

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 220 entitled “An act relating to “amending  
4 the workers’ compensation law, establishing a registry of sole contractors,  
5 increasing the funds available to the Department of Tourism and Marketing for  
6 advertising, and regulating legacy insurance transfers respectfully reports that  
7 it has considered the same and recommends that the bill be amended by  
8 striking all after the enacting clause and inserting in lieu thereof the following:

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

10 Sec. 1. 3 V.S.A. chapter 47 is amended to read:

11 CHAPTER 47. COMMERCE AND COMMUNITY DEVELOPMENT

12 \* \* \*

13 § 2471. DEPARTMENT OF ECONOMIC DEVELOPMENT

14 (a) ~~The department of economic development~~ Department of Economic  
15 Development is created within the ~~agency of commerce and community~~  
16 ~~development as the successor to and the continuation of the department of~~  
17 ~~development~~ Agency of Commerce and Community Development.

18 (b) In addition to its other duties provided by law, the Department shall  
19 serve as a one-stop resource for new businesses to obtain a start-up checklist,  
20 contact information of relevant State administrators; formation, registration,  
21 and related requirements of State business regulations, including those

1 administered by the Secretary of State, the Department of Taxes, and the  
2 Department of Labor; State economic development and business support  
3 programs; and such additional information as the Commissioner of Economic  
4 Development determines would benefit new and prospective Vermont  
5 businesses.

6 (c) The Department shall maintain a reference database for business  
7 technical assistance providers in the State.

8 § 2471a. THE VERMONT BUSINESS REGISTRY; CERTIFICATION  
9 AND REGISTRATION OF A VERMONT  
10 KNOWLEDGE-BASED BUSINESS

11 (a) The ~~department of economic development~~ Department of Economic  
12 Development shall develop and maintain a Vermont business registry. The  
13 ~~registry~~ Registry shall develop a comprehensive ~~data base~~ database of  
14 information on Vermont businesses, including information on industrial  
15 classification, size (including employment size and annual revenues),  
16 ownership characteristics (including type of business entity, gender, race,  
17 nationality, incidence of low- and moderate-income ownership, and percent of  
18 the ownership with such characteristics), location, and export data. In  
19 developing the ~~registry~~ Registry, the ~~department~~ Department shall  
20 affirmatively conduct outreach and request, but not require, information from  
21 all Vermont businesses.

1 (b) The ~~department~~ Department shall design the ~~registry~~ Registry so that it  
2 is easily accessible to persons seeking information about Vermont businesses  
3 and to instrumentalities involved in Vermont’s economic development efforts,  
4 including the Vermont ~~economic development authority~~ Economic  
5 Development Authority, ~~job-start~~ Job Start, Vermont’s financial institutions,  
6 the regional development corporations, and the small business development  
7 centers. Such instrumentalities may use the ~~registry~~ Registry to ensure that  
8 they are providing a fair share of technical and financial assistance to the  
9 Vermont businesses that comprise their target market. Such instrumentalities  
10 may use the ~~registry’s~~ Registry’s demographic information to evaluate the  
11 appropriate types and distribution of public and private economic development  
12 services to Vermont businesses.

13 (c) To ensure the adequate provision of services and to provide accurate  
14 data on businesses in the technology and related sectors of the new economy,  
15 the Department shall collect such additional information as it determines is  
16 appropriate in order to officially certify each business that, in the  
17 Commissioner’s discretion, qualifies as a “knowledge-based business,” which  
18 includes a business:

19 (1) whose value is based on intellectual property rights or similar  
20 intangible assets; and

1           (2) whose primary purpose is to apply knowledge to differentiate itself  
2           from other businesses through research, design, development, or novel  
3           adaptation of inventions, original works, industrial designs, computer software,  
4           information technology, or similar innovative intellectual products and  
5           services.

