

~~provided that for the purposes of this section, eligible facility may be broadly interpreted to include employers in sectors other than manufacturing; and~~

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

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

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

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

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

(B) dental assistance;

(C) paid vacation ~~and~~;

(D) paid holidays;

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

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

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

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

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

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

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

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

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

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

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

~~(B) dental assistance;~~

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

~~(D) child care;~~

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

~~(F) retirement benefits.~~

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

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

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

(1) first consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and

~~training resources offered by public or private workforce education and training partners;~~

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

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

~~(e) The Secretary of Commerce and Community Development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money, or property donated for the purposes of this section. The Secretary may promote awareness of, and may give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, "Lean" systems, and ISO certification for expansion into new markets. [Repealed.]~~

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

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

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

~~(i) Program Outcomes.~~

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

~~however, that the Secretary shall redact personal identifying information from such data.~~

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

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

~~(j) Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the Secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to \$250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The Secretary shall seek to provide these funds equitably throughout Vermont; however, the Secretary shall give priority to regions not currently served by apprenticeship programs offered through the Vermont Department of Labor pursuant to 21 V.S.A. chapter 13. [Repealed].~~

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

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

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

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

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

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

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

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

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

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

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

(6) any waivers granted;

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

(8) the identity of each training provider; and

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

#### Sec. 43. REPEAL

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

#### Sec. 44. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

On or before November 1, 2014:

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

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

Sec. 45. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

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

\* \* \* Vermont Strong Scholars Program \* \* \*

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

CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS  
EDUCATION

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

§ 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP  
INITIATIVE

(a) Creation.

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

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

(A) encourage students to:

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

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

(iii) live in Vermont upon graduation;

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

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

(D) support a pipeline of qualified talent for employment with



Vermont's employers.

(b) Vermont Strong Loan Forgiveness Program.

(1) Economic sectors; projections.

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Management.

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

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

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

(c) Vermont Strong Internship Program.

(1) Internship program management.

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

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

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

(D) The Program Intermediary shall:

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

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

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

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

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

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

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

(2) Qualifying internships.

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

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

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

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

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

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

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

(B) a student who graduated from a postsecondary institution within

24 months of entering the program who was classified as a Vermont resident during that schooling or who is a student who attended a post-secondary institution in Vermont; or

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

(d) Funding.

(1) Loan forgiveness program.

(A) Loan forgiveness; State funding.

(i) There is created a special fund to be known as the Vermont Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which shall be used and administered by the Secretary of Commerce and Community Development solely for the purposes of loan forgiveness pursuant to this section.

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

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

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

(B) Loan forgiveness; Vermont Student Assistance Corporation.

The Vermont Student Assistance Corporation shall have the authority to grant loan forgiveness pursuant to this section by using the private loan forgiveness capacity associated with bonds issued by the Corporation to raise funds for private loans that are eligible for forgiveness under this section, if available.

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

#### Sec. 48. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Initiative, including:

(1) the economic sectors selected for loan forgiveness;

(2) the projected annual cost of the Initiative,

(3) the proposed funding sources;

(4) programmatic proposals and economic projections on the feasibility and impacts of expanding eligibility for the loan forgiveness program to include Vermont residents who attend postsecondary institutions outside Vermont and out-of-state residents who attend Vermont postsecondary institutions; and

(5) the projected balance of the Vermont Strong Scholars Fund for each fiscal year through fiscal year 2018.

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

(a) On or before September 1, 2016, the Agency of Commerce and Community Development, after consulting with appropriate stakeholders, shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on creating a Vermont Products Program for the purpose of providing Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and avoiding confusion by consumers when the Vermont brand is used in marketing products or services.

(b) The report required by this section shall describe the method, feasibility, and cost of creating a Vermont Products Program that includes the following elements:

(1) The program shall include a licensing system that enables qualifying persons to make marketing claims concerning significant business activities occurring in Vermont, and to self-certify products and services that are manufactured, designed, engineered, or formulated in Vermont. Under this system, the Secretary shall identify and craft branding and marketing guidelines that concern whether and how qualifying products or services manufactured, designed, engineered, or formulated in Vermont can be properly claimed so as to be licensed. The licensing system shall permit an applicant to self-certify compliance with designated criteria and attest to the accuracy of claims authorized by the Secretary in order to obtain a license to advertise and promote a product or service using the licensed materials.

(2) The program may charge an annual fee for the issuance of the license.

(3) The program shall include an on-line application process that permits an applicant to obtain the license if he or she certifies compliance with criteria designated by the Secretary, attests to the accuracy of statements designated by the Secretary, and pays the required fee.

(4) Licenses issued under the program shall include a provision requiring that disputes regarding the license be resolved by alternative dispute resolution. A person who objects to the issuance of a license may file a complaint with the Secretary, who shall refer it for alternative dispute resolution as provided in the license.

(5) A special fund, comprising license fees and any monies appropriated by the General Assembly, may be created for the administration and advertising of the program.

(c) The report required by this section shall include a recommendation as to whether the Vermont Products Program should replace the rules regarding Vermont Origin adopted by the Attorney General.

(d) On or before February 1, 2015, the Secretary of Commerce and Community Development shall deliver testimony to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on the status of the Vermont Products Program pursuant to this section.

\* \* \* Workers' Compensation \* \* \*

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

§ 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~  
BURIAL AND FUNERAL EXPENSES

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

\* \* \*

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

§ 639. DEATH, PAYMENT TO DEPENDENTS

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

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

§ 640c. OPIOID USAGE DETERRENCE

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee's health and the employee's expedient return to work.

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

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

§ 641. VOCATIONAL REHABILITATION

\* \* \*

(e)(1) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General

Assembly that, following a workplace accident, an employee return to work as soon as possible but remain cognizant of the limitations imposed by his or her medical condition.

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

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

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall first notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title the employee at least seven days prior to providing to the Commissioner a notice of discontinuance of benefits under either section 642 or 646 of this title. The notice to the employee shall include a specific explanation of the basis for discontinuance, including any independent medical examination report, the claimant's right to object to the discontinuance, and the phone number and website address for the Department. The notice notices to the employee and the Commissioner of an intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice shall be provided to the injured worker. With the notice of discontinuance, the employer shall file with the Commissioner only evidence specific to the discontinuance, including evidence that does not support the discontinuance. The liability for the payments shall continue for seven days after the notice is received by the Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of an additional seven days. The objection to the discontinuance shall be specific as to the reasons and include supporting evidence. A copy of the objection shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does



not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, 2016.

Sec. 54b. STUDY; REPORT; DISCONTINUANCE OF BENEFITS

The Commissioner of Labor shall assess the financial and administrative impacts of the statutory revisions to 21 V.S.A. § 643a, as amended by this act, and shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on or before January 15, 2016, a report addressing:

- (1) whether the statutory revisions expedited the discontinuance process;
- (2) whether the statutory revisions impacted workers' compensation insurance rates;
- (3) how many requests to discontinue benefits were received, acted on, the time required for action, and whether there was a subsequent order for reinstatement of benefits; and
- (4) any other matters deemed relevant by the Commissioner.

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

§ 691a. POSTING OF SAFETY RECORDS

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to improve the safety experience in the workplace.

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

The posting shall be in a format approved by the Commissioner. The posting may be in a format provided by the Commissioner.

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

§ 696. CANCELLATION OF INSURANCE CONTRACTS

A policy or contract shall not be cancelled within the time ~~limited~~ specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the ~~commissioner~~ Commissioner and provided to the employer. The notice shall be filed with the Commissioner in accordance with rules adopted by the Commissioner and provided to the employer by certified mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.

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

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

An insurance carrier who does not intend to renew a workers' compensation insurance policy of ~~workers' compensation insurance~~ or guarantee contract covering the liability of an employer under the provisions of this chapter, ~~45 days prior to the expiration of the policy or contract~~, shall give notice of ~~the its~~ intention to the ~~commissioner of labor~~ Commissioner and ~~to the covered employer~~ at least 45 days prior to the expiration date stated in the policy or contract. The notice shall be given to the employer by certified mail ~~or certificate of mailing~~. An insurance carrier who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days from the day the notice is received by the ~~commissioner~~ Commissioner and ~~the employer~~. However, ~~this latter provision shall not apply if, prior to such expiration date, on or before the expiration of the existing insurance or guarantee contract the insurance carrier has, by delivery of a renewal contract or otherwise, offered to continue the insurance beyond the date by delivery of a renewal contract or otherwise, or if the employer notifies the insurance carrier in writing that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687 of this title, on or before the expiration of the existing insurance or guarantee contract~~ then the policy will expire upon notice to the Commissioner.

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

The Department of Labor and the Office of Risk Management, in consultation with the Vermont League of Cities and Towns and any other interested parties, shall conduct a study, to be submitted to the House

Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2015, to:

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

(2) analyze preventive measures to avoid injuries;

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

(4) recommend preventive measures necessary to reduce injuries.

#### Sec. 59. WORKPLACE SAFETY RANKING STUDY

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

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

#### Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

\* \* \*

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

\* \* \*

(4) the Commissioner of Labor or designee;

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

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

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

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

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

~~(9)~~(10) a faculty member of the University of Vermont's College of

Medicine with expertise in the treatment of addiction or chronic pain management;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(24)~~(25) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; ~~and~~

~~(25)~~(26) a consumer representative who is either a consumer in recovery

from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;

(27) a clinician who specializes in occupational medicine;

(28) a clinician who specializes in physical medicine and rehabilitation; and

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

\* \* \*

Sec. 61. 21 V.S.A. § 602 is amended to read:

§ 602. PROCESS AND PROCEDURE

\* \* \*

(c) Any communication from an employer or an insurer to a claimant that is not otherwise required to be provided on a form prescribed by the Commissioner must include a statement advising the claimant immediately to contact the Vermont Department of Labor's Workers' Compensation Division to determine a right to object or appeal, as provided by law, and to seek information from the Department on the process and procedures.

Sec. 62. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and ~~places~~ within a two-hour driving radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the two-hour driving radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the

provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 63. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Any claims of fraud submitted to the Department shall require action by the Commissioner to determine if further investigation is warranted. The Commissioner shall order the insurer to investigate specific allegations of claimant fraud and submit a written report to the Department. Once the insurer's report is received, the Commissioner shall afford the claimant an opportunity to respond in person or in writing within 30 days. The Commissioner may order additional information to be provided to the Department from the insurer or the claimant. The Department shall issue a determination on the fraud allegation, including penalties and any reimbursement as provided under section 708 of this title. The party may appeal the decision of the Commissioner as provided under 3 V.S.A. chapter 25.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation fraudulently received in addition to other administrative penalties ordered by the Department. These payments shall not be charged to the employer for purposes of calculating its experience rating.

Sec. 64. FRAUD STUDY AND REPORT

The Department shall initiate a study of the best practices to detect and deter workers' compensation fraud by employees, employers, and other persons involved with the workers' compensation system. The study shall include investigation procedures, penalties, and recapture of fraudulently obtained payments in a timely and cost-effective manner. On or before January 15, 2015, the Department shall report its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 65. 21 V.S.A. § 624(e) is amended to read:

(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the

employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including ~~uninsured under insured~~ uninsured-underinsured motorist coverage, or any other first party insurance payments or benefits.

(2) Should the recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, be less than the full value of the claim for personal injuries or death, the reimbursement to the employer or workers' compensation insurance carrier shall be limited to that portion of the recovery allocated for damages covered by the Workers' Compensation Act. If a court has not allocated or the parties cannot agree to the allocation of the recovered damages, either party may request that the Commissioner make an administrative determination. Upon receiving a request, the Commissioner shall order mediation with a mediator selected from a list approved by the Commissioner. If mediation is unsuccessful, the Commissioner may adjudicate the dispute or refer the dispute to an arbitrator approved by the Commissioner. The determination of the Commissioner or of an arbitrator approved by the Commissioner shall be final. The cost of any mediation or arbitration shall be split equally by the parties.

Sec. 66. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ~~ATTORNEY~~ ATTORNEY'S FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

\* \* \*

\* \* \* Notice of Data Security Breach \* \* \*

Sec. 67. 9 V.S.A. § 2435(b)(4) is amended to read:

(4)(A) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Office of the Attorney General or the Department of Financial Regulation and shall include the website and telephone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

\* \* \* Insurance; Form of Notice \* \* \*

Sec. 68. 8 V.S.A. § 3666 is added to read:

§ 3666. RULES; METHODS OF NOTICE

Notwithstanding the requirements under sections 3883, 4226, and 4714 of this title, the Commissioner of Financial Regulation shall adopt rules specifying the methods by which a notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title shall be given.

\* \* \* Effective Dates \* \* \*



Sec. 69. EFFECTIVE DATES

(a) This section, Secs. 28 (Public Service Board; order revision), 52, 53, 54a, 54b, and 58–66 (certain workers’ compensation provisions) shall take effect on passage.

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

(c) Sec. 54 (discontinuance of benefits) shall take effect September 1, 2014.

(d) 10 V.S.A. § 531(c) in Sec. 42 shall take effect July 2, 2014.

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

**NEW BUSINESS**

**Senate Proposal of Amendment**

**H. 596**

An act relating to the conversion of assets of a nonprofit hospital

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Principles \* \* \*

Sec. 1. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) To the extent that Green Mountain Care is financed through taxes including mandatory premiums, the taxes shall be levied equitably, taking into account an individual’s ability to pay and the value of the health benefits provided.

(3) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the payer of last resort for Vermont residents who continue to receive health care through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit.

(4) Vermont’s system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care, vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

\* \* \* Vermont Health Benefit Exchange \* \* \*

Sec. 2. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

\* \* \*

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

\* \* \*

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \*

Sec. 3. 33 V.S.A. § 1811(b) is amended to read:

~~(b)(1) No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont Health Benefit Exchange and complies with the provisions of this subchapter.~~

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

Sec. 4. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \* Health Insurance Rate Review \* \* \*

Sec. 5. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) ~~This~~ The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, or other limited benefit coverage; to Medicare supplemental insurance; or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care Board's approval on rate requests and shall be subject to the remaining provisions of this section.

\* \* \* Green Mountain Care \* \* \*

Sec. 6. 33 V.S.A. § 1827 is amended to read:

§ 1827. ADMINISTRATION; ENROLLMENT

\* \* \*

(e) [Repealed.]

(f) Green Mountain Care shall be the ~~secondary~~ payer of last resort with

respect to any health service that may be covered in whole or in part by any other health benefit plan, including Medicare, private health insurance, retiree health benefits, or federal health benefit plans offered by ~~the Veterans' Administration~~, by the military, or to federal employees.

\* \* \*

Sec. 7. CONTRACT FOR ADMINISTRATION OF CERTAIN ELEMENTS OF GREEN MOUNTAIN CARE; REPORT

On or before January 15, 2015, the Secretary of Human Services shall report to the General Assembly the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a), as well as the dates by which the Agency will solicit bids for administration of those elements and by which it will award the contracts.

Sec. 8. CONCEPTUAL WAIVER APPLICATION

On or before November 15, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

\* \* \* Green Mountain Care Board \* \* \*

Sec. 9. 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec, 42, is further amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

\* \* \*

(b) Notwithstanding 2 V.S.A. § 20(d), annually on or before ~~December~~ January 15, the ~~chair~~ Chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available. The Green Mountain Care Board may satisfy its obligations under this section by including the information required by this section in the annual report required by 18 V.S.A. § 9375(d).

\* \* \*

Sec. 10. 2013 Acts and Resolves No. 79, Sec. 5b is amended to read:

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, and other payers shall use beginning on January 1, ~~2015~~ 2016 and that Medicaid shall use beginning on January 1, 2017.

\* \* \*

\* \* \* Non-Emergency Walk-In Centers \* \* \*

Sec. 11. 18 V.S.A. § 9492 is added to read:

§ 9492. NON-EMERGENCY WALK-IN CENTERS; NONDISCRIMINATION

(a) A non-emergency walk-in center shall accept patients of all ages for diagnosis and treatment of illness, injury, and disease during all hours that the center is open to see patients. A non-emergency walk-in center shall not discriminate against any patient or prospective patient on the basis of insurance status or type of health coverage.

