

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 736 entitled “An act relating to creating targeted
4 economic development initiatives” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * One-Stop Business Support Services * * *

8 Sec. 1. ONE-STOP SHOP WEB PORTAL

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

11 (1) a clear guide to resources and technical assistance for all phases of
12 growth;

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

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

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

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

20 (b) Administration. The Agency of Commerce and Community

21 Development shall coordinate with relevant agencies and departments within

1 State government and its outside partners, including regional development
2 corporations and small business development centers, to provide
3 comprehensive business services, including a “First Stop” website, regional
4 coaching teams, print materials, and other outreach.

5 (c) Implementation.

6 (1) Phase 1. On or before the end of fiscal year 2015, the Agency of
7 Commerce and Community Development shall complete necessary partner
8 outreach and collaboration and an inventory of existing websites, shall
9 determine the appropriate content to be included on the web portal, and shall
10 update its current website to include links to State agencies and departments
11 with regulatory oversight and authority over Vermont businesses.

12 (2) Phase 2. On or before the end of fiscal year 2015, the Agency of
13 Commerce and Community Development shall edit and organize the content to
14 be included on the website.

15 (3) Phase 3. On or before the end of fiscal year 2016, the Agency of
16 Commerce and Community Development shall complete the design and
17 mapping of the website.

18 (4) Phase 4. On or before the end of fiscal year 2016, the Agency of
19 Commerce and Community Development shall complete a communications
20 and outreach plan with a final funding proposal for the project.

1 (d) Future funding. The Agency of Commerce and Community
2 Development shall develop funding proposals for Phases 3 and 4 for fiscal year
3 2016.

4 * * * Vermont Entrepreneurial Lending Program;
5 Vermont Entrepreneurial Investment Tax Credit * * *

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

7 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

8 AUTHORITY

9 * * *

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

12 § 280aa. FINDINGS AND PURPOSE

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

18 (2) Because the primary assets of ~~technology-based companies~~
19 ~~sometimes~~ seed, start-up, and growth-stage businesses often consist almost
20 entirely of intellectual property or insufficient tangible assets to support

1 conventional lending, such these companies frequently do not have access to
2 conventional means of raising capital, such as asset-based bank financing.

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

9 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL

10 LENDING PROGRAM

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

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

1 (2) investments from \$250,000.00 through \$1,000,000.00 in growth-
2 stage companies whose capital needs exceed the current capacity of public and
3 private entrepreneurial financing sources; and

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

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

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

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

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

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

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

8 (d) The Authority shall include provisions in the terms of an
9 entrepreneurial loan made under the Program to ensure that an entrepreneurial
10 loan recipient shall maintain operations within the State for a minimum of five
11 years from the date on which the recipient receives the entrepreneurial loan
12 funds from the Authority.

13 * * *

14 Sec. 3. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN
15 LOSS RESERVE FUNDS; CAPITALIZATION; PRIVATE
16 CAPITAL; APPROPRIATION

17 (a) The Vermont Economic Development Authority shall capitalize loan
18 loss reserves for the Vermont Entrepreneurial Lending Program created in
19 10 V.S.A. § 280bb with the following funding from the following sources:

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

1 (2) the amount of \$1,000,000.00 appropriated in fiscal year 2015 from
2 the General Fund to the Authority for the purposes of this section.

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

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

7 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

8 CREDITS

9 (a) A person may receive a credit against his or her income tax imposed
10 by this chapter in an amount equal to 60 percent of his or her direct investment
11 in a Vermont-domiciled business that had gross revenues in the preceding
12 12 months of less than \$3,000,000.00.

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

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

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

1 (d) A person who makes a direct investment contribution and thereby
2 qualifies for a credit pursuant to this section shall not have a right to receive a
3 return of the person's principal for a period of five years; provided, however,
4 that the investor may have the right to receive stock options, warrants, or other
5 forms of return that are not in the nature of return of principal.

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

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

13 * * * Connecting Capital Providers and Entrepreneurs * * *

14 Sec. 5. NETWORKING INITIATIVES; APPROPRIATION

15 There is appropriated from the General Fund to the Agency of Commerce
16 and Community Development in fiscal year 2015 the amount of \$10,000.00,
17 which the Agency shall make available to one or more regional economic
18 development providers to award grants of up to \$2,000.00 per event to an
19 applicant who sponsors a networking event designed to connect capital
20 providers with one another or with Vermont entrepreneurs, or both.