6   \* \* \*

7                                 \* \* \* Vermont Entrepreneurial Lending Program;

8   Vermont Entrepreneurial Investment Tax Credit \* \* \*

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

10   CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

11   AUTHORITY

12   \* \* \*

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

14   Program

15           § 280aa. FINDINGS AND PURPOSE

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

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

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

12       § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL  
13                                   LENDING PROGRAM

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

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

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

6           (3) investments in knowledge-based businesses certified under 3 V.S.A.  
7           § 2471a(c) that are unable to access adequate capital resources because the  
8           primary assets of these businesses are typically intellectual property or similar  
9           nontangible assets.

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

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

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

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

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

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

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

16    \* \* \*

1       Sec. 3. VERMONT ENTREPRENEURIAL LENDING PROGRAM; LOAN  
2               LOSS RESERVE FUNDS; CAPITALIZATION; PRIVATE  
3               CAPITAL; APPROPRIATION

4               (a) The Vermont Economic Development Authority shall capitalize loan  
5               loss reserves for the Vermont Entrepreneurial Lending Program created in  
6               10 V.S.A. § 280bb with the following funding from the following sources:

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

9                       (2) the amount of \$1,000,000.00 for the purposes of funding loan loss  
10                      reserves for the Program, which, notwithstanding any provision of law to the  
11                      contrary, shall originate from a reallocation of \$1,000,000.00 of existing moral  
12                      obligation authority from the Vermont Telecommunications Authority to the  
13                      Vermont Economic Development Authority.

14               (b) The Vermont Economic Development Authority shall use the funds  
15               allocated to the Program, as referenced in subsection (a) of this section, solely  
16               for the purpose of establishing and maintaining loan loss reserves to guarantee  
17               entrepreneurial loans at a minimum loan-to-reserve ratio of five-to-one.



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

2 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

3 CREDITS

4 (a) A person may receive a credit against his or her income tax imposed  
5 by this chapter in an amount equal to 60 percent of his or her direct investment  
6 in a Vermont-domiciled business that had gross revenues in the preceding  
7 12 months of less than \$3,000,000.00.

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

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

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

17 (d) A person who makes a direct investment contribution and thereby  
18 qualifies for a credit pursuant to this section shall not have a right to receive a  
19 return of the person's principal for a period of five years from the date of the  
20 contribution without prior approval of the Authority; provided, however, that

1 the investor may have the right to receive stock options, warrants, or other  
2 forms of return that are not in the nature of return of principal

3 (e) A person that receives a direct investment that qualifies for a credit  
4 pursuant to this section shall annually report to the Department of Taxes the  
5 total number and amounts of investments received, the number of employees,  
6 the number of jobs created and retained, annual payroll, total sales revenue in  
7 the 12 months preceding the date of the report, and any additional information  
8 required by the Authority. A person who fails to file a report pursuant to this  
9 subsection shall be ineligible for future loans or investments under the  
10 Program.

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

13 Sec. 5. RESERVED

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

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

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

18 § 5930aa. DEFINITIONS

19 As used in this subchapter:

20 (1) “Qualified applicant” means an owner or lessee of a qualified  
21 building involving a qualified project, but does not include a religious entity

1 operating with a primarily religious purpose; a State or federal agency or a  
2 political subdivision of either; or an instrumentality of the United States.

3 (2) “Qualified building” means a building built prior to 1983, located  
4 within a designated downtown or village center, which upon completion of the  
5 project supported by the tax credit will be an income-producing building not  
6 used solely as a single-family residence.

7 (3) “Qualified code improvement project” means a project:

8 (A) ~~To~~ to install or improve platform lifts suitable for transporting  
9 personal mobility devices, elevators, sprinkler systems, and capital  
10 improvements in a qualified building, and the installations or improvements  
11 are required to bring the building into compliance with the statutory  
12 requirements and rules regarding fire prevention, life safety, and electrical,  
13 plumbing, and accessibility codes as determined by the ~~department of public~~  
14 ~~safety.~~ Department of Public Safety;

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

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

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

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

10          (6) “Qualified historic rehabilitation project” means an historic  
11 rehabilitation project that has received federal certification for the  
12 rehabilitation project.