(b) As used in this section, “non-emergency walk-in center” means an outpatient or ambulatory diagnostic or treatment center at which a patient without making an appointment may receive medical care that is not of an emergency, life threatening nature. The term includes facilities that are self-described as urgent care centers, retail health clinics, and convenient care clinics.

\* \* \* Pharmacy Benefit Managers \* \* \*

Sec. 12. 18 V.S.A. § 9472 is amended to read:

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO HEALTH INSURERS

~~Unless the contract provides otherwise, a~~ A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall:

\* \* \*

(4) If Unless the contract provides otherwise, if the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the state State based on volume of sales for certain prescription drugs or classes or brands of drugs within the state State, pass that payment or benefit on in full to the health insurer.

\* \* \*

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this state State for pharmacy benefit management in this state State.

Sec. 13. 18 V.S.A. § 9473 is redesignated to read:

§ ~~9473~~ 9474. ENFORCEMENT

Sec. 14. 18 V.S.A. § 9473 is added to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer.

Sec. 15. 9 V.S.A. § 2466a is amended to read:

§ 2466a. CONSUMER PROTECTIONS; PRESCRIPTION DRUGS

(a) A violation of 18 V.S.A. § 4631 shall be considered a prohibited practice under section 2453 of this title.

(b) As provided in 18 V.S.A. § ~~9473~~ 9474, a violation of 18 V.S.A. § 9472 or ~~9473~~ shall be considered a prohibited practice under section 2453 of this title.

\* \* \*

\* \* \* Adverse Childhood Experiences \* \* \*

Sec. 16. ADVERSE CHILDHOOD EXPERIENCES; REPORT

On or before January 15, 2015, the Director of the Blueprint for Health and the Chair of the Green Mountain Care Board or their designees shall review evidence-based materials on the relationship between adverse childhood experiences (ACEs) and population health and recommend to the General Assembly whether, how, and at what expense ACE-informed medical practice should be integrated into Blueprint practices and community health teams. The Director and the Chair or their designees shall also develop a methodology by which the Blueprint will evaluate emerging health care delivery quality initiatives to determine whether, how, and to what extent they should be integrated into the Blueprint for Health.

\* \* \* Reports \* \* \*

Sec. 17. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall recommend to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance whether and to what extent to increase payments to health care providers and community health teams for their participation in the Blueprint for Health and whether to expand the Blueprint to include additional services or chronic conditions such as obesity, mental conditions, and oral health.

Sec. 18. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical

insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Health Care, on Commerce, and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

Sec. 19. INDEPENDENT PHYSICIAN PRACTICES; REPORT

On or before December 1, 2014, the Secretary of Administration or designee shall recommend to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance whether the State should prohibit health insurers from reimbursing physicians in independent practices at lower rates than those at which they reimburse physicians in hospital-owned practices for providing the same services.

Sec. 20. INCREASING MEDICAID RATES; REPORT

On or before January 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board, shall report to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the impact of increasing Medicaid reimbursement rates to providers to match Medicare rates. The issues to be addressed in the report shall include:

(1) the amount of State funds needed to effect the increase;

(2) the projected impact of the increase on health insurance premiums; and

(3) to the extent that premium reductions would likely result in a decrease in the aggregate amount of federal premium tax credits for which Vermont residents would be eligible, whether there are specific timing considerations for the increase as it relates to Vermont's application for a Waiver for State Innovation pursuant to Section 1332 of the Patient Protection and Affordable Care Act.

Sec. 21. HEALTH INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY; REPORT

On or before October 1, 2014, the Office of the Attorney General, in consultation with the Vermont Information Technology Leaders, shall report to the House Committees on Health Care, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Health and Welfare, on Economic Development, Housing and General Affairs, and on Finance regarding the need for intellectual property protection with respect to Vermont's Health Information Exchange and other health information technology initiatives, including the potential for receiving patent, copyright,



or trademark protection for health information technology functions, the estimated costs of obtaining intellectual property protection, and projected revenues to the State from protecting intellectual property assets or licensing protected interests to third parties.

\* \* \* Health Care Workforce Symposium \* \* \*

#### Sec. 22. HEALTH CARE WORKFORCE SYMPOSIUM

On or before January 15, 2015, the Secretary of Administration or designee, in collaboration with the Vermont Medical Society, the Vermont Association of Hospitals and Health Systems, and the Vermont Assembly of Home Health and Hospice Agencies, shall organize and conduct a symposium to address the impacts of moving toward universal health care coverage on Vermont's health care workforce and on its projected workforce needs.

\* \* \* Global Hospital Budgets \* \* \*

#### Sec. 23. GREEN MOUNTAIN CARE BOARD; GLOBAL HOSPITAL PILOT PROJECTS

(a) The Green Mountain Care Board may develop and implement global budgeting pilot projects involving multiple payers at up to two hospitals in this State. The Board shall ensure that a hospital's existing or pending contracts with accountable care organizations and any shared savings or other financial arrangements related to such contracts are accurately accounted for when establishing global hospital budgets pursuant to this section.

(b) The Green Mountain Care Board may take such steps as are necessary to include all payers in the global hospital budget pilot projects, including negotiating with the federal Center for Medicare & Medicaid Innovation to involve Medicare and Medicaid.

(c) In the event that at least one pilot project authorized under this section is being developed or implemented on or before January 15, 2015, on that date and quarterly thereafter through January 2017, the Green Mountain Care Board shall provide updates to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the development and implementation of the global hospital budget pilot projects authorized by this section, including any effect on hospital budget growth, any impact on care delivery and patient outcomes, and recommendations about whether to continue global hospital budgets at the participating hospital or hospitals and whether to implement global hospital budgets for other Vermont hospitals.

\* \* \* Repeal \* \* \*

#### Sec. 24. REPEAL

3 V.S.A. § 635a (legislators and session-only legislative employees eligible to purchase State Employees Health Benefit Plan at full cost) is repealed.

\* \* \* Effective Dates \* \* \*

Sec. 25. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) notwithstanding 1 V.S.A. § 214, Sec. 24 (repeal of legislator eligibility to purchase State Employees Health Benefit Plan) shall take effect on passage and shall apply retroactively to January 1, 2014, except that members and session-only employees of the General Assembly who were enrolled in the State Employees Health Benefit Plan on January 1, 2014 may continue to receive coverage under the plan through the remainder of the 2014 plan year; and

(2) Sec. 14 (18 V.S.A. § 9473; pharmacy benefit managers) shall take effect on July 1, 2014 and shall apply to contracts entered into or renewed on or after that date.

And that after passage the title of the bill be amended to read: “An act relating to miscellaneous amendments to health care laws”.

(For text see House Journal January 23, 2014 )

**Committee of Conference Report**

**S. 220**

An act relating to furthering economic development

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

**S. 220 An act relating to furthering economic development**

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* One-Stop Business Support Services \* \* \*

Sec. 1. ONE-STOP SHOP WEB PORTAL

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

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

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

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

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

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

(b) Administration. On or before June 30, 2015, the Secretary of State, the Department of Taxes, the Department of Labor, the Vermont Attorney General, the Agency of Commerce and Community Development, and the Agency of Administration shall coordinate with other relevant agencies and departments within State government and outside partners, including regional development corporations, regional planning commissions, and small business development centers, to provide comprehensive business services, regional coaching teams, print materials, other outreach, and a “One-Stop Shop” website.

(c) On or before January 15, 2015, the Secretary of State and partners shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development to inform the committees of the status of the project and a timeline for its completion.

Secs. 2–3. RESERVED

\* \* \* Vermont Economic Development Authority \* \* \*

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

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT  
AUTHORITY

\* \* \*

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

§ 280aa. FINDINGS AND PURPOSE

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

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

(b) To support the growth of ~~technology based companies~~ Vermont-based businesses in seed, start-up, and growth stages and the resultant creation of high wage higher wage employment in Vermont, a ~~technology loan program~~ is established under this subchapter the General Assembly hereby creates in this subchapter the Vermont Entrepreneurial Lending Program.

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

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

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

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

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

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

(c) When considering entrepreneurial lending through the Program, the Authority shall give additional consideration and weight to an application of a

business whose business model and practices will have a demonstrable effect in achieving other public policy goals of the State, including:

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

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

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

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

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

\* \* \*

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

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

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

(2) any fiscal year 2014 or fiscal year 2015 funds, or both, appropriated or authorized by the General Assembly.

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

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

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT  
PROGRAM

\* \* \*

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

§ 374b. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

(C) an occupation in which the farmer is actively engaged ~~in~~, either

on a seasonal or year-round basis.

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

\* \* \*

\* \* \* Connecting Capital Providers and Entrepreneurs \* \* \*

#### Sec. 7. NETWORKING INITIATIVES

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

(b) The Agency shall submit to the House Committee on Commerce and Economic Development and to the Senate Committee on Economic Development, Housing and General Affairs a report on or before January 15, 2015 concerning the structure of networking initiatives, the relevant provisions of governing performance contracts, the benchmarks and measures of performance, and the outcomes of and further recommendations for the program.

\* \* \* Downtown Tax Credits \* \* \*

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

(3) "Qualified code or technology improvement project" means a project:

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

(ii) to install or improve data or network wiring, or heating, ventilating, or cooling systems reasonably related to data or network installations or improvements, in a qualified building, provided that a

professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the fact and cost of the installation or improvement;

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

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

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

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

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

§ 5930bb. ELIGIBILITY AND ADMINISTRATION

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

\* \* \*

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

(c) Code or technology improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer’s State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$12,000.00 for installation or improvement of a platform lift, a maximum tax credit of \$50,000.00 for installation or improvement of an elevator, a maximum tax credit of \$50,000.00 for installation or improvement of a sprinkler system, a maximum tax credit of \$30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating, ventilating, or cooling system, and a maximum tax credit of \$25,000.00 for the combined costs of all other qualified code improvements.

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

§ 218e. IMPLEMENTING STATE ENERGY POLICY;  
MANUFACTURING



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

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

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

### Sec. 13. INVESTIGATION; ELECTRICITY COSTS; MANUFACTURING

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

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

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

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

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

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

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

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

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

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

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

(1) consumer and business advocacy groups;

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

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

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

\* \* \* Domestic Export Program \* \* \*

#### Sec. 14. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

##### AGRICULTURE AND FOREST PRODUCTS

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

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

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

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

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

\* \* \* Criminal Penalties for Computer Crimes \* \* \*

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

#### CHAPTER 87. COMPUTER CRIMES

\* \* \*

#### § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

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

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

#### § 4105. THEFT OR DESTRUCTION

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

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

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

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

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

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

#### § 4106. CIVIL LIABILITY

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

\* \* \*

#### \* \* \* Statute of Limitations to Commence Action

for Misappropriation of Trade Secrets \* \* \*

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

#### § 523. TRADE SECRETS

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

\* \* \* Protection of Trade Secrets \* \* \*

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

#### CHAPTER 143. TRADE SECRETS

#### § 4601. DEFINITIONS

As used in this chapter:

(1) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through

electronic or other means.

(2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

#### § 4602. INJUNCTIVE RELIEF

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

(b) In exceptional circumstances, an injunction may condition future use

upon payment of a reasonable royalty for no longer than the period of time for which use could have been prohibited. Exceptional circumstances include, ~~but are not limited to,~~ a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.

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

#### § 4603. DAMAGES

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

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

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

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

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

#### § 4605. PRESERVATION OF SECRECY

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

#### § 4607. EFFECT ON OTHER LAW

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

(b) This chapter does not affect:

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

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

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

\* \* \*

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

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

§ 346. STATE CONTRACTING; INTELLECTUAL PROPERTY, SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

(a) The Secretary of Administration shall include in Administrative Bulletin 3.5 a policy direction applicable to State procurement contracts that include services for the development of software applications, computer coding, or other intellectual property, which would allow the State of Vermont to grant permission to the contractor to use or own the intellectual property created under the contract for the contractor's commercial purposes.

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

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

\* \* \* Department of Financial Regulation \* \* \*

Sec. 19. SMALL BUSINESS ACCESS TO CAPITAL

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

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

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

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

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

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

\* \* \* Licensed Lender Requirements; Exemption for De Minimis  
Lending Activity \* \* \*

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

2201. LICENSES REQUIRED

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

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

(2) act as a mortgage broker;

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

(4) act as a sales finance company.

(b) Each licensed mortgage loan originator must register with and maintain a valid unique identifier with the Nationwide Mortgage Licensing System and



Registry and must be either:

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

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

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

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

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

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

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

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

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

(5) ~~a~~ A pawnbroker; ~~;~~

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

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

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

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

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

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

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

(B) ~~for purposes of~~ As used in this subdivision (12), "senior indebtedness" means:

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

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

(13) ~~nonprofit~~ Nonprofit organizations established under testamentary

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

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

(15) ~~a~~ A housing finance agency.

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

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

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

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

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

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

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

(A) such activities are considered by the State governing body

responsible for regulating the practice of law to be part of the authorized practice of law within this State;

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

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

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

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

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

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

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

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

#### Sec. 8. INVESTMENT OF STATE MONIES

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

#### Sec. 23. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

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

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the

Treasurer prior to or subsequent to the effective date of this section, and the renewal or replacement of those credit facilities.

Sec. 24. TREASURER'S LOCAL INVESTMENT ADVISORY  
COMMITTEE; REPORT

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

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

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

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

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

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

(d) Meetings.

(1) Meetings of the Advisory Committee shall occur at the call of the

Treasurer.

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

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

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

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

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

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

Sec. 25. SUNSET

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

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

§ 2481w. UNLICENSED LOAN TRANSACTIONS

(a) In this subchapter:

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

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

(3) “Process” or “processing” includes printing a check, draft, or other form of negotiable instrument drawn on or debited against a consumer's financial account, formatting or transferring data for use in connection with the debiting of a consumer's financial account by means of such an instrument or an electronic funds transfer, or arranging for such services to be provided to a

lender.

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

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

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

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

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

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

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

\* \* \*

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

\* \* \*

(4) “Telecommunications facility” means a communications facility that transmits and receives signals to and from a local, State, national, or

international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(5) "Wireless service" means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

\* \* \*

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

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

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

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

(2) Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected



municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

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

\* \* \*

(e) Notice. No less than 45 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

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

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

under subsection (o) of this section.

\* \* \*

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

\* \* \*

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

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

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

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

#### Sec. 28. PUBLIC SERVICE BOARD; ORDER REVISION

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

(1) Within 30 days of the effective date of this section, the Board shall

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

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

#### Sec. 29. REPORT; TELECOMMUNICATIONS FACILITY REVIEW

##### PROCESS

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

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

(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, ~~2014~~ 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:

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

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

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

§ 8506. RENEWABLE ENERGY PLANT; TELECOMMUNICATIONS FACILITY; APPEALS

(a) Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the ~~secretary~~ Secretary, under the provisions of law listed in section 8503 of this title, or any party by right may appeal to the ~~public service board~~ Public Service Board if the act or decision concerns a renewable energy plant for which a certificate of public good is required under 30 V.S.A. § 248 or a telecommunications facility for which the applicant has applied or has served notice under 30 V.S.A. § 248a(e) that it will apply for approval under 30 V.S.A. § 248a. This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title. This section shall not apply to an appeal of an act or decision of the secretary regarding a telecommunications facility made on or after July 1, ~~2014~~ 2017.

\* \* \*

#### Sec. 32. REPEAL

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

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

#### § 2809. REIMBURSEMENT OF AGENCY COSTS

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

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

(B) ~~the~~ The Secretary does have such expertise but has made a determination that it is beyond the ~~agency's~~ Agency's internal capacity to effectively utilize that expertise to process the application for the permit, license, certification, or order. In addition, the Secretary shall determine that such expertise is required for the processing of the application for the permit, license, certification, or order.

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

processing of the permit application.