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* * * Downtown Tax Credits * * *

Sec. 6. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

Subchapter 11J. Vermont Downtown and
Village Center Tax Credit Program

§ 5930aa. DEFINITIONS

As used in this subchapter:

* * *

(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 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;

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

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

6 (4) “Qualified expenditures” means construction-related expenses of the
7 taxpayer directly related to the project for which the tax credit is sought but
8 excluding any expenses related to a private residence.

9 (5) “Qualified façade improvement project” means the rehabilitation of
10 the façade of a qualified building that contributes to the integrity of the
11 designated downtown or designated village center. Façade improvements to
12 qualified buildings listed, or eligible for listing, in the State or National
13 Register of Historic Places must be consistent with Secretary of the Interior
14 Standards, as determined by the Vermont Division for Historic Preservation.

15 (6) “Qualified historic rehabilitation project” means an historic
16 rehabilitation project that has received federal certification for the
17 rehabilitation project.

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

1 (8) “State Board” means the Vermont Downtown Development Board
2 established pursuant to 24 V.S.A. chapter 76A.

3 § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

8 (b) To qualify for any of the tax credits under this subchapter, expenditures
9 for the qualified project must exceed \$5,000.00.

10 (c) Application shall be made in accordance with the guidelines set by the
11 State Board.

12 (d) Notwithstanding any other provision of this subchapter, qualified
13 applicants may apply to the State Board at any time prior to June 30, 2013 to
14 obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of
15 this title of 10 percent of qualified expenditures resulting from damage caused
16 by a federally declared disaster in Vermont in 2011. The credit shall only be
17 claimed against the taxpayer’s State individual income tax under section 5822
18 of this title. To the extent that any allocated tax credit exceeds the taxpayer’s
19 tax liability for the first tax year in which the qualified project is completed,
20 the taxpayer shall receive a refund equal to the unused portion of the tax credit.
21 If within two years after the date of the credit allocation no claim for a tax

1 credit or refund has been filed, the tax credit allocation shall be rescinded and
2 recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of
3 tax credits available under this subsection shall not be more than \$500,000.00
4 and shall not be subject to the limitations contained in subdivision 5930ee(2)
5 of this subchapter.

6 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

7 CREDITS

8 (a) Historic rehabilitation tax credit. The qualified applicant of a qualified
9 historic rehabilitation project shall be entitled, upon the approval of the State
10 Board, to claim against the taxpayer's ~~state~~ State individual income tax,
11 corporate income tax, or bank franchise or insurance premiums tax liability a
12 credit of 10 percent of qualified rehabilitation expenditures as defined in the
13 Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally
14 certified rehabilitation.

15 (b) Façade improvement tax credit. The qualified applicant of a qualified
16 façade improvement project shall be entitled, upon the approval of the State
17 Board, to claim against the taxpayer's ~~state~~ State individual income tax, ~~state~~ State
18 corporate income tax, or bank franchise or insurance premiums tax liability a
19 credit of 25 percent of qualified expenditures up to a maximum tax credit of
20 \$25,000.00.

1 (c) Code improvement tax credit. The qualified applicant of a qualified
2 code or technology improvement project shall be entitled, upon the approval of
3 the State Board, to claim against the taxpayer's State individual income tax,
4 State corporate income tax, or bank franchise or insurance premiums tax
5 liability a credit of 50 percent of qualified expenditures up to a maximum tax
6 credit of \$12,000.00 for installation or improvement of a platform lift, a
7 maximum tax credit of \$50,000.00 for installation or improvement of an
8 elevator, a maximum tax credit of \$50,000.00 for installation or improvement
9 of a sprinkler system, a maximum tax credit of \$30,000.00 for the combined
10 costs of installation or improvement of data or network wiring or a heating,
11 ventilating, or cooling system, and a maximum tax credit of \$25,000.00 for the
12 combined costs of all other qualified code or technology improvements.

13 * * *

14 Sec. 7. RESERVED

15 * * * Energy Rates for Manufacturers * * *

16 Sec. 8. CREATION OF MANUFACTURING RATE CLASSES

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

20 (b)(1) The Public Service Board shall open a docket or convene a working
21 group to explore potential changes to the method used to assess utility rates for

1 manufacturing businesses in order to achieve a minimum 10 percent reduction
2 in electricity costs from the amount paid by manufacturers in 2012.

3 (2) On or before September 15, 2014, the Board shall report to the
4 General Assembly its findings, potential regulatory or statutory changes,
5 potential increase in net economic activity realized by a decrease in rates, and
6 any other information the Board determines appropriate.

7 (c) On or before January 15, 2015, the Public Service Board shall submit to
8 the General Assembly a legislative proposal for the creation of one or more
9 programs to provide options for industrial class customers and commercial
10 class customers engaged in manufacturing within a utility's service territory to
11 exercise choice in contracting independently for electricity supply.

