

1 H.221

2 Introduced by Representatives Marcotte of Coventry, Clerkin of Hartford,

3 Dickinson of St. Albans Town, Komline of Dorset, McDonald

4 of Berlin, Scheuermann of Stowe, and Turner of Milton

5 Referred to Committee on

6 Date:

7 Subject: Economic development; financial and tax incentives

8 Statement of purpose: This bill proposes to establish several programs
9 designed to stimulate economic development in Vermont in a manner
10 consistent with existing state priorities and policies.

11 An act relating to economic development in Vermont

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

13 * * * Urban Homesteading * * *

14 Sec. 1. 24 V.S.A. chapter 86 is added to read:

15 CHAPTER 86. URBAN HOMESTEAD PROGRAM

16 § 3231. PURPOSE

17 The purpose of the urban homestead program is to provide a market for the
18 creation and sale of unfinished, owner-occupied residential condominiums
19 located on underutilized upper floors of mixed-use buildings, mill structures,

1 vacant schools, and other like structures by providing tax incentives to the end
2 user in the form of a tax rebate. The overarching goal of the program is to
3 create affordable housing units in Vermont with little impact on open space,
4 farmland, and the natural environment.

5 § 3232. DEFINITIONS

6 For purposes of this chapter:

7 (1) “Qualified sale” means the sale of a qualified unit.

8 (2) “Qualified unit” means an unfinished, owner-occupied residential
9 condominium located on the underutilized upper floors of a mixed-use
10 building or in an underutilized downtown or village center, as defined in
11 section 2791 of this title.

12 (3) “State board” means the Vermont downtown development board
13 created by section 2792 of this title.

14 (4) “Underutilized” means a building or portion thereof permitted for
15 purposes other than residential use prior to application for a reallocation under
16 this chapter such that a change of use permit is required; or a building or
17 portion thereof permitted for residential use but unoccupied for a period of not
18 less than five years prior to application for reallocation under this chapter.

19 § 3233. URBAN HOMESTEAD PROGRAM

20 (a) The urban homestead program is created and shall be administered by
21 the agency of commerce and community development.

1 (b) Beginning July 1, 2009, and pursuant to section 3234 of this chapter,
2 the state board may certify buildings in which qualified units are located for
3 reallocation of the property transfer tax to the purchasers of the qualified units.

4 (c) The amount of the reallocation is 24 times the exempted transfer tax
5 which would have been levied on the sale of the unit or \$10,000.00, whichever
6 is less. The total cost of the program shall not exceed \$280,000.00 in any
7 fiscal year.

8 § 3234. APPLICATION FOR REALLOCATION CERTIFICATE

9 (a) The owner of a building in which qualified units are located shall
10 submit to the state board an application for reallocation of the transfer tax to be
11 generated by the sale of qualified units. The application shall include an
12 estimate of the sale price for each unit; evidence of ownership of the building
13 in which the qualified units are located; and certification that the building
14 complies with all applicable permits and regulations.

15 (b) The state board shall review the application. If the application meets
16 the requirements of this chapter and the requested reallocation does not exceed
17 the unencumbered statutory limit set by subsection 3232(c) of this chapter, the
18 state board shall approve the application and issue a reallocation certificate.

19 (c) At the time of purchase of a qualified unit, a copy of the reallocation
20 certificate shall be presented to the purchaser to claim exemption from the
21 property transfer tax.

1 experience in the business and academic fields of science and engineering as
2 well as finance and economic development. Members of the board shall serve
3 initial staggered terms with five members serving four-year terms, and four
4 members serving two-year terms. All board members' terms shall be four-year
5 terms upon the expiration of their initial terms, and board members may be
6 reappointed to serve successive terms. All terms shall commence on April 1 of
7 each odd-numbered year. The governor shall select a chair from the board's
8 members. The board shall be attached to the agency of commerce and
9 community development for administrative support. For attendance at
10 meetings and for other official duties, appointed members shall be entitled to
11 compensation for services and reimbursement of expenses as provided in
12 section 1010 of this title.

13 (c) The innovation challenge program will provide significant financial
14 incentives, as further described in this section, to the first business or
15 entrepreneur to achieve the commercially viable production of one of the
16 innovation challenge goals identified by the board. The board will work with
17 the clean energy development fund to establish the incentives through use of
18 the fund's future revenue.