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

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

18          (9) “Qualified technology infrastructure project” means a project to  
19 install or upgrade the electrical, data, plumbing, heating and cooling, or other  
20 systems necessary to enable a qualified building to serve as a sufficient

1 commercial location for a technology or knowledge-based business, as  
2 provided in 3 V.S.A. § 2471a(c).

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 improvement project shall be entitled, upon the approval of the State  
3 Board, to claim against the taxpayer's State individual income tax, State  
4 corporate income tax, or bank franchise or insurance premiums tax liability a  
5 credit of 50 percent of qualified expenditures up to a maximum tax credit of  
6 \$12,000.00 for installation or improvement of a platform lift, a maximum tax  
7 credit of \$50,000.00 for installation or improvement of an elevator, a  
8 maximum tax credit of \$50,000.00 for installation or improvement of a  
9 sprinkler system, and a maximum tax credit of \$25,000.00 for the combined  
10 costs of all other qualified code improvements.

11 (d) Technology infrastructure tax credit. The qualified applicant of a  
12 qualified technology infrastructure project shall be entitled, upon the approval  
13 of the State Board, to claim against the taxpayer's State individual income tax,  
14 State corporate income tax, or bank franchise or insurance premiums tax  
15 liability a credit of up to \$50,000.00 for the costs of qualified expenditures  
16 incurred in completing the qualified technology infrastructure project.

17 § 5930dd. CLAIMS; AVAILABILITY

18 (a) A taxpayer claiming credit under this subchapter shall submit to the  
19 Department of Taxes with the first return on which a credit is claimed a copy  
20 of the State Board's tax credit allocation.

1 (b) A credit under this subchapter shall be available for the first tax year in  
2 which the qualified project is complete. In the alternative, the State Board may  
3 allocate the credit available under this subchapter and make an allocation  
4 available upon completion of any distinct phase of a qualified project. The  
5 allocation and distinct phases of the qualified project shall be identified in the  
6 application package approved by the State Board.

7 (c) If within five years after the date of the credit allocation to the applicant  
8 no claim for tax credit has been filed, the tax credit allocation shall be  
9 rescinded.

10 (d) Any unused credit under this section may be carried forward for no  
11 more than nine tax years following the first year for which the tax credit is  
12 claimed.

13 (e) In lieu of using a tax credit to reduce its own tax liability, an applicant  
14 may request the credit in the form of a bank credit certificate that a bank may  
15 accept in return for cash, or may accept for adjusting the rate or term of the  
16 applicant's mortgage or loan related to an ownership or leasehold interest in  
17 the qualified building. The amount of the bank credit certificate shall equal the  
18 unused portion of the credit allocated under this subchapter, and an applicant  
19 requesting a bank credit certificate shall provide to the State Board a copy of  
20 any returns on which any portion of the allocated credit under this section was  
21 claimed. A bank that purchases a bank credit certificate may use it to reduce



1 its franchise tax liability under section 5836 of this title in the first tax year in  
2 which the qualified building is placed back in service after completion of the  
3 qualified project or in the subsequent nine years.

4 (f) In lieu of using a tax credit to reduce its own tax liability, an applicant  
5 may request the credit in the form of an insurance credit certificate that an  
6 insurance company may accept in return for cash and for use in reducing its tax  
7 liability under subchapter 7 of chapter 211 of this title in the first tax year in  
8 which the qualified building is placed back in service after completion of the  
9 qualified project or in the subsequent nine years. The amount of the insurance  
10 credit certificate shall equal the unused portion of the credit allocated under  
11 this subchapter, and an applicant requesting an insurance credit certificate shall  
12 provide to the State Board a copy of any returns on which any portion of the  
13 allocated credit under this section was claimed.

14 § 5930ee. LIMITATIONS

15 Beginning in fiscal year 2010 and thereafter, the State Board may award tax  
16 credits to all qualified applicants under this subchapter, provided that:

17 (1) The total amount of tax credits awarded annually, together with sales  
18 tax reallocated under section 9819 of this title, does not exceed ~~\$1,700,000.00~~  
19 \$2,200,000.00. Of this amount, not less than \$500,000.00 shall be allocated  
20 for technology infrastructure tax credits unless, in the discretion of the Board,

1 there are an insufficient number of qualified technology infrastructure projects  
2 to exhaust this allocation within the relevant one-year period.