12 * * * Domestic Export Program * * *

13 Sec. 9. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

14 AGRICULTURE AND FOREST PRODUCTS

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

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

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

4 (3) provide matching grants of up to \$2,000.00 per business per year to
5 attend trade shows and similar events to expand producers' market presence in
6 other U.S. states.

7 (b) There is appropriated in Fiscal Year 2015 from the General Fund to the
8 Agency of Agriculture, Food and Markets the amount of \$75,000.00 to
9 implement the provisions of this section.

10 * * * Elimination of Business Franchise Taxes and Fees * * *

11 Sec. 10. 32 V.S.A. § 5921 is amended to read:

12 § 5921. MINIMUM TAX

13 (a) A partnership or a limited liability company which is taxed as a
14 partnership under the Internal Revenue Code and is subject to the provisions of
15 section 5920 of this title shall pay an annual tax of \$250.00 to the
16 Commissioner of Taxes on or before the due date prescribed for the filing of
17 the entity's federal return. The tax shall be submitted together with a form
18 prescribed by the Commissioner. A limited liability company that does not
19 receive partnership treatment under the Internal Revenue Code shall be taxed
20 for state purposes in the same manner as taxed under the Internal Revenue
21 Code. Partnerships whose activities are limited to the maintenance and

1 management of their intangible investments and whose annual investment
2 income does not exceed \$5,000.00 and whose total assets are not in excess of
3 \$20,000.00 shall be exempt from the tax imposed by this section.

4 (b) Notwithstanding subsection (a) of this section, a new or redomesticated
5 partnership or limited liability company shall be exempt from the tax imposed
6 by this section for the first year in which the tax would otherwise be due,
7 beginning with the taxable year in which the business initially receives
8 approval to operate within Vermont from the Secretary of State.

9 Sec. 10a. 32 V.S.A. § 5915 is amended to read:

10 § 5915. MINIMUM TAX

11 (a) An S corporation which is subject to the provisions of section 5914 of
12 this title shall pay an annual tax of \$250.00 to the Commissioner of Taxes on
13 or before the due date prescribed for the filing of C corporation returns under
14 section 5862 of this title.

15 (b) Notwithstanding subsection (a) of this section, a new or redomesticated
16 S corporation shall be exempt from the tax imposed by this section for the first
17 year in which the tax would otherwise be due, beginning with the taxable year
18 in which the business initially receives approval to operate within Vermont
19 from the Secretary of State.

1 Sec. 10b. 32 V.S.A. § 5832 is amended to read:

2 § 5832. TAX ON INCOME OF CORPORATIONS

3 A tax is imposed for each calendar year, or fiscal year ending during that
4 calendar year, upon the income earned or received in that taxable year by every
5 taxable corporation, reduced by any Vermont net operating loss allowed under
6 section 5888 of this title, such tax being the greater of:

7 (1) an amount determined in accordance with the following schedule:

8 *Vermont net income of the corpo-*
9 *ration for the taxable year allo-*
10 *cated or apportioned to Vermont*
11 *under section 5833 of this title*

	Tax
12	
13 \$ 0-10,000.00	6.00%
14 10,001.00-25,000.00	\$600.00 plus 7.0% of the excess
15	over \$10,000.00
16 25,001.00 and over	\$1,650.00 plus 8.5% of the excess
17	over \$25,000.00

18 or

19 Subdivision (2) shall apply to taxable years beginning on and after January 1,

20 2012; see note set out below.

1 (2)(A) \$75.00 for small farm corporations. “Small farm corporation”
2 means any corporation organized for the purpose of farming, which during the
3 taxable year is owned solely by active participants in that farm business and
4 receives less than \$100,000.00 gross receipts from that farm operation,
5 exclusive of any income from forest crops; or

6 (B) An amount determined in accordance with section 5832a of this
7 title for a corporation which qualifies as and has elected to be taxed as a digital
8 business entity for the taxable year; or

9 (C) For C corporations with gross receipts from \$0-\$2,000,000.00,
10 the greater of the amount determined under subdivision (1) of this section or
11 \$300.00; or

12 (D) For C corporations with gross receipts from
13 \$2,000,001.00-\$5,000,000.00, the greater of the amount determined under
14 subdivision (1) of this section or \$500.00; or

15 (E) For C corporations with gross receipts greater than
16 \$5,000,000.00, the greater of the amount determined under subdivision (1) of
17 this section or \$750.00.