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

\* \* \*

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

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

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

#### Sec. 34. JFO ACCD DEMOGRAPHIC STUDY

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

\* \* \* Tourism Funding; Study \* \* \*

#### Sec. 35. TOURISM FUNDING; PILOT PROJECT STUDY

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

\* \* \* Land Use; Housing; Industrial Development \* \* \*

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

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

\* \* \*

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

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

\* \* \*

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

(N) any combination of the foregoing activities, uses, or purposes. An eligible facility may include structures, appurtenances incidental to the foregoing such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities; or

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

\* \* \*

§ 261. ADDITIONAL POWERS

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

\* \* \*

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

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

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

#### Sec. 38. REVIEW OF MASTER PLAN POLICY

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

\* \* \* Primary Agricultural Soils; Industrial Parks \* \* \*

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

(4) Industrial parks.

(A) Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils located in an industrial park ~~as defined in subdivision 212(7) of this title and~~ permitted under this chapter and in existence as of January 1, 2006, shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1, protected acres to acres of affected primary agricultural soil. If an industrial park is developed to the fullest extent before any expansion, this ratio shall apply to any contiguous expansion of such an industrial park that totals no more than 25 percent of the area of the park or no more than 10 acres, whichever is larger; provided any expansion based on percentage does not exceed 50 acres. Any expansion larger than that described in this subdivision shall be subject to the mitigation provisions of this subsection at ratios that depend upon the location of the expansion.

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

Sec. 40. RESERVED

\* \* \* Workforce Education and Training \* \* \*

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

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Investment Board:

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

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

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

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

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

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

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

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

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



- (A) name of the person who receives funding;
- (B) amount of funding;
- (C) activities and training provided;
- (D) number of trainees and their general description;
- (E) employment status of trainees; and
- (F) future needs for resources.

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

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

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

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

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

**§ 541. WORKFORCE DEVELOPMENT COUNCIL; STATE WORKFORCE INVESTMENT BOARD; MEMBERS, TERMS**

~~(a) The Workforce education and training Council is created as the successor to and the continuation of the Governor's Human Resources Investment Council and shall be the State Workforce Investment Board under Public Law 105-220, the Workforce Investment Act of 1998, and any reauthorization of that act. The Council shall consist of the members required under the federal act and the following: the President of the University of Vermont or designee; the Chancellor of the Vermont State Colleges or designee; the President of the Vermont Student Assistance corporation or designee; the President of the Association of Vermont Independent Colleges or designee; a representative of the Abenaki Self Help Organization; at least two representatives of labor appointed by the Governor in addition to the two required under the federal act, who shall be chosen from a list of names~~

~~submitted by Vermont AFL-CIO, Vermont NEA, and the Vermont State Employees Association; one representative of the low income community appointed by the Governor; two members of the Senate appointed by the Senate Committee on Committees; and two members of the house appointed by the speaker. In addition, the Governor shall appoint enough other members who are representatives of business or employers so that one half plus one of the members of the council are representatives of business or employers. At least one third of those appointed by the Governor as representatives of business or employers shall be chosen from a list of names submitted by the regional technical centers. As used in this section, "representative of business" means a business owner, a chief executive operating officer, or other business executive, and "employer" means an individual with policy making or hiring authority, including a public school superintendent or school board member and representatives from the nonprofit, social services, and health sectors of the economy. If there is a dispute as to who is to represent an interest as required under the federal law, the Governor shall decide who shall be the member of the Council.~~

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

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

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

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

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

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

~~(h) [Repealed.]~~

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

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

~~(2) Coordinate planning and services for an integrated network of workforce education and training and oversee its implementation at State and~~

~~regional levels.~~

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

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

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

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

#### § 541a. STATE WORKFORCE INVESTMENT BOARD

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

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

(1) conduct an ongoing public engagement process throughout the State that brings together employers and potential employees, including students, the unemployed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and training needs; and

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

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

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

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

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

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

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

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

(7) the Secretary of Education or designee;

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

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

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

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

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

(14) the Commissioner of Economic Development;

(15) the Commissioner of Labor;

(16) the Secretary of Human Services or designee;

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

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

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

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

(C) are appointed from among individuals nominated by State

business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

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

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

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

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

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

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

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

(5) Quorum; meetings; voting.

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

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

(C) The Board shall deliver electronically the minutes for each of its meetings to each member of the Board and to the Chairs of the House Committees on Education and on Commerce and Economic Development, and to the Senate Committees on Education and on Economic Development,

Housing and General Affairs.

(6) Reimbursement.

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

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

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

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

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

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

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

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § 2822 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF

OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

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

(b) The Agency of Commerce and Community Development shall

coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor, including the development and implementation of the state plan for workforce education and training required under the Workforce Investment Act of 1998.

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

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

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

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

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

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

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

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

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

(3) apprenticeship-related instruction.

(c) Administrative Support. Administrative support for the grant award process shall be provided by the ~~Departments~~ Department of Labor ~~and of Economic Development~~. Technical, ~~administrative, financial, and other~~ support shall be provided whenever appropriate and reasonable by the

~~Workforce Development Council Investment Board~~ and all other public entities involved in ~~Economic Development, workforce development and training, and education~~ economic development and workforce education and training.

(d) Eligible Activities. Awards from the Fund shall be made to employers and entities that offer programs that require collaboration between employees and businesses, including private, public, and nonprofit entities, institutions of higher education, high schools, technical centers, and workforce education and training programs. Funding shall be for training programs and student internship programs that offer education, training, apprenticeship, mentoring, or work-based learning activities, or any combination; that employ innovative intensive student-oriented competency-based or collaborative approaches to workforce education and training; and that link workforce education and economic development strategies. Training programs or projects that demonstrate actual increased income and economic opportunity for employees and employers may be funded for more than one year. Student internships and training programs that involve the same employer may be funded multiple times, provided that new students participate.

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

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

(1) Training Programs.

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

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

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



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

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

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

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

~~(B)(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed due to changing workplace demands by increasing productivity and developing new skills for incumbent workers; or~~

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

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

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

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

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

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

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(g) [Repealed.]

§ 544. VERMONT CAREER INTERNSHIP PROGRAM

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

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

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

(A) do not replace or supplant existing positions;

(B) create real workplace expectations and consequences;

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

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

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

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

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

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, ~~state-funded~~ State-funded postsecondary educational institutions, the Workforce ~~Development Council~~ Investment Board, and other ~~state~~ State agencies and departments that have workforce education and training and training monies, shall:

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

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

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

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

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

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

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

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

(a)(1) ~~The Secretary of Commerce and Community Development may, in consultation with the Workforce Investment Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to any employer, consortium of employers, or providers of training, either individuals or organizations, as necessary, to conduct training under the following circumstances: to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.~~

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

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

~~(2) training is required for potential employees, new employees, or long-standing employees in the methods, either singularly or in combination relating to pre-employment training, on the job training, upgrade training, and~~

~~crossover training, or specialized instruction, either in plant or through a training provider.~~

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

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

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

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

(B) dental assistance;

(C) paid vacation ~~and~~;

~~(D)~~ paid holidays;

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

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

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

(H) other paid time off, including paid sick days;

(3) the training is directly related to the employment responsibilities of the trainee; ~~and~~

(4) compensation for each trainee at the completion of the training program equals or exceeds the livable wage as defined in 2 V.S.A. § 505, provided that the Secretary shall have the authority to modify this requirement if he or she determines that the employer offers compensation or benefits, the value of which exceeds the compensation and benefit assumptions in the basic needs budget and livable wage calculated pursuant to 2 V.S.A. § 505.

~~(c) The employer promises as a condition of the grant to:~~

~~(1) employ new persons at a wage which, at the completion of the training program, is two times the prevailing state or federal minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 30 percent of the gross program wage, or for existing employees, to increase the wage to two times the prevailing state and federal~~

~~minimum wage, whichever is greater, reduced by the value of any existing health benefit package up to a limit of 20 percent of the gross program wage, upon completion of training; provided, however, that in areas defined by the Secretary of Commerce and Community Development in which the Secretary finds that the rate of unemployment is 50 percent greater than the average for the State, the wage rate under this subsection may be set by the Secretary at a rate no less than one and one half times the federal or state minimum wage, whichever is greater;~~

~~(2) employ persons who have completed the training provided for them and nominated as qualified for a reasonable period at the wages and occupations described in the contract, unless the employer reasonably finds the nominee is not qualified;~~

~~(3) provide its employees with at least three of the following:~~

~~(A) health care benefits with 50 percent or more of the premium paid by the employer;~~

~~(B) dental assistance;~~

~~(C) paid vacation and holidays;~~

~~(D) child care;~~

~~(E) other extraordinary employee benefits; and~~

~~(F) retirement benefits.~~

~~(4) submit a customer satisfaction report to the Secretary of Commerce and Community Development, on a form prepared by the Secretary for that purpose, no more than 30 days from the last day of the training program.~~

In the case of a grant to a training provider, the Secretary shall require as a condition of the grant that the provider shall disclose to the Secretary the name of the employer and the number of employees trained prior to final payment for the training.

(d) In order to avoid duplication of programs or services and to provide the greatest return on investment from training provided under this section, the Secretary of Commerce and Community Development shall:

(1) ~~first~~ consult with the Commissioner of Labor regarding whether the grantee has accessed, or is eligible to access, other workforce education and training resources ~~offered by public or private workforce education and training partners;~~

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that a grant for on-the-job

training shall either provide not more than 50 percent of wages for each employee in training, or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

(3) use funds under this section only to supplement training efforts of employers and not to replace or supplant training efforts of employers.

~~(e) The Secretary of Commerce and Community Development shall administer all training programs under this section, may select and use providers of training as appropriate, and shall adopt rules and may accept services, money, or property donated for the purposes of this section. The Secretary may promote awareness of, and may give priority to, training that enhances critical skills, productivity, innovation, quality, or competitiveness, such as training in Innovation Engineering, "Lean" systems, and ISO certification for expansion into new markets. [Repealed.]~~

(f) Upon completion of the training program for any individual, the secretary of Commerce and Community Development shall review the records and shall award to the trainee, if appropriate, a certificate of completion for the training.

~~(g) None of the criteria in subdivision (a)(1) of this section shall apply to a designated job development zone under chapter 29, subchapter 2 of this title. [Repealed.]~~

~~(h) The Secretary may designate the Commissioner of Economic Development to carry out his or her powers and duties under this chapter. [Repealed.]~~

(i) ~~Program Outcomes.~~

~~(1) On or before September 1, 2011, the Agency of Commerce and Community Development, in coordination with the department of labor, and in consultation with the Workforce education and training Council and the legislative Joint Fiscal Office, shall develop, to the extent appropriate, a common set of benchmarks and performance measures for the training program established in this section and the Workforce Education and Training Fund established in section 543 of this title, and shall collect employee-specific data on training outcomes regarding the performance measures; provided, however, that the Secretary shall redact personal identifying information from such data.~~

~~(2) On or before January 15, 2013, the Joint Fiscal Office shall prepare a performance report using the benchmarks and performance measures created~~

~~pursuant to subdivision (1) of this subsection. The Joint Fiscal Office shall submit its report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.~~

~~(3) The Secretary shall use information gathered pursuant to this subsection and customer satisfaction reports submitted pursuant to subdivision (e)(4) of this section to evaluate the program and make necessary changes that fall within the Secretary's authority or, if beyond the scope of the Secretary's authority, to recommend necessary changes to the appropriate committees of the General Assembly. [Repealed.]~~

~~(j) Consistent with the training program's goal of providing specialized training and increased employment opportunities for Vermonters, and notwithstanding provisions of this section to the contrary, the Secretary shall canvas apprenticeship sponsors to determine demand for various levels of training and classes and shall transfer up to \$250,000.00 annually to the regional technical centers to fund or provide supplemental funding for apprenticeship training programs leading up to certification or licensing as journeyman or master electricians or plumbers. The Secretary shall seek to provide these funds equitably throughout Vermont; however, the Secretary shall give priority to regions not currently served by apprenticeship programs offered through the Vermont Department of Labor pursuant to 21 V.S.A. chapter 13. [Repealed].~~

~~(k) Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs summarizing. In addition to the reporting requirements under section 540 of this title, the report shall identify:~~

~~(1) all active and completed contracts and grants;~~

~~(2) the types of training activities provided, from among the following, the category the training addressed:~~

~~(A) preemployment training or other training for a new employee to begin a newly created position with the employer;~~

~~(B) preemployment training or other training for a new employee to begin in an existing position with the employer;~~

~~(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;~~

~~(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;~~

(E) training for an incumbent employee to upgrade skills;

(3) for the training identified in subdivision whether the training is onsite or classroom-based;

(4) the number of employees served, ~~and~~ ;

(5) the average wage by employer, ~~and addressing~~;

(6) any waivers granted;

(7) the identity of the employer, or, if unknown at the time of the report, the category of employer;

(8) the identity of each training provider; and

(9) whether training results in a wage increase for a trainee, and the amount of increase.

#### Sec. 43. REPEAL

2007 Acts and Resolves No. 46, Sec. 6(a), as amended by 2009 Acts and Resolves No. 54, Sec. 8 (workforce education and training leader) and 2013 Acts and Resolves No. 81, Sec. 2, is repealed.

#### Sec. 44. DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; STATUTORY PROPOSALS

On or before November 1, 2014:

(1) The Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 543 to reflect best practices and improve clarity in the administration of, and for applicants to, the grant program from the Workforce Education and Training Fund under that section.

(2) The Secretary of Commerce and Community Development shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal to amend the language of 10 V.S.A. § 531 to reflect best practices and improve clarity in the administration of, and for applicants to, the Vermont Training Program under that section.

#### Sec. 45. INTERNSHIP OPPORTUNITIES FOR YOUNG PERSONS

On or before January 15, 2015, the Commissioner of Labor shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that details the internship opportunities available to Vermonters between



15 and 18 years of age and recommends one or more means to expand these opportunities through the Vermont Career Internship Program, 10 V.S.A. § 544, or through other appropriate mechanisms.

\* \* \* Vermont Strong Scholars Program \* \* \*

Sec. 46. 16 V.S.A. chapter 90 is redesignated to read:

CHAPTER 90. FUNDING OF POSTSECONDARY INSTITUTIONS EDUCATION

Sec. 47. 16 V.S.A. § 2888 is added to read:

§ 2888. VERMONT STRONG SCHOLARS AND INTERNSHIP INITIATIVE

(a) Creation.

(1) There is created a postsecondary loan forgiveness and internship initiative designed to forgive a portion of Vermont Student Assistance Corporation loans of students employed in economic sectors identified as important to Vermont's economy and to build internship opportunities for students to gain work experience with Vermont employers.

(2) The initiative shall be known as the Vermont Strong Scholars and Internship Initiative and is designed to:

(A) encourage students to:

(i) consider jobs in economic sectors that are critical to the Vermont economy;

(ii) enroll and remain enrolled in a Vermont postsecondary institution; and

(iii) live in Vermont upon graduation;

(B) reduce student loan debt for postsecondary education in targeted fields;

(C) provide experiential learning through internship opportunities with Vermont employers; and

(D) support a pipeline of qualified talent for employment with Vermont's employers.

(b) Vermont Strong Loan Forgiveness Program.

(1) Economic sectors; projections.

(A) Annually, on or before November 15, the Secretary of Commerce and Community Development and the Commissioner of Labor, in consultation

with the Vermont State Colleges, the University of Vermont, the Vermont Student Assistance Corporation, the Secretary of Human Services, and the Secretary of Education, shall identify economic sectors, projecting at least four years into the future, that are or will be critical to the Vermont economy.

(B) Based upon the identified economic sectors and the number of students anticipated to qualify for loan forgiveness under this section, the Secretary of Commerce and Community Development shall annually provide the General Assembly with the estimated cost of the Vermont Student Assistance Corporation's loan forgiveness awards under the loan forgiveness program during the then-current fiscal year and each of the four following fiscal years.