19 (d) The board will meet monthly and is charged with the following duties:

20 (1) Identify innovation challenge goals requiring the achievement of
21 performance standards significantly exceeding all relevant comparisons in the

1 marketplace and demonstrated benefit to the public good in fields such as
2 renewable energy, ultra-energy-efficient motor vehicles, and alternative energy
3 sources;

4 (2) Publish innovation challenge goals in a manner that advertises the
5 challenge and the valuable economic incentives associated with success;

6 (3) Develop detailed criteria to be used in determining whether an
7 applicant has achieved one of the goals;

8 (4) Work closely with the Vermont economic incentive review board to
9 develop any additional guidelines and procedures for evaluating applications
10 beyond those established in section 5930a of this title;

11 (5) Make recommendations of approval to the Vermont economic
12 incentive review board created in section 5930a of this title;

13 (6) Submit annually on or before January 15 a report to the governor and
14 the general assembly addressing such matters as innovation challenge goals
15 that have been identified and applications submitted.

16 (e) Eligibility for the economic incentives of this section shall require a
17 favorable recommendation from the board to the economic incentive review
18 board. Economic incentives of the innovation challenge program shall include:

19 (1) Exemption from the “but for” requirement of subsection 5930a(c) of
20 this title in which an applicant seeks the benefits under the Vermont
21 employment growth incentives in section 5930b of this title;

1 (2) Exemption from the education property tax established under chapter
2 135 of this title in a pro rata amount equal to the percentage of revenue earned
3 directly from the production of the innovation challenge product; and

4 (3) Reduction in the income taxes imposed by this chapter in an amount
5 equal to 10 percent of its total capital investments within the state of Vermont
6 directly related to production of the innovation challenge product.

7 Sec. 3. 32 V.S.A. § 5930a(b)(4) is added to read:

8 (4) Vermont innovation challenge incentives under section 5930I of this
9 title.

10 Sec. 4. SUNSET

11 Secs. 2 and 3 of this act, related to the Vermont innovation challenge, shall
12 sunset on December 31, 2014.

13 * * * Enhanced VEGI Program for IT Solutions * * *

14 Sec. 5. 32 V.S.A. § 5930b(h) is added to read:

15 (h) Employment growth incentive for information technology solutions
16 business.

17 (1) For purposes of this subsection, an “information technology
18 solutions business” means a business that is subject to income taxation in
19 Vermont and whose current or prospective economic activity in Vermont for
20 which incentives are sought under this section is certified by the secretary of

1 commerce and community development to be primarily in software
2 development, implementation, and utilization, including:

3 (A) Research, development, design, marketing, and publication of
4 computer software such as operating systems, user applications, and network
5 applications.

6 (B) Custom computer software development such as software
7 programming services, software analysis and design services, custom software
8 support services, custom webpage design and development services, web
9 application development, and custom database systems and solutions.

10 (C) Consultation, implementation, integration, or customization of
11 computer software systems, computer systems, computer networks, or database
12 systems using computer programming services, custom networking
13 technologies, or computer software analysis and design services.

14 (2) Any application for a Vermont employment growth incentive under
15 this section for a software development business shall be considered and
16 administered pursuant to all provisions of this section, except that:

17 (A) the “incentive ratio” pursuant to subdivision (a)(11) of this
18 section shall be set at 100 percent; and

19 (B) the “payroll threshold” pursuant to subdivision (a)(17) of this
20 section shall be deemed to be zero percent of the expected average industry
21 payroll growth as determined by the cost-benefit model.

* * * Opportunity Zones * * *

Sec. 6. 10 V.S.A. chapter 21A is added to read:

CHAPTER 21A. OPPORTUNITY ZONES

§ 511. DEFINITIONS

As used in this chapter:

(1) “Opportunity zone” means an area within a municipality designated to accommodate a significant amount of industrial activity, high technology, or other job-producing activity; it includes one or more industrial facilities that have been vacant or substantially underutilized for more than ten years; and it has at least 15,000 square feet or a minimum of five acres if the site includes an older structure, and for which there is no economically feasible future business or industrial use.

(2) “Secretary” means the secretary of commerce and community development.

(3) “Substantially underutilized” means a property or facility of which less than ten percent has been occupied for uses other than storage or warehousing for at least ten years and for which active and sustained marketing has produced no significant employment.

§ 512. DESIGNATION OF OPPORTUNITY ZONES

(a) The secretary may approve an application from a municipality for designation of a municipal site as an opportunity zone. The application to

1 participate in the opportunity zone program shall include any restrictions or
2 requirements on the type or size of businesses within the opportunity zone, and
3 any other information that the secretary requires to make a determination,
4 accompanied by evidence from the municipality supporting the following:

5 (1) The site is or is part of an existing industrial center, an extension of
6 an existing center, or an industrial facility or industrial property.

7 (2) The designation is consistent with the approved regional and
8 municipal plans in accordance with section 2293 of Title 3 and is supported by
9 the applicable regional development corporation and regional planning
10 commissions.