3 (2) A total annual allocation of no more than 30 percent of these tax  
4 credits in combination with sales tax reallocation may be awarded in  
5 connection with all of the projects in a single municipality.

6 (3) ~~façade~~ Façade tax credits shall not be available for projects that  
7 qualify for the federal rehabilitation tax credit.

8 (4) No credit shall be allowed under this subchapter for the cost of  
9 acquiring any building or interest in a building.

10 (5) Credit under any one subsection of 5930cc of this subchapter may  
11 not be allocated more often than once every two years with respect to the same  
12 building.

13 (6) Credit awarded under section 5930cc of this subchapter that is  
14 rescinded or recaptured by the State Board shall be available for the State  
15 Board to award to applicants in any subsequent year, in addition to the total  
16 amount of tax credits authorized under this section.

17 \* \* \*

18 Sec. 7. RESERVED

1                                   \* \* \* Energy Rates for Manufacturers \* \* \*

2           Sec. 8. CREATION OF MANUFACTURING RATE CLASSES

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

6           (b) Notwithstanding 30 V.S.A. § 209 and any other provision of law to the  
7           contrary, a manufacturing business shall have the right to opt out of the energy  
8           efficiency charge related to the purchase of renewable electric generation,  
9           provided that if a business exercises its right to opt out of the energy efficiency  
10           charge:

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

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

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

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

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

6           Sec. 9. DOMESTIC MARKET ACCESS PROGRAM FOR VERMONT

7                           AGRICULTURE AND FOREST PRODUCTS

8           (a) The Secretary of Agriculture, Food and Markets, in collaboration with  
9           the Agency of Commerce and Community Development and the Chief  
10           Marketing Officer, shall create a Domestic Export Program Pilot Project within  
11           the “Made in Vermont” designation program, the purpose of which shall be to:

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

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

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

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

4                                      \* \* \* Cloud Tax \* \* \*

5       Secs. 10-14. RESERVED

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

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

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

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

17                                      \* \* \* Capital Gains Tax Exclusions \* \* \*

18       Sec. 16. 32 V.S.A. § 5811 is amended to read:

19       § 5811. DEFINITIONS

20                                      \* \* \*

1           (21) “Taxable income” means federal taxable income determined  
2 without regard to Section 168(k) of the Internal Revenue Code and:

3           (A) Increased by the following items of income (to the extent such  
4 income is excluded from federal adjusted gross income):

5           (i) interest income from non-Vermont state and local obligations;

6           (ii) dividends or other distributions from any fund to the extent  
7 they are attributable to non-Vermont state or local obligations; and

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

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

14           (i) income from United States government obligations;

15           (ii) with respect to adjusted net capital gain income as defined in

16 Section 1(h) of the Internal Revenue Code: ~~either~~ the first \$5,000.00 of

17 adjusted net capital gain income; 50 percent of adjusted net capital gain

18 income from the sale of assets of a knowledge-based business certified under

19 3 V.S.A. § 2471a(c) held by the taxpayer for more than one year for

20 investments made on or after July 1, 2014; or 40 percent of adjusted net capital

1 gain income from the sale of assets held by the taxpayer for more than three  
2 years, except not adjusted net capital gain income from:

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

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

9 and provided that the total amount of decrease under this subdivision

10 (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

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

13 Secs. 17-18. RESERVED

14 \* \* \* Modification of “But-For” Test for VEGI Awards to  
15 Knowledge-Based Businesses \* \* \*

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

17 § 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

18 \* \* \*

19 (c) The Council shall first review each application under subsection (b) of  
20 this section and ascertain, to the best of its judgment, that but for the economic  
21 incentive to be offered, the proposed economic development would not occur