(2) Eligibility. A graduate of a public or private Vermont postsecondary institution shall be eligible for forgiveness of a portion of his or her Vermont Student Assistance Corporation postsecondary education loans under this section if he or she:

(A) was a Vermont resident, as defined in 16 V.S.A. § 2822(7), at the time he or she was graduated;

(B) enrolled in a postsecondary institution on or after July 1, 2015 and completed an associate's degree within three years, or a bachelor's degree within six years;

(C) becomes employed in Vermont within 12 months of graduation in an economic sector identified by the Secretary and Commissioner under subdivision (1) of this subsection;

(D) remains employed in Vermont throughout the period of loan forgiveness in an economic sector identified by the Secretary and Commissioner under subdivision (1) of this subsection; and

(E) remains a Vermont resident throughout the period of loan forgiveness.

(3) Loan forgiveness. An eligible individual shall have a portion of his or her Vermont Student Assistance Corporation loan forgiven as follows:

(A) for an individual awarded an associate's degree, in an amount equal to the comprehensive in-state tuition rate for 15 credits at the Vermont State Colleges during the individual's final semester of enrollment, to be prorated over the three years following graduation; and

(B) for an individual awarded a bachelor's degree, in an amount equal to the comprehensive in-state tuition rate for 30 credits at the Vermont State Colleges during the individual's final year of enrollment, to be prorated over the five years following graduation.

(C) Loan forgiveness may be awarded on a prorated basis to an otherwise eligible Vermont resident who transfers to and is graduated from a Vermont postsecondary institution.

(4) Management.

(A) The Secretary of Commerce and Community Development shall develop all organizational details of the loan forgiveness program consistent with the purposes and requirements of this section.

(B) The Secretary shall enter into a memorandum of understanding with the Vermont Student Assistance Corporation for management of the loan forgiveness program.

(C) The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the Program.

(c) Vermont Strong Internship Program.

(1) Internship program management.

(A) The Commissioner of Labor and the Secretary of Commerce and Community Development shall jointly develop and implement the organizational details of the internship program consistent with the purposes and requirements of this section and may adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the internship program.

(B) The Commissioner, in consultation with the Secretary, shall issue a request for proposals for a person to serve as an Internship Program Intermediary, who shall perform the duties and responsibilities pursuant to the terms of a performance contract negotiated by the Commissioner and the Intermediary.

(C) The Department of Labor, the Agency of Commerce and Community Development, the regional development corporations, and the Intermediary, shall have responsibility for building connections within the business community to ensure broad private sector participation in the internship program.

(D) The Program Intermediary shall:

(i) identify and foster postsecondary internships that are rigorous, productive, well-managed, and mentored;

(ii) cultivate relationships with employers, employer-focused organizations, and state and regional government bodies;

(iii) build relationships with Vermont postsecondary institutions and facilitate recruitment of students to apply for available internships;

(iv) create and maintain a registry of participating employers and associated internship opportunities;

(v) coordinate and provide support to the participating student, the employer, and the student's postsecondary institution;

(vi) develop and oversee a participation contract between each student and employer, including terms governing the expectations for the internship, a work plan, mentoring and supervision of the student, reporting by the employer and student, and compensation terms; and

(vii) carry out any additional activities and duties as directed by the Commissioner.

(2) Qualifying internships.

(A) Criteria. To qualify for participation in the internship program an internship shall at minimum:

(i) be with a Vermont employer as approved by the Intermediary in consultation with the Commissioner and Secretary;

(ii) pay compensation to an intern of at least the prevailing minimum wage; and

(iii) meet the quality standards and expectations as established by the Intermediary.

(B) Employment of interns. Interns shall be employed by the sponsoring employer except, with the approval of the Commissioner on a case-by-case basis, interns may be employed by the Intermediary and assigned to work with a participating Vermont employer, in which case the sponsoring employer shall contribute funds as determined by the Commissioner.

(3) Student eligibility. To participate in the internship program an individual shall be:

(A) a Vermont resident enrolled in a post-secondary institution in or outside Vermont;

(B) a student who graduated from a postsecondary institution within 24 months of entering the program who was classified as a Vermont resident during that schooling or who is a student who attended a post-secondary institution in Vermont; or

(C) a student enrolled in a Vermont post-secondary institution.

(d) Funding.

(1) Loan forgiveness program.

(A) Loan forgiveness; State funding.

(i) There is created a special fund to be known as the Vermont Strong Scholars Fund pursuant to 32 V.S.A. chapter 7, subchapter 5, which shall be used and administered by the Secretary of Commerce and Community Development solely for the purposes of loan forgiveness pursuant to this section.

(ii) The Fund shall consist of sums to be identified by the Secretary from any source accepted for the benefit of the Fund and interest earned from the investment of Fund balances.

(iii) Any interest earned and any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

(iv) The availability and payment of loan forgiveness awards under this subdivision is subject to State funding available for the awards.

(B) Loan forgiveness; Vermont Student Assistance Corporation.

The Vermont Student Assistance Corporation shall have the authority to grant loan forgiveness pursuant to this section by using the private loan forgiveness capacity associated with bonds issued by the Corporation to raise funds for private loans that are eligible for forgiveness under this section, if available.

(2) Internship program. Notwithstanding any provision of law to the contrary, the Commissioner of Labor shall have the authority to use funds allocated to the Workforce Education and Training Fund established in 10 V.S.A. § 543 to implement the internship program created in this section.

Sec. 48. VERMONT STRONG INTERIM REPORT

On or before November 1, 2014, the Secretary of Commerce and Community Development shall report to the Joint Fiscal Committee on the organizational and economic details of the Vermont Strong Scholars Initiative, including:

(1) the economic sectors selected for loan forgiveness;

(2) the projected annual cost of the Initiative,

(3) the proposed funding sources;

(4) programmatic proposals and economic projections on the feasibility and impacts of expanding eligibility for the loan forgiveness program to include Vermont residents who attend postsecondary institutions outside Vermont and out-of-state residents who attend Vermont postsecondary institutions; and

(5) the projected balance of the Vermont Strong Scholars Fund for each

fiscal year through fiscal year 2018.

Sec. 49. VERMONT PRODUCTS PROGRAM; STUDY; REPORT

(a) On or before September 1, 2016, the Agency of Commerce and Community Development, after consulting with appropriate stakeholders, shall report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on creating a Vermont Products Program for the purpose of providing Vermont businesses with a means of promoting and marketing products and services that are manufactured, designed, engineered, or formulated in Vermont and avoiding confusion by consumers when the Vermont brand is used in marketing products or services.

(b) The report required by this section shall describe the method, feasibility, and cost of creating a Vermont Products Program that includes the following elements:

(1) The program shall include a licensing system that enables qualifying persons to make marketing claims concerning significant business activities occurring in Vermont, and to self-certify products and services that are manufactured, designed, engineered, or formulated in Vermont. Under this system, the Secretary shall identify and craft branding and marketing guidelines that concern whether and how qualifying products or services manufactured, designed, engineered, or formulated in Vermont can be properly claimed so as to be licensed. The licensing system shall permit an applicant to self-certify compliance with designated criteria and attest to the accuracy of claims authorized by the Secretary in order to obtain a license to advertise and promote a product or service using the licensed materials.

(2) The program may charge an annual fee for the issuance of the license.

(3) The program shall include an on-line application process that permits an applicant to obtain the license if he or she certifies compliance with criteria designated by the Secretary, attests to the accuracy of statements designated by the Secretary, and pays the required fee.

(4) Licenses issued under the program shall include a provision requiring that disputes regarding the license be resolved by alternative dispute resolution. A person who objects to the issuance of a license may file a complaint with the Secretary, who shall refer it for alternative dispute resolution as provided in the license.

(5) A special fund, comprising license fees and any monies appropriated by the General Assembly, may be created for the administration and

advertising of the program.

(c) The report required by this section shall include a recommendation as to whether the Vermont Products Program should replace the rules regarding Vermont Origin adopted by the Attorney General.

(d) On or before February 1, 2015, the Secretary of Commerce and Community Development shall deliver testimony to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development on the status of the Vermont Products Program pursuant to this section.

\* \* \* Workers' Compensation \* \* \*

Sec. 50. 21 V.S.A. § 632 is amended to read:

§ 632. COMPENSATION TO DEPENDENTS; ~~DEATH BENEFITS~~  
BURIAL AND FUNERAL EXPENSES

If death results from the injury, the employer shall pay to the persons entitled to compensation or, if there is none, then to the personal representative of the deceased employee, the actual burial and funeral expenses ~~in the amount of \$5,500.00~~ not to exceed \$10,000.00 and the actual expenses for out-of-state transportation of the decedent to the place of burial ~~not to exceed \$1,000.00~~ \$5,000.00. Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted. The employer shall also pay to or for the benefit of the following persons, for the periods prescribed in section 635 of this title, a weekly compensation equal to the following percentages of the deceased employee's average weekly wages. The weekly compensation payment herein allowed shall not exceed the maximum weekly compensation or be lower than the minimum weekly compensation:

\* \* \*

Sec. 51. 21 V.S.A. § 639 is amended to read:

§ 639. DEATH, PAYMENT TO DEPENDENTS

In cases of the death of a person from any cause other than the accident during the period of payments for disability or for the permanent injury, the remaining payments for disability then due or for the permanent injury shall be made to the person's dependents according to the provisions of sections 635 and 636 of this title, or if there are none, the remaining amount due, but ~~not exceeding \$5,500.00 for burial and funeral expenses~~ no more than the actual burial and funeral expenses not to exceed \$10,000.00 and the actual expenses

for out-of-state transportation of the decedent to the place of burial not to exceed ~~\$1,000.00~~ \$5,000.00, shall be paid in a lump sum to the proper person. Every two years, the Commissioner of Labor shall evaluate the average burial and funeral expenses in the State and make a recommendation to the House Committee on Commerce and Economic Development and the Senate Committee on Finance as to whether an adjustment in compensation is warranted.

Sec. 52. 21 V.S.A. § 640c is added to read:

§ 640c. OPIOID USAGE DETERRENCE

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to protect employees from the dangers of prescription drug abuse while maintaining a balance between the employee's health and the employee's expedient return to work.

(b) As it pertains to workers' compensation claims, the Commissioner of Labor, in consultation with the Department of Health, the State Pharmacologist, the Vermont Board of Medical Practice, and the Vermont Medical Society, shall adopt rules consistent with the best practices governing the prescription of opioids, including patient screening, drug screening, and claim adjudication for patients prescribed opioids for chronic pain. In adopting rules, the Commissioner shall consider guidelines and standards such as the Occupational Medicine Practice Guidelines published by the American College of Occupational and Environmental Medicine and other medical authorities with expertise in the treatment of chronic pain. The rules shall be consistent with the standards and guidelines under 18 V.S.A. § 4289 and any rules adopted by the Department of Health pursuant to 18 V.S.A § 4289.

Sec. 53. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

\* \* \*

(e)(1) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly that, following a workplace accident, an employee return to work as soon as possible but remain cognizant of the limitations imposed by his or her medical condition.

(2) The Commissioner shall adopt rules promoting development and implementation of cost-effective, early return-to-work programs.

Sec. 54. 21 V.S.A. § 643a is amended to read:



§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall first notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title the employee at least seven days prior to providing to the Commissioner a notice of discontinuance of benefits under either section 642 or 646 of this title. The notice to the employee shall include a specific explanation of the basis for discontinuance, including any independent medical examination report, the claimant's right to object to the discontinuance, and the phone number and website address for the Department. The ~~notice~~ notices to the employee and the Commissioner of an intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice shall be provided to the injured worker. With the notice of discontinuance, the employer shall file with the Commissioner only evidence specific to the discontinuance, including evidence that does not support the discontinuance. The liability for the payments shall continue for seven days after the notice is received by the Commissioner ~~and the employee.~~ If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of an additional seven days. The objection to the discontinuance shall be specific as to the reasons and include supporting evidence. A copy of the objection shall be provided to the employer at the time the request is made to the Commissioner. Those payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision,

upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 55. 21 V.S.A. § 691a is added to read:

§ 691a. POSTING OF SAFETY RECORDS

(a) In support of the State's fundamental interest in ensuring the well-being of employees and employers, it is the intent of the General Assembly to improve the safety experience in the workplace.

(b) An employer subject to the provisions of this chapter shall post a notice in the employer's place of business to advise employees of where they may review the employer's record of workplace safety, including workplace injury and illness data, in accordance with rules adopted by the Commissioner. The employer's record of workplace safety, including workplace injury and illness data, shall be available for review by employees at the employer's place of business and the Commissioner, but shall not otherwise be public information. The posting shall be in a format approved by the Commissioner. The posting may be in a format provided by the Commissioner.

Sec. 56. 21 V.S.A. § 696 is amended to read:

§ 696. CANCELLATION OF INSURANCE CONTRACTS

A policy or contract shall not be cancelled within the time ~~limited~~ specified in the policy or contract for its expiration, until at least 45 days after a notice of intention to cancel the policy or contract, on a date specified in the notice, has been filed in the office of the ~~commissioner~~ Commissioner and provided to the employer. The notice shall be filed with the Commissioner in accordance with rules adopted by the Commissioner and provided to the employer by certified mail ~~or certificate of mailing~~. The cancellation shall not affect the liability of an insurance carrier on account of an injury occurring prior to cancellation.

Sec. 57. 21 V.S.A. § 697 is amended to read:

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY

An insurance carrier who does not intend to renew a workers' compensation insurance policy ~~of workers' compensation insurance~~ or guarantee contract covering the liability of an employer under the provisions of this chapter, ~~45 days prior to the expiration of the policy or contract,~~ shall give notice of ~~the~~ its intention to the ~~commissioner of labor~~ Commissioner and ~~to~~ the covered employer at least 45 days prior to the expiration date stated in the policy or contract. The notice shall be given to the employer by certified mail ~~or certificate of mailing~~. An insurance carrier who fails to give notice shall continue the policy or contract in force beyond its expiration date for 45 days

from the day the notice is received by the ~~commissioner~~ Commissioner and the employer. However, ~~this latter provision shall not apply if, prior to such expiration date, on or before the expiration of the existing insurance or guarantee contract the insurance carrier has, by delivery of a renewal contract or otherwise, offered to continue the insurance beyond the date by delivery of a renewal contract or otherwise,~~ or if the employer notifies the insurance carrier in writing that the employer does not wish the insurance continued beyond the expiration date, or if the employer complies with the provisions of section 687 of this title, ~~on or before the expiration of the existing insurance or guarantee contract~~ then the policy will expire upon notice to the Commissioner.

Sec. 58. ROBERT H. WOOD CRIMINAL JUSTICE AND FIRE SERVICE TRAINING CENTER STUDY

The Department of Labor and the Office of Risk Management, in consultation with the Vermont League of Cities and Towns and any other interested parties, shall conduct a study, to be submitted to the House Committee on Commerce and Economic Development and the Senate Committee on Finance on or before January 15, 2015, to:

- (1) analyze existing and frequently occurring injuries suffered by individuals while attending the Robert H. Wood Criminal Justice and Fire Service Training Center;
- (2) analyze preventive measures to avoid injuries;
- (3) recommend who should bear the financial burden of the workers' compensation premiums; and
- (4) recommend preventive measures necessary to reduce injuries.

Sec. 59. WORKPLACE SAFETY RANKING STUDY

The Department of Labor and the Department of Financial Regulation, in consultation with the *National Council on Compensation Insurance*, shall study whether information may be made available to employers to allow an employer to compare its workplace safety and workers' compensation experience with that of employers in similar industries or *North American Industry Classification System* codes.