11 (b) An opportunity zone approved and designated by the secretary shall be
12 in effect for ten years. A municipality may apply for an extension of this
13 period for no more than an additional ten years.

14 (c) A municipality may restrict access to the opportunity zone to businesses
15 that have applied to the secretary for eligibility to enter the opportunity zone.

16 § 513. QUALIFYING BUSINESS

17 (a) Any business that intends to locate in or expand into an opportunity
18 zone may qualify for the benefits offered under section 514 of this title,
19 provided the secretary determines the business complies with all of the
20 following:

1 (1) It is in compliance with applicable local zoning and development
2 criteria for locating in the opportunity zone.

3 (2) It is in compliance with applicable federal, state, and local
4 regulations.

5 (3) Within a year of approval, it will have employed at least ten new
6 full-time employees in positions that are not retail sales.

7 (4) Wages and benefits paid to all full-time employees meet or exceed
8 the prevailing compensation level for that particular employment.

9 (5) If locating within a limited local market, it will not have an unfair
10 competitive advantage over other Vermont businesses in the same or similar
11 line of business and in the same limited local market as a result of the benefits
12 available under this chapter.

13 (b) Any taxpayer that purchases and redevelops an industrial building in an
14 opportunity zone for sale or lease to a qualifying business may be eligible for
15 the benefits in subsection 514(a) of this title directly related to the taxpayer's
16 business activities as a redeveloper, seller, or lessor within the opportunity
17 zone, provided the secretary determines that the taxpayer satisfies subdivisions
18 (a)(1) and (2) of this section. Any benefits received by a redeveloper related to
19 the redevelopment, sale, or lease of improved space to a qualifying business
20 within an opportunity zone shall not also be separately available to a qualifying

1 business that purchases or leases all or part of the facility improved by the
2 redeveloper.

3 § 514. BENEFITS FOR BUSINESSES LOCATED IN OPPORTUNITY

4 ZONES

5 (a) A qualified business located in an opportunity zone is eligible for the
6 following benefits:

7 (1) A ten-year credit equal to the income tax that would otherwise be
8 due under chapter 151 of Title 32, multiplied first by a fraction, the numerator
9 of which is the total wages, salaries, and other personal service compensation
10 paid during the taxable year to employees for services performed within the
11 redevelopment zone, and the denominator of which is the total of those
12 payments to employees within the state, and second by a fraction, the
13 numerator of which is the average value of all real and tangible personal
14 property within the redevelopment zone, and the denominator of which is the
15 average value of such property within the state.

16 (2) A ten-year exemption from the sales tax imposed under 32 V.S.A.
17 § 9771 and the use tax imposed under 32 V.S.A. § 9773 for the building
18 materials, machinery, equipment, or trade fixtures purchased for use in the
19 opportunity zone.

1 (3) Consideration by the public service board of lower rates through
2 economic development agreements for regulated utilities as allowable under
3 30 V.S.A. § 229.

4 (4) A ten-year exemption from the education tax imposed under
5 32 V.S.A. § 5402 on the incremental education tax on the equalized
6 nonresidential value of the redeveloped property.

7 (5) Eligibility for the employment training program in section 531 of
8 this title.

9 (6) A workers' compensation insurance rating transfer, only for an
10 out-of-state business that has at least three years of experience and is relocating
11 from a state that participates in the Workers' Compensation Statistical Plan as
12 developed and overseen by the National Council on Compensation Insurance.
13 Other businesses may apply to the National Council on Compensation
14 Insurance for an experience rating at lower thresholds than may otherwise be
15 available in Vermont.

16 (7) Expedited processing of applications for state permits and other state
17 approvals, with all applications being decided, where legally permissible,
18 within 30 days of the receipt of a completed application.

19 (8) Priority consideration by any state agency for eligibility for state or
20 federal funding or other aid to industrial development based on a cost-benefit
21 analysis.

1 (9) Priority consideration for financing programs available through the
2 Vermont economic development authority under chapter 12 of this title.

3 (10) Technical support from the department of public safety for the
4 rehabilitation of older and historic buildings, consistent with the department's
5 available resources.

6 (b) Benefits shall not be available for any of the following:

7 (1) Retail sales activities.

8 (2) Activities relating to the calculation of benefit amounts or eligibility.

9 (3) Relocating a business within Vermont to an opportunity zone.

10 (c) Benefits under this section shall be available during the first tax year in
11 which the qualified business has made expenditures in the designated
12 opportunity zone. A taxpayer claiming an income tax benefit under this
13 section shall submit a copy of the employer's application to the secretary and
14 the secretary's written determination along with the first return on which a
15 benefit is claimed. Annually, beginning no later than 12 months after the
16 secretary's determination under section 513 of this title, a qualifying business
17 shall submit a written report to the secretary verifying that the business
18 continues to meet all the requirements of subsection 513(a) of this title.