1 or would occur in a significantly different and significantly less desirable  
2 manner; provided, however, that this “but for” standard shall not apply to an  
3 application by a certified knowledge-based business, as defined in 3 V.S.A.  
4 § 2471a(c) and recommended by the Due Diligence Committee created under  
5 10 V.S.A. § 280bb. Applications that do not meet the “but for” test are not  
6 eligible for economic incentives, and shall not be considered further by the  
7 Council. If the “but for” test is answered in the affirmative, then prior to  
8 approving any application for an economic incentive under subsection (b) of  
9 this section, the Council shall evaluate the overall consistency of each  
10 application with the following guidelines:

11 \* \* \*

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

13 § 5930b. VERMONT EMPLOYMENT GROWTH INCENTIVE

14 \* \* \*

15 (h) Employment growth incentive for qualifying knowledge-based  
16 business.

17 (1) In this subsection, a “qualifying knowledge-based business” means a  
18 knowledge-based business that is certified pursuant to 3 V.S.A. § 2471a(c).

19 (2) An application for a Vermont employment growth incentive under  
20 this section for a qualifying knowledge-based business shall be considered and  
21 administered pursuant to all provisions of this section, except that:



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

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

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

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

8   CHAPTER 87. COMPUTER CRIMES

9   \* \* \*

10           § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

19                   (2) if the damage or loss does not exceed \$500.00 for a second or  
20           subsequent offense, imprisoned not more than two years or fined not more than  
21           ~~\$1,000.00~~ \$10,000.00, or both; or

1           (3) if the damage or loss exceeds \$500.00, imprisoned not more than  
2           10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

3           § 4105. THEFT OR DESTRUCTION

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

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

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

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

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

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

1 § 4106. CIVIL LIABILITY

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

5 \* \* \*

6 \* \* \* Statute of Limitations to Commence Action

7 for Misappropriation of Trade Secrets \* \* \*

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

9 § 523. TRADE SECRETS

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

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

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

17 CHAPTER 143. TRADE SECRETS

18 § 4601. DEFINITIONS

19 As used in this chapter:

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

4           (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

9           § 4602. INJUNCTIVE RELIEF

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

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

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

3 § 4603. DAMAGES

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

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

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

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

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

20 § 4605. PRESERVATION OF SECRECY

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

7        § 4607. EFFECT ON OTHER LAW

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

11       (b) This chapter does not affect:

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

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

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

18           \* \* \*

19        \* \* \* Knowledge-Based Businesses and Government Contracting \* \* \*

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

21        § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

1           SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

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

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

7           (2) authorizes the contractor to use the intellectual property for  
8 additional commercial purposes.

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

14           § 347. STATE CONTRACTING; INTELLECTUAL PROPERTY,

15           SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY;

16           E-RFP PROCESS

17           (a) The Secretary of Administration shall adopt an “E-RFP” process to  
18 provide knowledge-based businesses certified under subsection 2471a(c) of  
19 this title with early electronic notice of requests for proposals and state  
20 contracts to provide software design services, computer coding, or other  
21 intellectual property-based services to State agencies and departments.



1        (b) The Secretary shall have the authority to require all State agencies and  
2        departments to participate in the E-RFP process adopted pursuant to subsection  
3        (a) of this section, and to adopt such policies and procedures as are necessary  
4        to improve the transparency and function of the State procurement process in  
5        order to increase the number of State contracts awarded to qualified  
6        knowledge-based businesses certified by the Secretary of Commerce and  
7        Community Development under subsection 2471a(c) of this title.

8                                        \* \* \* Study; Effective Date \* \* \*

9        Sec. 25. RESERVED

10       Sec. 26. STUDY; DEPARTMENT OF FINANCIAL REGULATION;  
11                                        LICENSED LENDER REQUIREMENTS; COMMERCIAL  
12                                        LENDERS

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

1 Sec. 27. RESERVED

2 \* \* \* Tourism Funding \* \* \*

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

4 § 668. TOURISM FUNDING

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

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

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

14 Sec. 2. ENTERPRISE ZONE; DESIGNATION; INCENTIVES

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

19 (1) has clearly defined boundaries that are zoned or permitted for  
20 industrial use and has been approved by one or more municipalities in their

1 municipal plans to accommodate a share of the industrial growth anticipated by  
2 the municipality or municipalities over a 20-year period;

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

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

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

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

16 (3) financing of up to 50 percent of site acquisition and infrastructure  
17 development costs from the Department of Housing and Community  
18 Development, through grants, loans, or other mechanisms as determined by the  
19 Commissioner of Housing and Community Development in his or her  
20 discretion.