Sec. 60. 2013 Acts and Resolves No. 75, Sec. 14 is amended as follows:

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

\* \* \*

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

\* \* \*

(4) the Commissioner of Labor or designee;

(5) the Director of the Blueprint for Health or designee;

~~(5)~~(6) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

~~(6)~~(7) a representative of the Vermont State Dental Society, who shall be a dentist;

~~(7)~~(8) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

~~(8)~~(9) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

~~(9)~~(10) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

~~(10)~~(11) a representative of the Vermont Medical Society, who shall be a primary care clinician;

~~(11)~~(12) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

~~(12)~~(13) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

~~(13)~~(14) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

~~(14)~~(15) a representative of the Vermont Ethics Network;

~~(15)~~(16) a representative of the Hospice and Palliative Care Council of Vermont;

~~(16)~~(17) a representative of the Office of the Health Care Ombudsman;

~~(17)~~(18) the Medical Director for the Department of Vermont Health Access;

~~(18)~~(19) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

~~(19)~~(20) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

~~(20)~~(21) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

~~(24)~~(22) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

~~(22)~~(23) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

~~(23)~~(24) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

~~(24)~~(25) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; ~~and~~

~~(25)~~(26) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain;

(27) a clinician who specializes in occupational medicine;

(28) a clinician who specializes in physical medicine and rehabilitation; and

(29) a consumer representative who is or has been an injured worker and has been prescribed opioids.

\* \* \*

Sec. 61. 21 V.S.A. § 602 is amended to read:

§ 602. PROCESS AND PROCEDURE

\* \* \*

(c) Any communication from an employer or an insurer to a claimant that is not otherwise required to be provided on a form prescribed by the Commissioner must include a statement advising the claimant immediately to contact the Vermont Department of Labor's Workers' Compensation Division to determine a right to object or appeal, as provided by law, and to seek information from the Department on the process and procedures.

Sec. 62. 21 V.S.A. § 655 is amended to read:

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to

examination, at reasonable times and ~~places~~ within a two-hour driving radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the two-hour driving radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury. The employee may make a video or audio recording of any examination performed by the insurer's physician or surgeon or have a licensed health care provider designated and paid by the employee present at the examination. The employer may make an audio recording of the examination. The right of the employee to record the examination shall not be construed to deny to the employer's physician the right to visit the injured employee at all reasonable times and under all reasonable conditions during total disability. If an employee refuses to submit to or in any way obstructs the examination, the employee's right to prosecute any proceeding under the provisions of this chapter shall be suspended until the refusal or obstruction ceases, and compensation shall not be payable for the period which the refusal or obstruction continues.

Sec. 63. 21 V.S.A. § 663b is added to read:

§ 663b. FRAUD

(a) Any claims of fraud submitted to the Department shall require action by the Commissioner to determine if further investigation is warranted. The Commissioner shall order the insurer to investigate specific allegations of claimant fraud and submit a written report to the Department. Once the insurer's report is received, the Commissioner shall afford the claimant an opportunity to respond in person or in writing within 30 days. The Commissioner may order additional information to be provided to the Department from the insurer or the claimant. The Department shall issue a determination on the fraud allegation, including penalties and any reimbursement as provided under section 708 of this title. The party may appeal the decision of the Commissioner as provided under 3 V.S.A. chapter 25.

(b) An employee found to have committed fraud in order to receive compensation under this chapter shall be ordered to repay all compensation fraudulently received in addition to other administrative penalties ordered by the Department. These payments shall not be charged to the employer for purposes of calculating its experience rating.

Sec. 64. FRAUD STUDY AND REPORT

The Department shall initiate a study of the best practices to detect and

deter workers' compensation fraud by employees, employers, and other persons involved with the workers' compensation system. The study shall include investigation procedures, penalties, and recapture of fraudulently obtained payments in a timely and cost-effective manner. On or before January 15, 2015, the Department shall report its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 65. 21 V.S.A. § 624(e) is amended to read:

(e)(1) In an action to enforce the liability of a third party, the injured employee may recover any amount which the employee or the employee's personal representative would be entitled to recover in a civil action. Any recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, shall first reimburse the employer or its workers' compensation insurance carrier for any amounts paid or payable under this chapter to date of recovery, and the balance shall forthwith be paid to the employee or the employee's dependents or personal representative and shall be treated as an advance payment by the employer on account of any future payment of compensation benefits. Reimbursement required under this subsection, except to prevent double recovery, shall not reduce the employee's recovery of any benefit or payment provided by a plan or policy that was privately purchased by the injured employee, including ~~uninsured-under insured~~ uninsured-underinsured motorist coverage, or any other first party insurance payments or benefits.

(2) Should the recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, be less than the full value of the claim for personal injuries or death, the reimbursement to the employer or workers' compensation insurance carrier shall be limited to that portion of the recovery allocated for damages covered by the Workers' Compensation Act. If a court has not allocated or the parties cannot agree to the allocation of the recovered damages, either party may request that the Commissioner make an administrative determination. Upon receiving a request, the Commissioner shall order mediation with a mediator selected from a list approved by the Commissioner. If mediation is unsuccessful, the Commissioner may adjudicate the dispute or refer the dispute to an arbitrator approved by the Commissioner. The determination of the Commissioner or of an arbitrator approved by the Commissioner shall be final. The cost of any mediation or arbitration shall be split equally by the parties.

Sec. 66. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ~~ATTORNEY~~ ATTORNEY'S FEES

(a) Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the ~~commissioner~~ Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The ~~commissioner~~ Commissioner may allow the claimant to recover reasonable ~~attorney~~ attorney's fees when the claimant prevails. Costs shall not be taxed or allowed either party except as provided in this section.

(b) In appeals to the ~~superior or supreme courts~~ Superior or Supreme Court, if the claimant prevails, he or she shall be entitled to reasonable ~~attorney~~ attorney's fees as approved by the ~~court~~ Court, necessary costs, including deposition expenses, subpoena fees, and expert witness fees, and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested. Interest shall be computed from the date of the award of the ~~commissioner~~ Commissioner.

\* \* \*

\* \* \* Notice of Data Security Breach \* \* \*

Sec. 67. 9 V.S.A. § 2435(b)(4) is amended to read:

(4)(A) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Office of the Attorney General or the Department of Financial Regulation



and shall include the website and telephone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

\* \* \* Insurance; Form of Notice \* \* \*

Sec. 68. 8 V.S.A. § 3666 is added to read:

§ 3666. RULES; METHODS OF NOTICE

Notwithstanding the requirements under sections 3883, 4226, and 4714 of this title, the Commissioner of Financial Regulation shall adopt rules specifying the methods by which a notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title shall be given.

\* \* \* Effective Dates \* \* \*

Sec. 69. EFFECTIVE DATES

(a) This section, and Secs. 28 (Public Service Board; order revision), 52, 53, and 58–66 (certain workers’ compensation provisions) shall take effect on passage.

(b) 16 V.S.A. § 2888(b)(3) (Vermont Strong loan forgiveness) in Sec. 47 shall take effect on July 1, 2015.

(c) The remainder of this act shall take effect on July 1, 2014.

Rep. William G.F. Botzow

Rep. Warren F. Kitzmiller

Rep. Michael J. Marcotte

*Committee on the part of the House*

Sen. Kevin J. Mullin

Rep Philip E. Baruth

Sen. Christopher A. Bray

*Committee on the part of the Senate*

**S. 252**

An act relating to financing for Green Mountain Care

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

**S. 252 An act relating to financing for Green Mountain Care**

Respectfully report that they have met and considered the same and recommend that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Principles \* \* \*

Sec. 1. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) Vermont residents shall finance Green Mountain Care through taxes that are levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

(3) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the payer of last resort for Vermont residents who continue to receive health care through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit.

(4) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care, vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

\* \* \* Vermont Health Benefit Exchange \* \* \*

Sec. 2. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

\* \* \*

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health

Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

\* \* \*

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \*

Sec. 3. 33 V.S.A. § 1811(b) is amended to read:

~~(b)(1) No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont Health Benefit Exchange and complies with the provisions of this subchapter.~~

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

#### Sec. 4. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \* Health Insurance Rate Review \* \* \*

Sec. 5. 8 V.S.A. § 4062(h) is amended to read:

~~(h)(1) This~~ The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income,

long-term care, student health insurance coverage, or other limited benefit coverage; ~~to Medicare supplemental insurance;~~ or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care Board's approval on rate requests and shall be subject to the remaining provisions of this section.

\* \* \* Green Mountain Care \* \* \*

Sec. 6. 33 V.S.A. § 1827 is amended to read:

§ 1827. ADMINISTRATION; ENROLLMENT

\* \* \*

(e) [Repealed.]

(f) Green Mountain Care shall be the ~~secondary~~ payer of last resort with respect to any health service that may be covered in whole or in part by any other health benefit plan, including Medicare, private health insurance, retiree health benefits, or federal health benefit plans offered by ~~the Veterans' Administration,~~ by the military, or to federal employees.

\* \* \*

Sec. 7. CONTRACT FOR ADMINISTRATION OF CERTAIN ELEMENTS OF GREEN MOUNTAIN CARE; REPORT

On or before January 15, 2015, the Secretary of Human Services shall report to the General Assembly the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a), as well as the dates by which the Agency will solicit bids for administration of those elements and by which it will award the contracts.

Sec. 8. CONCEPTUAL WAIVER APPLICATION

On or before November 15, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

\* \* \* Green Mountain Care Board \* \* \*

Sec. 9. 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec. 42, is further amended to read:

Sec. 117b. MEDICAID COST SHIFT REPORTING

\* \* \*

(b) Notwithstanding 2 V.S.A. § 20(d), annually on or before ~~December~~ January 15, the ~~chair~~ Chair of the Green Mountain Care Board, the Commissioner of Vermont Health Access, and each acute care hospital shall file with the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare, in the manner required by the Joint Fiscal Committee, such information as is necessary to carry out the purposes of this section. Such information shall pertain to the provider delivery system to the extent it is available. The Green Mountain Care Board may satisfy its obligations under this section by including the information required by this section in the annual report required by 18 V.S.A. § 9375(d).

\* \* \*

Sec. 10. 2013 Acts and Resolves No. 79, Sec. 5b is amended to read:

Sec. 5b. STANDARDIZED HEALTH INSURANCE CLAIMS AND EDITS

(a)(1) As part of moving away from fee-for-service and toward other models of payment for health care services in Vermont, the Green Mountain Care Board, in consultation with the Department of Vermont Health Access, health care

providers, health insurers, and other interested stakeholders, shall develop a complete set of standardized edits and payment rules based on Medicare or on another set of standardized edits and payment rules appropriate for use in Vermont. The Board and the Department shall adopt by rule the standards and payment rules that health care providers, health insurers, and other payers shall use beginning on January 1, ~~2015~~ 2016 and that Medicaid shall use beginning on January 1, 2017.

\* \* \*

\* \* \* Non-Emergency Walk-In Centers \* \* \*

Sec. 11. 18 V.S.A. § 9492 is added to read:

§ 9492. NON-EMERGENCY WALK-IN CENTERS;  
NONDISCRIMINATION

(a) A non-emergency walk-in center shall accept patients of all ages for diagnosis and treatment of illness, injury, and disease during all hours that the center is open to see patients. A non-emergency walk-in center shall not discriminate against any patient or prospective patient on the basis of insurance status or type of health coverage.

(b) As used in this section, “non-emergency walk-in center” means an outpatient or ambulatory diagnostic or treatment center at which a patient without making an appointment may receive medical care that is not of an emergency, life threatening nature. The term includes facilities that are self-described as urgent care centers, retail health clinics, and convenient care clinics.

\* \* \* Pharmacy Benefit Managers \* \* \*

Sec. 12. 18 V.S.A. § 9472 is amended to read:

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO HEALTH INSURERS

~~(c) Unless the contract provides otherwise,~~ A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall:

\* \* \*

~~(4) If~~ Unless the contract provides otherwise, if the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the ~~state~~ State based on volume of sales for certain prescription drugs or classes or brands of drugs within the ~~state~~ State, pass that payment or benefit on in full to the health insurer.

\* \* \*

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this state State for pharmacy benefit management in this state State.

Sec. 13. 18 V.S.A. § 9473 is redesignated to read:

§ ~~9473~~ 9474. ENFORCEMENT

Sec. 14. 18 V.S.A. § 9473 is added to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer.

Sec. 15. 9 V.S.A. § 2466a is amended to read:

§ 2466a. CONSUMER PROTECTIONS; PRESCRIPTION DRUGS

(a) A violation of 18 V.S.A. § 4631 shall be considered a prohibited practice under section 2453 of this title.

(b) As provided in 18 V.S.A. § 9473 9474, a violation of 18 V.S.A. § 9472 or 9473 shall be considered a prohibited practice under section 2453 of this title.

\* \* \*

\* \* \* Adverse Childhood Experiences \* \* \*

#### Sec. 16. ADVERSE CHILDHOOD EXPERIENCES; REPORT

On or before January 15, 2015, the Director of the Blueprint for Health and the Chair of the Green Mountain Care Board or their designees shall review evidence-based materials on the relationship between adverse childhood experiences (ACEs) and population health and recommend to the General Assembly whether, how, and at what expense ACE-informed medical practice should be integrated into Blueprint practices and community health teams. The Director and the Chair or their designees shall also develop a methodology by which the Blueprint will evaluate emerging health care delivery quality initiatives to determine whether, how, and to what extent they should be integrated into the Blueprint for Health.

\* \* \* Reports \* \* \*

#### Sec. 17. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall recommend to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance whether and to what extent to increase payments to health care providers and community health teams for their participation in the Blueprint for Health and whether to expand the Blueprint to include additional services or chronic conditions such as obesity, mental conditions, and oral health.

#### Sec. 18. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Health Care, on Commerce, and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

#### Sec. 19. INDEPENDENT PHYSICIAN PRACTICES; REPORT

On or before December 1, 2014, the Secretary of Administration or



designee shall recommend to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance whether the State should prohibit health insurers from reimbursing physicians in independent practices at lower rates than those at which they reimburse physicians in hospital-owned practices for providing the same services.

Sec. 20. INCREASING MEDICAID RATES; REPORT

On or before January 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board, shall report to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the impact of increasing Medicaid reimbursement rates to providers to match Medicare rates. The issues to be addressed in the report shall include:

(1) the amount of State funds needed to effect the increase;

(2) the projected impact of the increase on health insurance premiums; and

(3) to the extent that premium reductions would likely result in a decrease in the aggregate amount of federal premium tax credits for which Vermont residents would be eligible, whether there are specific timing considerations for the increase as it relates to Vermont's application for a Waiver for State Innovation pursuant to Section 1332 of the Patient Protection and Affordable Care Act.

Sec. 21. HEALTH INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY; REPORT

On or before October 1, 2014, the Office of the Attorney General, in consultation with the Vermont Information Technology Leaders, shall report to the House Committees on Health Care, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Health and Welfare, on Economic Development, Housing and General Affairs, and on Finance regarding the need for intellectual property protection with respect to Vermont's Health Information Exchange and other health information technology initiatives, including the potential for receiving patent, copyright, or trademark protection for health information technology functions, the estimated costs of obtaining intellectual property protection, and projected revenues to the State from protecting intellectual property assets or licensing protected interests to third parties.

\* \* \* Health Care Workforce Symposium \* \* \*

Sec. 22. HEALTH CARE WORKFORCE SYMPOSIUM

On or before January 15, 2015, the Secretary of Administration or designee,

in collaboration with the Vermont Medical Society, the Vermont Association of Hospitals and Health Systems, and the Vermont Assembly of Home Health and Hospice Agencies, shall organize and conduct a symposium to address the impacts of moving toward universal health care coverage on Vermont's health care workforce and on its projected workforce needs.

\* \* \* Global Hospital Budgets \* \* \*

Sec. 23. GREEN MOUNTAIN CARE BOARD; GLOBAL HOSPITAL PILOT PROJECTS

(a) The Green Mountain Care Board may develop and implement global budgeting pilot projects involving multiple payers at up to two hospitals in this State. The Board shall ensure that a hospital's existing or pending contracts with accountable care organizations and any shared savings or other financial arrangements related to such contracts are accurately accounted for when establishing global hospital budgets pursuant to this section.

(b) The Green Mountain Care Board may take such steps as are necessary to include all payers in the global hospital budget pilot projects, including negotiating with the federal Center for Medicare & Medicaid Innovation to involve Medicare and Medicaid.