18 (3) Notwithstanding subdivision (2) of this section, a new or
19 redomesticated corporation shall be exempt from the tax imposed by this
20 section for the first year in which the tax would otherwise be due, beginning

1 with the taxable year in which the business initially receives approval to
2 operate within Vermont from the Secretary of State.

3 Sec. 11. 11 V.S.A. § 3013(c) is added to read:

4 (c) The Secretary of State shall not collect any fee otherwise due under
5 this section from a new or redomesticated limited liability company for a
6 one-year period beginning with the company's initial filing of its articles of
7 organization.

8 Sec. 12. 11 V.S.A. § 3310(c) is added to read:

9 (c) The Secretary of State shall not collect any fee otherwise due under this
10 section from a new or redomesticated partnership for a one-year period
11 beginning with the company's initial filing of a statement.

12 Sec. 13. 11 V.S.A. § 3420(c) is added to read:

13 (c) The Secretary of State shall not collect any fee otherwise due from a
14 new or redomesticated limited partnership for a one-year period beginning
15 with the company's initial filing of its certificate of limited partnership.

16 Sec. 14. 11C V.S.A. § 208 is amended to read:

17 § 208. FILING FEES

18 (a) The filing fees for records filed under this article by the Secretary of
19 State are the same as those set forth for a limited liability company under
20 11 V.S.A. § 3013.

1 (b) The Secretary of State shall not collect any fee otherwise due from a
2 new or redomesticated mutual benefit enterprise for a one-year period
3 beginning with the company’s initial filing of its articles of organization.

4 * * * Cloud Tax * * *

5 Sec. 15. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY
6 TO REMOTELY ACCESSED SOFTWARE

7 (a) The imposition of sales and use tax on prewritten computer software by
8 32 V.S.A. chapter 233 shall not apply to charges for remotely accessed
9 software made after December 31, 2006.

10 (b) In this section, “charges for remotely accessed software” means charges
11 for the right to access and use prewritten software run on underlying
12 infrastructure that is not managed or controlled by the consumer.

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

16 Sec. 16–18. RESERVED

17 * * * Modification of “But-For” Test for VEGI Awards * * *

18 Sec. 19. 32 V.S.A. § 5930a is amended to read:

19 § 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

20 * * *

1 (c) The Council shall first review each application under subsection (b) of
2 this section and ascertain, to the best of its judgment, that but for the economic
3 incentive to be offered, the proposed economic development would not occur
4 or would occur in a significantly different and significantly less desirable
5 manner; provided, however, that this “but for” standard shall not apply to an
6 application by a software development company. Applications that do not
7 meet the “but for” test are not eligible for economic incentives, and shall not be
8 considered further by the Council. If the “but for” test is answered in the
9 affirmative, then prior to approving any application for an economic incentive
10 under subsection (b) of this section, the Council shall evaluate the overall
11 consistency of each application with the following guidelines:

12 * * *

13 Sec. 20. 32 V.S.A. § 5930b is amended to read:

14 § 5930b. VERMONT EMPLOYMENT GROWTH INCENTIVE

15 * * *

16 (h) Employment growth incentive for a software development company.
17 An application for a Vermont employment growth incentive under this section
18 for a software development company shall be considered and administered
19 pursuant to all provisions of this section, except that:

20 (1) the “incentive ratio” pursuant to subdivision (a)(11) of this section
21 shall be set at 90 percent; and

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

4 * * * Criminal Penalties for Computer Crimes * * *

5 Sec. 21. 13 V.S.A. chapter 87 is amended to read:

6 CHAPTER 87. COMPUTER CRIMES

7 * * *

8 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

17 (2) if the damage or loss does not exceed \$500.00 for a second or
18 subsequent offense, imprisoned not more than two years or fined not more than
19 ~~\$1,000.00~~ \$10,000.00, or both; or

20 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
21 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

1 § 4105. THEFT OR DESTRUCTION

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

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

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

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

15 (2) if the damage or loss does not exceed \$500.00 for a second or
16 subsequent offense, imprisoned not more than two years or fined not more than
17 ~~\$1,000.00~~ \$10,000.00, or both; or

18 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
19 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

1 § 4106. CIVIL LIABILITY

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

5 * * *

6 * * * Statute of Limitations to Commence Action

7 for Misappropriation of Trade Secrets * * *

8 Sec. 22. 12 V.S.A. § 523 is amended to read:

9 § 523. TRADE SECRETS

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

15 * * * Protection of Trade Secrets * * *

16 Sec. 23. 9 V.S.A. chapter 143 is amended to read:

17 CHAPTER 143. TRADE SECRETS

18 § 4601. DEFINITIONS

19 As used in this chapter:

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

4 (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

9 § 4602. INJUNCTIVE RELIEF

10 (a) ~~Actual~~ A court may enjoin actual or threatened misappropriation ~~may~~
11 ~~be enjoined~~ of a trade secret. Upon application to the court, an injunction shall
12 be terminated when the trade secret has ceased to exist, but the injunction may
13 be continued for an additional reasonable period of time in order to eliminate
14 commercial advantage that otherwise would be derived from the
15 misappropriation.