21 \* \* \* Act 250; Exemption; Master Permitted Industrial Park \* \* \*

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

2 (D) The word “development does not include:

3 \* \* \*

4 (viii) The construction of improvements for industrial purposes, or  
5 substantial or material changes to the construction of such improvements, on a  
6 tract or tracts of land, owned or controlled by a person, that lie entirely within  
7 an industrial park defined in 10 V.S.A. § 212 or a commercial park which is  
8 currently subject to designation as a Vermont Enterprise Zone by the regional  
9 planning commission with the approval of the Commissioner of Housing and  
10 Community Development; and, a master permit issued pursuant to this chapter  
11 and 24 V.S.A. § 2793c (6), within a municipality that:

12 (I) has a duly adopted municipal plan regionally approved  
13 pursuant to 24 V.S.A. § 4350;

14 (II) has duly adopted permanent zoning and subdivision bylaws  
15 necessary to implement the municipal plan;

16 (III) has adopted a development review board; and,

17 (III) has elected by ordinance, adopted under chapter 59 of  
18 Title 24, to have municipal jurisdiction under this subdivision (3)(D)(vi) apply,  
19 in lieu of jurisdiction that would otherwise apply under this chapter. For an  
20 industrial park subject to a master permit issued under this chapter, the  
21 municipality that has elected by ordinance to exercise jurisdiction shall

1 implement and enforce all provisions and conditions of such permit while  
2 municipal jurisdiction is being exercised.

3 Sec. 30. 24 V.S.A. § 2793c (6)(A) and (B) are added to read:

4 (6) Regulatory incentives for Vermont Enterprise Zones.

5 (A) Master plan permit application. Pursuant to 10 V.S.A., chapter 151,  
6 any person or persons who exercise ownership or control over an area  
7 encompassing all or part of Vermont enterprise zone, as formally adopted in  
8 local plans and approved in the regional planning process, may apply for a  
9 master plan permit for that area or any portion of that area to the District  
10 Environmental Commission pursuant to the procedures and policies of the  
11 Natural Resources Board. Municipalities making an application under this  
12 subdivision are not required to exercise ownership of or control over the  
13 affected property. In approving a master permit, the District Environmental  
14 Commission may set forth specific conditions that an applicant for an  
15 individual industrial project permit will be required to meet during the review  
16 by a Development Review Board in a municipality that has elected by  
17 ordinance to assume such regulatory authority pursuant to 10 V.S.A. §  
18 6001(3)(D)(iv).

19 (B) Individual project permits within a Vermont Enterprise Zone. The  
20 Development Review Board created pursuant to this chapter shall review  
21 individual industrial permit applications in accordance with the specific

1 findings of fact and conclusions of law determinations on the criteria of 10  
2 V.S.A. § 6086(a) issued by the District Environmental Commission in the  
3 applicable master plan permit. Any person proposing a development or  
4 subdivision within a Vermont Enterprise Zone where no master plan permit is  
5 in effect shall be required to file an application with the District Commission  
6 for review under the criteria of 10 V.S.A. § 6086(a).

7 \* \* \* Prime Agricultural Soils; Industrial Parks \* \* \* \* \*

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

9 (4) Industrial parks.