(c) In the event that at least one pilot project authorized under this section is being developed or implemented on or before January 15, 2015, on that date and quarterly thereafter through January 2017, the Green Mountain Care Board shall provide updates to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the development and implementation of the global hospital budget pilot projects authorized by this section, including any effect on hospital budget growth, any impact on care delivery and patient outcomes, and recommendations about whether to continue global hospital budgets at the participating hospital or hospitals and whether to implement global hospital budgets for other Vermont hospitals.

\* \* \* Repeal \* \* \*

Sec. 24. REPEAL

3 V.S.A. § 635a (legislators and session-only legislative employees eligible to purchase State Employees Health Benefit Plan at full cost) is repealed.

\* \* \* Effective Dates \* \* \*

Sec. 25. EFFECTIVE DATES

This act shall take effect on passage, except that:

- (1) notwithstanding 1 V.S.A. § 214, Sec. 24 (repeal of legislator

eligibility to purchase State Employees Health Benefit Plan) shall take effect on passage and shall apply retroactively to January 1, 2014, except that members and session-only employees of the General Assembly who were enrolled in the State Employees Health Benefit Plan on January 1, 2014 may continue to receive coverage under the plan through the remainder of the 2014 plan year; and

(2) Sec. 14 (18 V.S.A. § 9473; pharmacy benefit managers) shall take effect on July 1, 2014 and shall apply to contracts entered into or renewed on or after that date.

Rep. Michael Fisher

Rep. Janet Ancel

Rep. Sarah L. Copeland-Hanzas

*Committee on the part of the House*

Sen. Timothy R. Ashe

Sen. Claire D. Ayer

Sen. M. Jane Kitchel

*Committee on the part of the Senate*

## **NOTICE CALENDAR**

### **Senate Proposal of Amendment**

#### **H. 876**

An act relating to making miscellaneous amendments and technical corrections to education laws

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 8, 16 V.S.A. § 176, in subdivision (d)(1) and in Sec. 9, 16 V.S.A. § 176a, in subdivision (e)(1), by striking out the word “Programs” and inserting in lieu thereof the following: Nondegree-granting and non-credit granting programs

Second: By striking out Sec. 10 (16 V.S.A. § 1075; residency) in its entirety and inserting in lieu thereof a new section to be Sec. 10 to read as follows:

Sec. 10. [Deleted.]

Third: In Sec. 19, 16 V.S.A. § 1542(a), in subdivision (5), after the word “employees” by inserting the words employees and of

Fourth: In Sec. 23, in 16 V.S.A. § 1551, by striking out subsection (b) in its entirety and inserting in lieu thereof the following: \* \* \*

Fifth: By striking out Sec. 29 (16 V.S.A. § 2282(b); tuition) in its entirety and inserting in lieu thereof a new Sec. 29 to read:

Sec. 29. 16 V.S.A. § 2282(b) is amended to read:

~~(b) Except for those attending the college of medicine, the amount of tuition for eligible Vermont residents for attendance during each academic year shall be not more than 40 percent of the tuition charged to nonresident students. Tuition for eligible Vermont residents for shorter terms shall be no more per credit hour than that charged eligible Vermont residents during the academic year~~ A Vermont resident who is enrolled in the University as a full-time undergraduate student shall not pay tuition in an amount that exceeds 40 percent of the tuition charged to a nonresident student.

Sixth: In Sec. 30, 16 V.S.A. § 2902, subsection (a), by striking out the final sentence and inserting in lieu thereof a new final sentence to read: The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom.

Seventh: By striking out Sec. 34 (expanded learning opportunities; study) in its entirety and inserting in lieu thereof a new Sec. 34 to read:

Sec. 34. WORKING GROUP ON EQUITY AND ACCESS IN EXPANDED LEARNING TIME; REPORT

(a) Creation. The Prekindergarten-16 Council shall create a working group from among its membership to review and evaluate issues of equity in and access to Vermont's expanded learning programs, including afterschool and summer programs. The Working Group shall obtain testimony from existing providers of extended learning programs, including the Governor's Institutes of Vermont and the Vermont Youth Conservation Corps. In particular, the Working Group shall identify:

(1) ways to increase connections between schools and afterschool and summer learning programs;

(2) ways to coordinate school-run programs and programs sponsored by community-based and statewide organizations;

(3) areas of the State with limited or inequitable access to expanded learning programs, models successfully serving populations in those areas, and barriers to operating programs in those areas;

(4) the key elements of afterschool and summer learning programs that should be encouraged by State policy decisions in order to:

(A) ensure that programs are of the highest quality;

(B) contribute to more effective school-year approaches to educating underserved learners in Vermont and provide program content that reflects Vermont's educational and workforce development priorities;

(C) determine how a more comprehensive statewide strategy to promote high-quality afterschool and summer learning programs could be implemented over time;

(D) consider how changes to the school calendar may affect time available for learning; and

(E) identify how best to coordinate and augment existing funding streams for afterschool and summer learning programs and ensure that programs are cost-effective, effective in reaching and producing outcomes for targeted populations, and nonduplicative.

(b) Report. On or before December 31, 2014, the Working Group shall report to the House and Senate Committees on Education with its findings and any recommendations for legislative action.

Eighth: By striking out Sec. 36 (16 V.S.A. § 323; audits) in its entirety and inserting in lieu thereof a new Sec. 36 to read:

Sec. 36. [Deleted.]

Ninth: By striking out Sec. 37 (effective date) in its entirety and inserting in lieu thereof 29 new sections to be Secs. 37 through 65 and related reader assistance headings to read:

\* \* \* Dual Enrollment Program; Privately Funded Students in  
Approved Independent Schools \* \* \*

Sec. 37. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

\* \* \*

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) ~~an approved a nonsectarian- or sectarian-approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;~~

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

\* \* \*

(f) Tuition and funding.

\* \* \*

(4) Notwithstanding any other provision of this subsection (f), a district of residence shall not be responsible for payments under this subsection on behalf of a student enrolled in an approved independent school for whom tuition is privately paid; rather, if the approved independent school chooses to participate in the Dual Enrollment Program on behalf its privately tuitioned students, then the independent school shall pay the school district's portion of a student's dual enrollment tuition as calculated under this subsection.

\* \* \*

\* \* \* Technology; Innovation in Education Task Force \* \* \*

#### Sec. 38. VERMONT INNOVATION IN EDUCATION TASK FORCE; REPORT

(a) There is created a Vermont Innovation in Education Task Force to examine barriers to the effective use of technology in Vermont's schools and to support access to that technology through, among other things, the dissemination of best practices and the potential creation of a grant program.

(b) The Task Force shall be composed of the following members:

(1) an individual employed as a director of technology in a Vermont public school appointed by the Secretary of Education;

(2) two at-large members appointed by the Secretary;

(3) an individual employed as a teacher in a Vermont public school appointed by the Vermont-NEA;

(4) an individual employed as a principal in a Vermont public school appointed by the Vermont Principals' Association;

(5) an individual employed as a superintendent in a Vermont public school appointed by the Vermont Superintendents Association; and

(6) an individual employed as a library media specialist in a Vermont public school appointed by the Vermont School Library Association.

(c) The Task Force shall:

(1) examine barriers to the effective use of technology in Vermont's schools and solutions to overcome them, including:

(A) methods to ensure that both current teachers and students enrolled in teacher preparation programs are able to use technology effectively;

(B) strategies to create and procure engaging and cost-effective digital content to inspire Vermont students;

(C) strategies to ensure that all students benefit from access to technology, especially students who face learning challenges;

(D) methods to increase operating efficiencies and enhance learning opportunities, especially in rural areas, through the use of technology; and

(E) best practices to assist districts to prepare students to enter the workforce or pursue postsecondary education or training without the need for remediation; and

(2) consider elements necessary for the creation of a grant program to support the effective use of technology in Vermont's schools, including identification of potential funding sources and the criteria on which awards could be based.

(d) On or before October 1, 2014, the Task Force shall publish on the Agency of Education's website and submit to the Governor and the House and Senate Committees on Education a written report detailing:

(1) the results of its examination under subdivision (c)(1) of this section;

(2) the results of its considerations regarding creation of a grant program; and

(3) any recommendations for legislative action.

(e) The Secretary of Education shall call the first meeting of the Task Force to occur on or before June 1, 2014, at which meeting the members shall select their own chair.

(f) The Task Force shall cease to exist on July 1, 2015.

\* \* \* Privatization of Public Schools \* \* \*

Sec. 39. PRIVATIZATION OF PUBLIC SCHOOLS; MORATORIUM; REPEAL

(a) Privatization of public school. Notwithstanding the authority of a school district to cease operating an elementary or secondary school and to begin paying tuition on behalf of its resident students, a school district shall not cease operation of a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students.

(b) State Board approval. The State Board of Education shall not approve an independent school under 16 V.S.A. § 166 if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(c) Publicly funded tuition. An approved independent school shall not be eligible to receive publicly funded tuition dollars if, on or after the effective date of this act, a school district votes to cease operating a school that at the time of the vote serves essentially the same population of students as the independent school proposes to serve and is located in the building or buildings in which the independent school proposes to operate.

(d) Repeal. This section is repealed on July 1, 2016.

Sec. 40. SECRETARY OF EDUCATION; PRIVATIZATION STUDY; REPORT

(a) The Secretary of Education shall research:

(1) the constitutional and other legal consequences of a school district's decision to cease operating a school with the intention, for the purpose, or with the result of having the school building or buildings reopen as an approved independent school serving essentially the same population of students (privatization); and

(2) the constitutional and other legal consequences if the General Assembly chose to prohibit privatization of public schools.

(b) Among other issues, the Secretary shall examine the Vermont and U.S. Constitutions, federal civil rights law, and the Vermont Supreme Court's decision in Brigham v. State and shall consider issues of delegation of authority and the proper use of State funds.

(c) On or before January 15, 2015, the Secretary shall report the results of



the research required by this section to the Senate and House Committees on Education and on Judiciary, together with any recommendations for legislative amendments.

\* \* \* Student Enrollment in School of Former Residency \* \* \*

Sec. 41. 16 V.S.A. § 1093 is amended to read:

§ 1093. NONRESIDENT STUDENTS

(a) A school board may receive into the schools under its charge nonresident students under such terms and restrictions as it deems best and money received for the instruction of the students shall be paid into the school fund of the district.

(b) Notwithstanding subsection (a) of this section, if a student has legal residence in a Vermont school district and is enrolled in and attending a school maintained and operated by that district, and if at any time after completion of the annual census period defined in subdivision 4001(1)(A) of this title the student moves to a different Vermont school district with the intention of remaining there indefinitely as contemplated in subsection 1075(a) of this title, then, after a meeting at which the student, the student's parent or legal guardian if the student is a minor, and representatives of both school districts discuss the educational advantages and disadvantages of the student remaining in the original district, the student or the student's parent or guardian may choose to remain enrolled in the school maintained by the original district for the remainder of the school year by notifying both school districts of the decision to do so.

(c) Nothing in this section shall be construed to eliminate State or federal requirements for a district to enroll eligible students residing outside the district under the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11301 et seq., as may be amended.

\* \* \* Principals; Nonrenewal of Contracts \* \* \*

Sec. 42. 16 V.S.A. § 243 is amended to read:

§ 243. APPOINTMENT; SUPERVISION; RENEWAL; DISMISSAL

(a) Appointment; supervision.

(1) The school board of each school district operating a school, after recommendation by the superintendent, may designate a person as principal for each public school within the district, except that a principal may be selected to serve more than one school. In the case of a career technical education center, only the school board ~~which~~ that operates the center may designate a person as director. ~~For purposes of~~ As used in this section, the word "principal" shall

include a principal and the director of career technical education, and the term “public school” shall include a career technical education center.

(2) The superintendent shall supervise each principal within the supervisory union in the performance of duties and the implementation of school-based initiatives. The superintendent shall evaluate a principal during the year in which the principal’s contract shall expire and may evaluate the principal at other times during the contract term. Together with the evaluation provided to the principal in the year in which the contract shall expire, the superintendent shall indicate in writing whether he or she intends to recommend to the school board that the contract be renewed or not renewed. If the superintendent intends to recommend nonrenewal, then the written notification shall also indicate on which of the three categories set forth in subdivision (c)(2) of this section the recommendation is based.

(b) Length of contract. ~~The~~ A principal shall be employed by written contract for a term of not less than one year nor more than three years. Based upon the superintendent’s most recent written evaluation of the principal, a superintendent shall recommend to the school board whether or not to renew the initial and any subsequent contract with a principal.

(c) Renewal and nonrenewal.

~~(1) A principal who has been continuously employed for more than two years in the same position~~ has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before the existing contract expires;~~

(A) on or before February 1, if the principal has been continuously employed for more than two years in the same position;

(B) on or before April 1, if the principal has been continuously employed for two years or less in the same position; and

(C) at least 90 days before the existing contract expires, if the final day of the existing contract is other than June 30.

(2) Nonrenewal may be based upon elimination of the position, unresolved performance deficiencies, or other reasons affecting the educational mission of the district. The written notice shall recite the grounds for nonrenewal. ~~If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, any reason other than the elimination of the position then, at its discretion,~~ the school board may allow a period of remediation ~~of performance deficiencies prior to issuance of the written notice~~ its final decision on nonrenewal.

(3) After receiving ~~such~~ a notice of nonrenewal, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within ~~15~~ 10 calendar days of delivery of notice of nonrenewal, and the meeting shall be held within 15 calendar days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

\* \* \*

(e) Inclusion in contract. Every principal's contract shall be deemed to contain the provisions of this section. Any contract provision to the contrary is without effect. Each written contract shall include a reference to chapter 5, subchapter 3 of this title; provided, however, that failure to do so shall not give rise to a private right of action.

(f) Notification by principal. On or before May 1 of the year in which a principal's contract expires, the principal shall notify the school board in writing if he or she intends not to enter into a new contract with the district.

\* \* \* Physical Education and Nutrition Task Force \* \* \*

#### Sec. 43. PHYSICAL EDUCATION AND NUTRITION TASK FORCE; REPORT

(a) There is created a Vermont Physical Education and Nutrition Task Force to examine and recommend ways for schools to improve wellness, physical education, activity, and nutrition in Vermont schools.

(b) The Task Force shall be composed of the following members:

(1) a member appointed by the Secretary of Education;

(2) a member appointed by the Commissioner of Health.

(3) an individual employed as a teacher in a Vermont public school appointed by the Vermont National Education Association;

(4) an individual employed as a physical education teacher in a Vermont public school appointed by the Vermont Association for Health, Physical Education, Recreation and Dance;

(5) an individual employed as a food service director in a Vermont

public school appointed by the School Nutrition Association of Vermont;

(6) an individual employed as a principal in a Vermont public school appointed by the Vermont Principals' Association;

(7) an individual employed as a superintendent in a Vermont public school appointed by the Vermont Superintendents Association;

(8) an individual employed as a school nurse in a Vermont public school appointed by the Vermont State School Nurses Association;

(9) a representative of the American Heart Association; and

(10) a representative of the American Cancer Society.

(c) The Task Force shall:

(1) examine barriers to good nutrition and to adequate time for physical education, breakfast, and lunch and explore possible solutions to overcome the barriers, including review of:

(A) wellness councils and policies;

(B) minimum time limits for meals;

(C) the availability of snacks and beverages;

(D) the provision of physical education, including minimum instructional time;

(E) other opportunities for physical activity; and

(F) employee wellness; and

(2) recommend and share best practices for Vermont schools.

(d) On or before October 1, 2014, the Task Force shall publish on the Agency of Education's website and submit to the Governor and the House and Senate Committees on Education a written report detailing the results of its examination and any recommendations for legislative action.

(e) The Secretary of Education shall call the first meeting of the Task Force to occur on or before June 1, 2014, at which meeting the members shall select their own chair.