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

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

3 § 4603. DAMAGES

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

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

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

15 (4) A court shall award a successful complainant his or her costs and
16 fees, including reasonable attorney's fees, arising from a misappropriation of
17 the complainant's trade secret.

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

1 § 4605. PRESERVATION OF SECRECY

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

8 § 4607. EFFECT ON OTHER LAW

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

12 (b) This chapter does not affect:

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

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

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

19 * * *

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

2 Sec. 24. 3 V.S.A. §§ 346 and 347 are added to read:

3 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

4 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

5 (a) The Secretary of Administration shall adopt standard provisions to
6 include in State procurement contracts under which a contractor will develop
7 software applications, computer coding, or other intellectual property, that:

8 (1) authorizes the State to use the intellectual property for purposes of
9 the contract; and

10 (2) authorizes the contractor to use the intellectual property for
11 additional commercial purposes.

12 (b) When adopting provisions pursuant to subsection (a) of this section, the
13 Secretary may include provisions authorizing the state to negotiate with a
14 contractor to secure license fees, royalty rights, or other payment mechanisms
15 for the contractor's additional commercial use of intellectual property
16 developed under a state contract.

17 § 347. STATE CONTRACTING; INTELLECTUAL PROPERTY,

18 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY;

19 E-RFP PROCESS

20 (a) The Secretary of Administration shall adopt an "E-RFP" process to
21 provide early electronic notice of requests for proposals and state contracts to

1 provide software design services, computer coding, or other intellectual
2 property-based services to State agencies and departments.

3 (b) The Secretary shall have the authority to require all State agencies and
4 departments to participate in the E-RFP process adopted pursuant to subsection
5 (a) of this section, and to adopt such policies and procedures as are necessary
6 to improve the transparency and function of the State procurement process in
7 order to increase the number of State contracts awarded to qualified
8 knowledge-based businesses.

9 * * * Securities Exemption for Small Businesses * * *

10 Sec. 25. 9 V.S.A. § 5202 is amended to read:

11 § 5202. EXEMPT TRANSACTIONS

12 The following transactions are exempt from the requirements of sections
13 5301 through 5306 and 5504 of this chapter:

14 * * *

15 (24) a sale or an offer to sell securities by or on behalf of a

16 Vermont-domiciled business for:

17 (A) up to \$10,000.00 per individual investor; and

18 (B)(i) up to a total amount of \$1,000,000.00 if the issuer has not
19 undergone and made available to each prospective investor and the

20 Commissioner the documentation resulting from a financial audit with respect

1 to its most recently complete fiscal year and meeting generally accepted
2 accounting principles; or

3 (ii) up to a total amount of \$2,000,000.00 if the issuer has undergone
4 and made available to each prospective investor and the Commissioner the
5 documentation resulting from a financial audit with respect to its most recently
6 complete fiscal year and meeting generally accepted accounting principles.

7 * * * Study; Effective Date * * *

8 Sec. 26. STUDY; DEPARTMENT OF FINANCIAL REGULATION;

9 LICENSED LENDER REQUIREMENTS; COMMERCIAL

10 LENDERS

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

1 Sec. 27. 2013 Acts and Resolves No. 87, Sec. 8 is amended to read:

2 Sec. 8. INVESTMENT OF STATE MONIES

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

6 Sec. 28. 10 V.S.A. chapter 16A is amended to read:

7 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

8 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT
9 PROGRAM

10 * * *

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

15 § 374b. DEFINITIONS

16 As used in this chapter:

17 (1) “Agricultural facility” means land and rights in land, buildings,
18 structures, machinery, and equipment which is used for, or will be used for
19 producing, processing, preparing, packaging, storing, distributing, marketing,
20 or transporting agricultural products which have been primarily produced in

1 this ~~state~~ State, and working capital reasonably required to operate an
2 agricultural facility.

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

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

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

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

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

19 (7) “Farmer” means an individual directly engaged in the management
20 or operation of an agricultural facility or farm operation for whom the
21 agricultural facility or farm operation constitutes two or more of the following:

1

2 (Committee vote: _____)

3

4

Representative [surname]

5

FOR THE COMMITTEE

6