19 § 515. TERMINATION OF BENEFITS

20 Benefits granted to a business in an opportunity zone may be terminated by
21 the secretary upon determination that the business no longer is in compliance

1 with the requirements of section 513 of this title. A decision to terminate
2 benefits shall not be subject to chapter 25 of Title 3 and shall be final and not
3 reviewable.

4 § 516. RESPONSIBILITIES OF THE SECRETARY

5 The secretary shall:

6 (1) Act as the ombudsman between state agencies, businesses, and
7 municipalities under this chapter.

8 (2) Maintain a list of all opportunity zones and any local restrictions on
9 each.

10 (3) Develop and maintain an effective marketing program to inform
11 businesses outside Vermont of the benefits of locating in Vermont and,
12 specifically, in opportunity zones.

13 (4) Provide written notice to the municipality of the secretary's decision
14 to grant or deny a request for designation of an opportunity zone. This
15 determination shall be made within 45 days of receipt of a completed
16 application from a municipality. The secretary shall state all the reasons for
17 denying the request and the steps that must be taken to bring the municipality's
18 plan into conformance with the requirements of section 513 of this section.

19 (5) No later than 45 days after receipt of a completed application from a
20 business under section 512 of this title, including any additional information
21 requested by the secretary to make a determination, the secretary shall issue a

1 written decision to the business, and, if denied, the reasons for the denial. A
2 business denied eligibility may submit a new application at any time.

3 (6) The secretary shall notify all providers of telecommunications
4 services holding certificates of public good in the state of the establishment of
5 opportunity zones and encourage their participation in planning for the
6 provision of sufficient telecommunications infrastructure to serve businesses
7 operating in those zones.

8 § 517. PILOT PROJECT

9 (a) The secretary may designate two pilot opportunity zones on or before
10 December 31, 2009, and grant the benefits under this program to businesses
11 that locate in the two pilot zones.

12 (b) The secretary, on or before January 15, 2011, and biennially thereafter,
13 shall report to the general assembly on the progress of the two pilot
14 opportunity zones and the impact of this program on new economic
15 development and the creation of new jobs.

16 Sec. 7. 24 V.S.A. § 4387(a) is amended to read:

17 (a) All plans, including all prior amendments, shall expire every five years
18 unless they are readopted according to the procedures in section 4385 of this
19 title except for that part of a plan creating an opportunity zone under
20 chapter 21A of Title 10, which shall expire at the end of the term of the
21 opportunity zone.

1 Sec. 8. 24 V.S.A. § 4414(15) is added to read:

2 (15) An opportunity zone pursuant to chapter 21A of Title 10.

3 Sec. 9. 32 V.S.A. § 5404a(a) is amended to read:

4 (a) Tax agreements and exemptions affecting the education property tax
5 grand list. A tax agreement or exemption shall affect the education property
6 tax grand list of the municipality in which the property subject to the
7 agreement is located if the agreement or exemption is:

8 * * *

9 (7) approval of a qualified business pursuant to chapter 21A of Title 10,
10 provided the agreement provides for substantial creation of new jobs and
11 economic activity.

12 Sec. 10. 32 V.S.A. § 9741(48) is added to read:

13 (48) Sales of building materials, machinery, equipment, or trade fixtures
14 incorporated into an opportunity zone designated pursuant to chapter 21A of
15 Title 10.

16 * * * Research and Development Tax Credit * * *

17 Sec. 11. 32 V.S.A. chapter 151 subchapter 11K is added to read:

18 Subchapter 11K. Research and Development Tax Credit
19 § 5930gg. RESEARCH AND DEVELOPMENT TAX CREDIT

20 (a) A credit against the income tax liability imposed under this chapter for
21 the taxable year shall be an amount equal to 30 percent of the amount of the

1 federal tax credit received for the same taxable year for eligible research and
2 development expenses under 26 U.S.C. § 41(a).

3 (b) Any excess credit under this subchapter not used for the taxable year in
4 which the credit is earned may be carried forward for up to ten years.

5 (c) For purposes of this section, “eligible research and development
6 expenses” means expenditures:

7 (1) made within the state of Vermont;

8 (2) that meet the definition contained in 26 U.S.C. § 41(b); and

9 (3) that have been claimed as eligible expenditures for the same taxable
10 year for a federal tax credit under 26 U.S.C. § 41(a), provided that the taxable
11 year begins on or after January 1, 2010.

12 Sec. 12. EFFECTIVE DATE

13 This act shall be effective upon passage.