(f) The Task Force shall cease to exist on July 1, 2015

\* \* \* Governance \* \* \*

\* \* \* Intent; Enhanced Opportunity and Efficiency \* \* \*

Sec. 44. INTENT; ENHANCED OPPORTUNITY AND EFFICIENCY

2010 Acts and Resolves No. 153 put Vermont on a path toward voluntary

mergers of education governing units – mergers designed both to increase 21st-century educational opportunities and to achieve necessary economies of scale in an age of declining enrollments. It is the General Assembly’s intention to maintain the careful balance previously struck between local control and management efficiency, while significantly strengthening the impact of current statute. To that end, this act seeks to substantially increase the incentives of Act 153 and 2012 Acts and Resolves No. 156. In addition, it requires of supervisory unions a new and greater coordination with regard to the business aspects of education. It empowers the Secretary of Education to form supervisory union service regions, regional units that will contract for goods and procure services jointly. Sections that clarify and amend the responsibilities of supervisory unions and school districts will assist the State as larger governing units emerge by supporting operational efficiencies, more equitable deployment of resources, and the sharing of best practices.

\* \* \* Supervisory Union and School District Responsibilities \* \* \*

Sec. 45. 16 V.S.A. § 268 is added to read:

§ 268. DUTIES OF A SUPERVISORY UNION BOARD

A supervisory union board shall:

(1) adopt supervisory union-wide policies, including truancy policies that are consistent with model protocols developed by the Secretary;

(2) adopt a supervisory union-wide curriculum that meets the requirements adopted by the State Board under subdivision 165(a)(3)(B) of this title, by either developing the curriculum or directing the superintendent to assist the member districts to develop it jointly;

(3) on or before June 30 of each year, adopt a supervisory union budget for the ensuing school year;

(4) employ, at its discretion, a superintendent pursuant to the provisions of section 270 of this title and evaluate and oversee the performance of the superintendent;

(5) employ all licensed and nonlicensed employees of the supervisory union pursuant to the provisions of section 271 of this title, including a person or persons qualified to provide financial and student data management services for the supervisory union and the member districts;

(6) negotiate with the licensed employees of the supervisory union and school districts, pursuant to chapter 57 of this title, and with other school personnel, pursuant to 21 V.S.A. chapter 22, at the supervisory union level; provided that:

(A) contract terms may vary by district; and

(B) contracts may include terms facilitating arrangements between or among districts to share the services of teachers, administrators, and other school personnel; and

(7) pursuant to criteria established by the State Board, establish and direct the superintendent to implement a plan for receiving and disbursing federal and State funds distributed by the Agency, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965, as amended.

Sec. 46. 16 V.S.A. § 269 is added to read:

§ 269. DUTIES OF A SUPERVISORY UNION

(a) A supervisory union shall have sole responsibility to:

(1) provide professional development programs or arrange for the provision of them, or both, for teachers, administrators, and staff within the supervisory union, which may include programs offered solely to one school or other component of the entire supervisory union to meet the specific needs or interests of that component; a supervisory union has the discretion to provide financial assistance outside the negotiated agreements for teachers' professional development activities;

(2) provide special education services on behalf of the member districts and, except as provided in section 144b of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the State Board or local boards;

(3) provide financial and student data management services on behalf of the member districts and perform the districts' business and human resources functions;

(4) provide transportation or contract for the provision of transportation, or both in any districts in which it is offered within the supervisory union;

(5) procure and distribute goods and operational services used by the member districts, including office and classroom supplies and equipment, textbooks, and cleaning materials; and

(6) manage all construction projects within the supervisory union.

(b) A supervisory union shall submit to the board of each member school district, on or before January 15 of each year, a summary report of financial operations of the supervisory union for the preceding school year, an estimate of its financial operations for the current school year, and a preliminary budget for the supervisory union for the ensuing school year. This requirement shall

not apply to a supervisory district. For each school year, the report shall show the actual or estimated amount expended by the supervisory union for special education services, including:

(1) a breakdown of that figure showing the amount paid by each school district within the supervisory union; and

(2) a summary of the services provided by the supervisory union's use of the expended funds;

(c) A supervisory union may provide other appropriate services if requested by a member district, including grant writing and fundraising.

Sec. 46a. 16 V.S.A. § 269a is added to read:

§ 269a. WAIVERS; SUPERVISORY UNION DUTIES

(a) Notwithstanding the requirement in subsection 269(a) of this title that a supervisory union is solely responsible for the duties set forth in that subsection, a supervisory union may request the Secretary of Education to grant it a waiver from the requirements of subdivision (a)(2) (special education), (4) (transportation), (5) (goods and services), or (6) (construction management).

(b) The Secretary shall identify standards and criteria by which he or she shall determine whether the services will be performed most efficiently and cost-effectively at the supervisory union level or in some other manner. The Secretary shall publish the standards and criteria on or before October 1, 2014 together with guidelines for submitting a waiver request.

(c) A waiver granted pursuant to this section shall be for no more than one year, but may be renewed at the Secretary's discretion.

Sec. 46b. REPEAL

16 V.S.A. § 269a (waiver; supervisory union duties) is repealed on July 1, 2019.

Sec. 47. 16 V.S.A. § 241 is redesignated to read:

§ ~~241~~ 270. APPOINTMENT OF SUPERINTENDENT

Sec. 48. 16 V.S.A. § 242 is redesignated and amended to read:

§ ~~242~~ 271. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board within the supervisory union, and shall:

\* \* \*

(6) arrange for the provision of the professional training required in subsection 561(b) of this title; ~~and~~

(7)(A) ensure implementation of the supervisory union-wide curriculum adopted by the supervisory union board;

(B) assist each school in the supervisory union to follow the curriculum; and

(C) if students residing in the supervisory union receive their education outside the supervisory union, periodically review the compatibility of the supervisory union's curriculum with those other schools;

(8) perform all the duties required of a supervisory union in section 269 of this title or oversee the performance of those duties by employees of the supervisory union;

(9) ensure that the school districts and supervisory union are in compliance with State and federal laws; and

(10) provide for the general supervision of the public schools in the supervisory union ~~or district.~~

Sec. 49. 16 V.S.A. § 242a is redesignated to read:

§ ~~242a~~ 272. INTERNAL FINANCIAL CONTROLS

Sec. 50. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; ~~FORM OF VOTE IF BUDGET EXCEEDS BENCHMARK AND DISTRICT SPENDING IS ABOVE AVERAGE~~

The school board of a school district, in addition to other duties and authority specifically assigned by law:

\* \* \*

(2) May take any action, ~~which~~ except actions explicitly reserved to the supervisory union pursuant to chapter 7 of this title, that is required for the ~~sound~~ administration of the school district. The Secretary, with the advice of the Attorney General, upon application of a school board, shall decide whether any action contemplated or taken by a school board under this subdivision is required for the ~~sound~~ administration of the district and is proper under this subdivision. The Secretary's decision shall be final.

(3) Shall own and have the possession, care, control, and management of the property of the school district, subject to the authority vested in the electorate or any school district official.



(4) ~~[Repealed.]~~

~~(5)~~ Shall keep the school buildings and grounds in good repair, suitably equipped, insured, and in safe and sanitary condition at all times.

(5) ~~The school board shall~~ Shall regulate or prohibit firearms or other dangerous or deadly weapons on school premises. At a minimum, a school board shall adopt and implement a policy at least consistent with section 1166 of this title and 13 V.S.A. § 4004, relating to a student who brings a firearm to or possesses a firearm at school.

(6) Shall have discretion to furnish instruction to pupils who have completed a secondary education and to administer early educational programs.

(7) May relocate or discontinue use of a schoolhouse or facility, subject to the provisions of sections 821 and 822 of this title.

(8) Shall Subject to the duties and authority of the supervisory union pursuant to subdivision 263(a)(3) of this title, shall establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the State Board pursuant to subdivision 164(15) of this title and that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board. The school board may authorize a subcommittee, the superintendent of schools, or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a school board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose each payment is to be made by the treasurer, and such certified copy shall serve as full authority to the treasurer to make the payments as thus approved.

\* \* \*

~~(14) Shall provide, at the expense of the district, subject to the approval of the superintendent, all text books, learning materials, equipment and supplies. [Repealed.]~~

\* \* \*

Sec. 50a. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, and by 2013 Acts and Resolves No. 56, Sec. 23, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation employees by member districts to employment by the supervisory union, ~~pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E)~~ by:

\* \* \*

Sec. 50b. TRANSITION; INTENT

Nothing in this act shall be construed to repeal or amend provisions in 2013 Acts and Resolves No. 56, Secs. 23–27, relating to the transition of special education and transportation employees to employment by supervisory unions.

Sec. 51. REPEAL

16 V.S.A. § 261a is repealed.

\* \* \* Collaboration Among Supervisory Unions \* \* \*

Sec. 52. SUPERVISORY UNION SERVICE REGIONS

On or before July 1, 2015, the State Board of Education, in consultation with the Secretary of Education and with the supervisory union boards and superintendents of the State, shall establish supervisory union service regions, each of which shall be a group of supervisory unions that jointly provide the services as required by 16 V.S.A. § 269(d).

Sec. 53. 16 V.S.A. § 269(d) is added to read:

(d) The supervisory unions in each supervisory union service region, as established by the State Board, shall jointly provide the services required under the following subdivisions of subsection (a) of this section unless, upon petition of one or more supervisory unions within a region, the Secretary determines that it would be more costly or less effective to do so:

(1) subdivision (1) (professional development);

(2) subdivision (4) (transportation); and

(3) subdivision (5) (goods and operational services).

Sec. 54. 16 V.S.A. § 267(a) is amended to read:

(a) ~~Supervisory~~ In addition to the joint agreements required in subsection 269(d) of this title, supervisory unions, or administrative units not within a supervisory union, in order to provide services cooperatively, may at any annual or special meeting of the supervisory unions, by a majority vote of the directors present and eligible to vote, enter into a joint agreement to provide joint programs, services, facilities, and professional and other staff that are

necessary to carry out the desired programs and services.

\* \* \* Supervisory Unions; Merger; Governance \* \* \*

Sec. 54a. SUPERVISORY UNIONS; MERGER PLANS

On or before April 1, 2015, each supervisory union, including a supervisory district, shall explore the possibility of merger with at least one other neighboring supervisory union and shall present to the State Board of Education either a detailed plan by which it shall implement the merger or a detailed explanation of the reasons that it believes that merger would inhibit the effective and efficient use of financial and human resources or diminish educational quality and opportunities in the district. If a supervisory union is unable to identify a neighboring supervisory union that is willing to explore the possibility of merger with it, then the State Board may facilitate a meeting or meetings with one or more neighboring supervisory unions on the supervisory union's behalf.

\* \* \* Voluntary Mergers \* \* \*

Sec. 55. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the ~~effective date of merger is on or before~~ electorate approves the merger prior to July 1, 2017.

Sec. 56. 2010 Acts and Resolves No. 153, Sec. 3 is amended to read:

Sec. 3. VOLUNTARY SCHOOL DISTRICT MERGER INCENTIVE PROGRAM

(a) Size.

(1) School districts, which may include one or more union school districts, may merge to form a union school district pursuant to 16 V.S.A. chapter 11 ~~of Title 16~~ (a "Regional Education District" or "RED") that shall have an average daily membership of at least ~~1,250~~ 1,000 or result from the merger of at least four districts, or both.

(2) School districts interested in merger may request the ~~state board of~~

~~education~~ State Board of Education to grant them a waiver from the requirements of subdivision (1) of this subsection, which shall be granted if the districts can demonstrate that the requirements would not be cost-effective, would decrease educational opportunities, or would diminish student achievement, or any combination of these.

\* \* \*

Sec. 57. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

\* \* \*

(e) Consulting services reimbursement grant. From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall pay up to \$20,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The ~~study committee~~ Study Committee shall forward invoices to the ~~commissioner~~ Secretary on a quarterly basis. The ~~commissioner~~ Secretary shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the \$20,000.00 limit. ~~In addition, any transition facilitation grant funds paid to the RED pursuant to subsection (g) of this section shall be reduced by the total amount of reimbursement paid under this subsection (e).~~

\* \* \*

(g) Transition facilitation grant.

(1) After voter approval of the plan of merger, the ~~commissioner of education~~ Secretary of Education shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) between \$150,000.00 and \$500,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education.

(2) ~~A transition facilitation grant awarded under this subsection (g) shall be reduced by the total amount of reimbursement paid under subsection (e) of~~

~~this section.~~ Notwithstanding any other provision of this subsection, a transition facilitation grant paid to a modified unified union school district created pursuant to 2012 Acts and Resolves No. 156, Sec. 17 shall not exceed \$150,000.00.

~~(h) This section is repealed on July 1, 2017.~~ The incentives provided in this section shall be available only if the electorate approves the plan of merger prior to July 1, 2017.

Sec. 58. VOLUNTARY SCHOOL DISTRICT MERGER BETWEEN JULY 1, 2017 AND JUNE 30, 2019; INCENTIVES

(a) July 1, 2017 through June 30, 2019. A regional education district (RED) approved by the electorate pursuant to the provisions of 16 V.S.A. chapter 11 between July 1, 2017 and June 30, 2019 shall be eligible for the incentives provided in this section, provided that the RED complies with all other provisions of 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, and as further amended by Sec. 55 of this act and of 2010 Acts and Resolves No. 153, Sec. 3.

(b) Equalized homestead property tax rates or RED incentive grant. A RED's plan of merger shall provide whether, upon merger, the RED shall receive an equalization of its homestead property tax rates during the first four years following merger pursuant to subdivision (1) of this subsection or an incentive grant during the first year following merger pursuant to subdivision (2).

(1)(A) Equalized homestead property tax rates. Subject to the provisions of subdivision (C) of this subdivision (1) and notwithstanding any other provision of law, the RED's equalized homestead property tax rate shall be:

(i) decreased by \$0.04 in the first year after the effective date of merger;

(ii) decreased by \$0.03 in the second year after the effective date of merger;

(iii) decreased by \$0.02 in the third year after the effective date of merger; and

(iv) decreased by \$0.01 in the fourth year after the effective date of merger.

(B) The household income percentage shall be calculated accordingly.

(C) During the years in which a RED's equalized homestead property

tax rate is decreased pursuant to this subsection, the rate for each town within the RED shall not increase or decrease by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(2) RED incentive grant. During the first year after the effective date of merger, the Secretary of Education shall pay to the RED board a RED incentive grant from the education fund equal to \$200.00 per pupil based on the combined enrollment of the participating districts on October 1 of the year in which the successful vote was taken. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(3) Common level of appraisal. Regardless of whether a RED chooses to receive an equalization of its homestead property tax rates or a RED incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the RED for purposes of determining the homestead property tax rate for each town.

(c) Sale of school buildings.

(1) if a RED closes a school building and sells the school building, or an energy saving measure within it as contemplated in 16 V.S.A. § 3448f(g), then neither the RED nor any other entity shall be required to refund a percentage of the sale price to the state pursuant to 16 V.S.A. chapter 123; and

(2) if a participating district retains ownership of and closes a school building as part of the electorate-approved plan for merger and the participating district sells the school building or energy saving measure associated with the building, then neither the district nor any other entity shall be required to refund a percentage of the sale price to the State pursuant to 16 V.S.A. chapter 123.

(d) Merger support grant; small school support grant. If the merging districts of a RED included at least one “eligible school district,” as defined in 16 V.S.A. § 4015, that had received a small school support grant under section 4015 in the fiscal year two years prior to the first fiscal year of merger, then the RED shall be eligible to receive a merger support grant in each of its first five fiscal years in an amount equal to one-half of the small school support grant received by the eligible school district in the fiscal year two years prior to the first fiscal year of merger. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total of one-half of each small school support grant they received in the fiscal year two years prior to the first fiscal year of merger.

(e) Consulting services reimbursement grant. From the Education Fund, the Secretary shall pay up to \$10,000.00 to the merger study committee established under 16 V.S.A. § 706 to reimburse the participating districts for

legal and other consulting fees necessary for the analysis and report required by 16 V.S.A. § 706b. The study committee shall forward invoices to the Secretary on a quarterly basis. The Secretary shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon completion of the final report, provided that no payment shall cause the total amount paid to exceed the \$10,000.00 limit.

(f) Multiyear budgets.

(1) In addition to the option of proposing a single-year budget on an annual basis pursuant to the provisions of 16 V.S.A. chapter 11 and notwithstanding any other provision of law, a RED formed pursuant to this section shall have the option to propose one or both of the following:

(A) A multiyear budget for the first two fiscal years of its existence that will be included as part of the plan that must be approved by the electorate in order to create the RED.

(B) A multiyear budget for the third and fourth fiscal years of its existence that is presented to the electorate for approval at the RED's annual meeting convened in its second fiscal year.

(2) The plan presented to the electorate to authorize creation of the RED may contain a provision authorizing the RED, beginning in the fifth fiscal year of its existence to present multiyear proposed budgets to the electorate once in every two or three years.

(g) Transition facilitation grant. After voter approval of the plan of merger, the Secretary shall pay the RED a transition facilitation grant from the education fund equal to the lesser of:

(1) two and one-half percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(2) between \$75,000.00 and \$250,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education; provided, however, that a transition facilitation grant paid to a modified unified union school district created pursuant to 2012 Acts and Resolves No. 156, Sec. 17 shall not exceed \$75,000.00.

**Sec. 59. MERGER SUPPORT GRANT; SMALL SCHOOL SUPPORT GRANT**

The provisions of 2014 Acts and Resolves No. \_\_\_\_ (H.889) that limit payment of small school support grants under 16 V.S.A. § 4015 to schools that are eligible due to geographic necessity shall not prevent payment of the grants

as merger support grants pursuant to 2010 Acts and Resolves No. 153, Sec. 4(d) and subsection 20(d) of this act; provided, however, that the merger support grants shall be used solely to support programs and activities in the small school or schools after transitioning to the new governance structure.

Sec. 60. EXPEDITED PROCESS; RED FORMATION

Notwithstanding 16 V.S.A. chapter 11 or any other provision of law to the contrary:

(1) if:

(A) on or before the effective date of this act the electorate of two or more districts voted whether to change their governance structure pursuant to 2010 Acts and Resolves No. 153, Secs. 2–4, as amended by 2012 Acts and Resolves No. 156; and

(B) one or more of the districts did not vote in favor of the plan of merger (the Plan) presented at the most recent meeting warned to vote on the Plan (the Meeting); and

(C) after the effective date of this act and before July 1, 2017, upon approval of the school boards of all districts identified as “necessary” in the Plan, each of the “necessary” districts that did not vote in favor of the Plan at the Meeting votes on the Plan at a meeting warned for that purpose and the new vote is favorable in each district;

(2) then:

(A) the affirmative votes of the districts that voted in favor of the Plan at the Meeting shall continue without the need to vote again; and

(B) the change to the districts’ governance structure shall occur pursuant to terms set forth in the Plan.

Sec. 60a. 2012 Acts and Resolves No.156, Sec. 5 is amended to read:

Sec. 5. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;  
MERGER; SUPERVISORY UNIONS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse:

(1) up to ~~\$20,000.00~~ \$40,000.00 of fees paid prior to July 1, 2017 by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the ~~state board of education~~ State Board of Education requesting adjustment of supervisory union boundaries; or



(2) up to \$20,000.00 of fees paid after June 30, 2017 and prior to July 1, 2019 by two or more supervisory unions for legal and other consulting services necessary to analyze the advisability of the merger into a fewer number of supervisory unions and to prepare a petition to the State Board of Education requesting adjustment of supervisory union boundaries.

(b) Each group of supervisory unions shall forward invoices to the ~~commissioner~~ Secretary on a quarterly basis. The ~~commissioner~~ Secretary shall reimburse one-half of the total amount reflected in each set of invoices and the remaining one-half upon submission of either a petition to the ~~state board~~ State Board requesting that the boundaries be redrawn or a written statement of the entities' analysis supporting preservation of the current boundaries, provided that no payment shall cause the total amount paid to exceed the ~~\$20,000.00~~ limit set forth in subsection (a) of this section. A group of supervisory unions shall not be eligible for reimbursement under both subdivisions (1) and (2) of subsection (a).

~~(c) Any transition facilitation grant funds paid pursuant to Sec. 6 of this act shall be reduced by the total amount of reimbursement provided under this section.~~

~~(d) This section is repealed on July 1, 2017~~ 2019.

Sec. 60b. 2012 Acts and Resolves No.156, Sec. 6 is amended to read:

Sec. 6. TRANSITION FACILITATION GRANT; MERGER;  
SUPERVISORY UNIONS; SUNSET

(a) After ~~state board of education~~ State Board of Education approval of the petition of two or more supervisory unions to merge into a fewer number of supervisory unions, the ~~commissioner of education~~ Secretary of Education shall pay to the new supervisory union board or the new group of boards a transition facilitation grant from the ~~education fund~~ Education Fund of:

(1) between \$150,000.00, less reimbursement funds received under Sec. 5 of this act and \$750,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education if the State Board approves the petition prior to July 1, 2017; and

(2) between \$75,000.00 and \$375,000.00, as determined by the Secretary based on projected annual post-merger savings that do not decrease the quality of education if the State Board approves the petition after June 30, 2017 and prior to July 1, 2019.

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 61. RED FORMATION PROCESS; AGENCY OF EDUCATION;  
STATE BOARD OF EDUCATION

The Agency of Education shall:

(1) provide technical support to districts exploring or engaged in the RED formation process at their request;

(2) revise and add to the existing template developed for use in the RED process to provide meaningful guidance to districts and flexible, alternative models for their use;

(3) develop a technical assistance handbook to support RED formation; and

(4) update these materials as necessary until expiration of the RED incentive program.

\* \* \* Chart of Accounts \* \* \*

Sec. 62. STATEWIDE INTEGRATED FINANCIAL AND STUDENT DATA MANAGEMENT SYSTEMS; POSITION; APPROPRIATION

(a) Systems. On or before July 1, 2016, the Agency of Education shall have fully implemented statewide, integrated systems to maintain financial reporting and accounting data and longitudinal student data that:

(1) enable and support compliance with federal reporting requirements;

(2) provide data necessary to make education-related decisions at the State and local levels;

(3) are designed to measure and to compare on a district-to-district basis:

(A) the quality and variety of educational opportunities available to students throughout the State;

(B) student outcomes; and

(C) financial costs of education-related decisions;

(4) enable each supervisory union and school district to provide all requested data to both data systems and access all data to which they are entitled under State and federal privacy laws; and

(5) account for and report financial information in accordance with Generally Accepted Accounting Principles.

(b) Position. The General Assembly authorizes the establishment in fiscal year 2015 of one (1) new limited service Education Analyst position for a period not to exceed three (3) years in the Agency of Education to assist the Agency to establish the systems required in subsection (a) of this section.

including development of:

- (1) specifications for school software;
- (2) a detailed transition plan;
- (3) training materials and guidance documents for each supervisory union and school district; and
- (4) an updated, more comprehensive, consolidated, business manager handbook that includes uniform business rules, and comprehensive information on federal and State funds and compliance.

(c) Appropriation and expenditure authorization. The sum of \$1,500,000.00 is appropriated in fiscal year 2015 from the Supplemental Property Tax Relief Fund created in 32 V.S.A. § 6075 to the Agency of Education for the purposes of this section. Of this appropriation, the Agency may expend the sum of \$500,000.00 in fiscal year 2015; the remaining appropriation shall be carried forward to be used for the purposes of this section in future fiscal years upon authorization of the General Assembly.

(d) Compliance by districts. On or before July 1, 2017, each supervisory union and school district shall be fully compliant with the requirements of both the financial reporting and accounting system and the longitudinal student data system.

(e) Reporting. The Agency shall report on the progress of the work required by this section to the Joint Fiscal Committee at its September meetings and to the General Assembly in January until full implementation of both data systems.

(f) Transition planning. In January 2015, the Agency shall provide to the General Assembly an initial plan for the transition of districts to the new system, which shall include cost estimates for providing financial assistance to districts that need to modify existing or acquire new fiscal reporting systems.

\* \* \* REDs and Supervisory Unions;  
Positions; Incentives; Appropriations \* \* \*

#### Sec. 63. POSITIONS; AGENCY OF EDUCATION

The General Assembly authorizes the establishment in fiscal year 2015 of two (2) new limited service Analyst positions for a period not to exceed three (3) years in the Agency of Education to provide technical assistance to school districts as they explore voluntary realignment under the RED process and to supervisory unions as they work together collaboratively and explore voluntary merger.

#### Sec. 64. APPROPRIATIONS; INCENTIVES; POSITIONS

(a) The sum of \$329,000.00 in unexpended monies appropriated to support the purposes of 2010 Acts and Resolves No. 153 and 2012 Acts and Resolves No. 156 shall be carried forward to fiscal year 2015 for the purpose of providing reimbursement payments and incentive grants to school districts and supervisory unions pursuant to those Acts, as amended by this act.

(b) The sum of up to \$5,000,000.00 from the Supplemental Property Tax Relief Fund created in 32 V.S.A. § 6075 shall be used for the purpose of providing incentives for mergers and other joint activity by school districts and supervisory unions pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156, and as further amended by this act, and for the purpose of funding the two analyst positions authorized in Sec. 63 of this act. Of this amount, the sum of \$175,500.00 is appropriated to the Agency of Education in fiscal year 2015 for the purpose of funding the two analyst positions during that year.

Sec. 64a. CONSTRUCTION AID; REPORT

The Secretary of Education shall examine ways to use school construction aid for consolidation of school buildings in order to encourage school districts to explore voluntary consolidation of governance structures or other joint activity. On or before January 15, 2015, the Secretary shall present his or her conclusions and any recommendations for legislative action to the General Assembly.

\* \* \* Special Education Funding; Pilot \* \* \*

Sec. 65. SPECIAL EDUCATION EXPENDITURES; PILOT PROGRAM; REPORT

(a) There is created a three-year pilot program designed to encourage reduced special education expenditures through the use of best practices to provide special education services in the general classroom setting. Pursuant to a process and criteria to be developed by the Secretary of Education and based upon the Schoolwide Integrated Framework for Transformation (SWIFT), the districts comprising the four supervisory unions currently engaged in implementing the SWIFT model may expend special education mainstream block grant funds received pursuant to 16 V.S.A. § 2961 in a manner other than as required by State Board of Education Rule 2366.2.

(b) To be eligible for the pilot program, all districts within a supervisory union shall submit a joint application providing information prescribed by the Secretary on or before September 1, 2014. The joint application shall:

(1) describe how the districts' special education spending plan under the SWIFT model will be less costly than special education spending without

using the SWIFT model;

(2) describe how the districts will serve students on individual education programs in a general classroom setting using the SWIFT model;

(3) describe the manner in which the districts shall measure student performance; and

(4) demonstrate how the use of the SWIFT model shall result in fewer students found to be in need of special education services at the end of the three-year pilot program.

(c) Beginning in 2015, annually on or before January 15 for the duration of the pilot program, the Secretary shall submit a report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the results of the pilot project and any recommendations for legislative action.

(d) This section is repealed on July 1, 2017.

\* \* \* Public High School Choice; Tuition \* \* \*

#### Sec. 65a. PUBLIC HIGH SCHOOL CHOICE

In the January 2015 report on the status of the public high school choice program as required in 16 V.S.A. § 822a(m), the Secretary shall examine the funding impact of the program on receiving schools and provide recommendations to the General Assembly for amendments to the tuitioning system that are equitable to both the sending and receiving districts.

\* \* \* Education; Statewide Public Engagement Dialogue \* \* \*

#### Sec. 65b. EDUCATION; STATEWIDE PUBLIC ENGAGEMENT DIALOGUE; REPORT

(a) Facilitator; request. The General Assembly requests the Vermont Council on Rural Development, a neutral facilitator with deep experience in public policy at the community and State levels, to conduct a statewide dialogue about the future of education in Vermont. If the request is accepted, the work shall proceed as set forth more fully in this section.

(b) Community meetings. The facilitator shall convene no fewer than 25 community meetings throughout the State, designed to elicit thoughtful testimony on the strengths and weaknesses of, and opportunities for, Vermont's education system and the impacts of rising school costs. At the community meetings, the facilitator shall:

(1) present key points from the 2009 report of the Education Transformation Policy Commission and a situational analysis of the current

state of prekindergarten–grade 12 educational opportunity in Vermont; and

(2) solicit public comments that identify individual and community visions, values, and goals relating to Vermont’s education system.

(c) Targeted meetings. The facilitator shall conduct additional, targeted meetings of identified stakeholders, including youths; parents of students; teachers; principals; school board members; superintendents and administrative staff; municipal boards and staff; business leaders; social service and nonprofit leaders; ethnically diverse Vermonters; economically diverse Vermonters; arts and cultural leaders; representatives of higher education; the Agency of Education and other State employees; alternative and independent school leaders, parents, and youths; and experts in technology, curriculum, and innovation in education.

(d) The facilitator shall convene a Process Team of 15 to 20 community leaders representing the regions, demographics, and diversity of Vermont. The team shall represent the people of Vermont and shall be solely responsible for the proposed recommendations requested by this section. The facilitator shall meet with the Team at least monthly to report on work completed to date and plans for future activity and to receive comments and suggestions from the Team.

(e) Analysis and recommendations.

(1) With leadership from the facilitator, the Process Team shall:

(A) reflect upon public comments;

(B) identify excellent practices, programs, and models that are already occurring in the State and consider how best to replicate them;

(C) identify and evaluate pertinent educational research and related models;

(D) identify themes; and

(E) develop a proposed description of the State’s vision for the characteristics and delivery of education in Vermont and recommendations for achieving the vision.

(2) In performing their respective responsibilities, the facilitator and Process Team shall consider how best:

(A) to use existing resources to prepare students to be engaged global citizens;

(B) to contain costs without compromising quality; and

(C) to encourage local communities to work toward the identified

State goals for educational opportunities and strengthened outcomes for every Vermont child.

(3) The Process Team's recommendations shall include:

(A) strategies to enhance educational opportunities for all Vermont students; and

(B) any necessary related changes to Vermont's education funding and governance systems.

(f) The facilitator shall seek funding sources as necessary to complete the work requested by this section.

(g) On or before January 15, 2016, the Process Team and the facilitator shall deliver a report to the General Assembly that is representative of the testimony received and that identifies the vision, values, goals, and strategies for enhancing student opportunities pursuant to subsection (d) of this section.

\* \* \* Effective Dates \* \* \*

#### Sec. 66. EFFECTIVE DATES

(a) Secs. 45–51 of this act (supervisory unions and school district responsibilities) shall take effect on July 1, 2014

(b) Secs. 52–54 (collaboration among supervisory unions) shall take effect on July 1, 2014 and shall apply beginning in academic year 2016–2017.

(c) This section and all other sections shall take effect on passage; provided, however, that Sec. 29 (tuition for graduate and distance education programs) shall not apply to students who are enrolled as of that date in the University of Vermont in:

(1) a distance education course or program; or

(2) a graduate program other than in the College of Medicine.

(For text see House Journal March 25, 26, 2014 )

#### **S. 269**

#### **An act relating to business consumer protection and data security breaches**

The Senate concurs in the House proposal of amendment thereto as follows:  
By striking out Sec. 2 in its entirety and by renumbering the remaining sections to be numerically correct.

**(For House Proposal of Amendment see House Journal May 6, 2014 Page 1952)**

## Committee of Conference Report

### S. 299

An act relating to sampler flights

#### TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

#### **S. 299 An act relating to sampler flights**

Respectfully reports that it has met and considered the same and recommends that the House recede from its Proposal of Amendment to the Senate Proposal of Amendment to the House Proposal of Amendment, and the House accede to the Senate Proposal of Amendment to House Proposal of Amendment, and that the Senate accede to the House Proposal of Amendment, and that the bill be further amended by striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read:

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Helen J. Head

Rep. Thomas S. Stevens

Rep. Warren Van Wyck

*Committee on the part of the House*

Sen. Kevin J. Mullin

Sen. Christopher A. Bray

Sen. Donald Collins

*Committee on the part of the Senate*

#### **Ordered to Lie**

### S. 91

An act relating to privatization of public schools.

Pending Question: Shall the House propose to the Senate to amend the bill as offered by Rep. Turner of Milton?