10 (A) Notwithstanding any provision of this chapter to the contrary, a  
11 conversion of primary agricultural soils located in a new, existing or expanded  
12 ~~an~~ industrial park as defined in subdivision  
13 212(7) of this title ~~and permitted under~~ subject to jurisdiction under this  
14 chapter ~~and in existence as of January 1, 2006~~, shall be allowed to pay a  
15 mitigation fee computed ~~according to the provisions of subdivision (1) of this~~  
16 ~~subsection, except that it shall be entitled to~~ in accordance with a ratio of 1:1,  
17 protected acres to acres of affected primary agricultural soil and a "price-per-  
18 acre" value, which shall be based on the amount that the Secretary of  
19 Agriculture, Food and Markets has determined to be the recent, per-acre cost to  
20 acquire conservation easements for primary agricultural soils in the same  
21 geographic region as the proposed development or subdivision.

1           ~~If an industrial park is developed to the fullest extent before any~~  
2           ~~expansion, this ratio shall apply to any contiguous expansion of such an~~  
3           ~~industrial park that totals no more than 25 percent of the area of the park or no~~  
4           ~~more than 10 acres, whichever is larger; provided any expansion based on~~  
5           ~~percentage does not exceed 50 acres. Any expansion larger than that described~~  
6           ~~in this subdivision shall be subject to the mitigation provisions of this~~  
7           ~~subsection at ratios that depend upon the location of the expansion.~~

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

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

18          § 6001. DEFINITIONS

19                 In this chapter:

20   \* \* \*

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

1 \* \* \*

2 (B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the  
3 provisions of subdivision (3)(A) of this section, if a project consists  
4 exclusively of mixed income housing or mixed use, or any combination  
5 thereof, and is located entirely within a growth center designated pursuant to  
6 24 V.S.A. 2793c ~~or~~ entirely within a downtown development district  
7 designated pursuant to 24 V.S.A. § 2793, or entirely within a village center that  
8 is also a neighborhood development area and both the center and area are  
9 designated under 24 V.S.A. chapter 76A, “development” means:

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

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

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

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



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

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

15                   (ii) Mixed Income Housing Jurisdictional Thresholds.  
16 Notwithstanding the provisions of subdivision (3)(A) of this section, if a  
17 project consists exclusively of mixed income housing and is located entirely  
18 within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a  
19 neighborhood development area as defined in 24 V.S.A. § 2791(16),  
20 “development” means:

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

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

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

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

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

14 (VI) Historic Buildings. Construction of 10 or more units of  
15 mixed income housing ~~where~~ if the construction involves the demolition of one  
16 or more buildings that are listed on or eligible to be listed on the State or  
17 National Register of Historic Places. However, demolition shall not be  
18 considered to create jurisdiction under this subdivision if the Division for  
19 Historic Preservation has determined the proposed demolition will have: no  
20 adverse effect; no adverse effect provided that specified conditions are met; or  
21 will have an adverse effect, but that adverse effect will be adequately

1 mitigated. Any imposed conditions shall be enforceable through a grant  
2 condition, deed covenant, or other legally binding document.

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

5 (i) Incentive for Growth Inside Designated Areas.

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

16 (II) Notwithstanding subdivision (3)(A) of this section,  
17 improvements within a downtown development district designated under  
18 24 V.S.A. § 2793 shall be treated as exempt from the requirement to obtain a  
19 permit under section 6081 of this title if there is compliance with a final  
20 jurisdictional opinion issued under section 6007 of this title that concludes that  
21 the improvements constitute a development or subdivision or a material change

1 to a permitted project and that the requestor has demonstrated each of the  
2 following:

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

6 (bb) The improvements will meet or exceed the applicable  
7 energy conservation and building energy standards under subdivision  
8 6086(a)(9) of this title.

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

13 (dd) The Commissioner of Buildings and General Services  
14 or designee has determined that the improvements will have no significant  
15 impact on any adjacent land or facilities under the Commissioner's  
16 jurisdiction.

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

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

5                    (ii) ~~Five-Year, Five Mile Radius~~ Jurisdiction Analysis. Within  
6                    any continuous period of five years, housing units constructed by a person  
7                    entirely within a designated downtown district, designated growth center,  
8                    designated Vermont neighborhood, or designated neighborhood development  
9                    area shall be counted together with housing units constructed by that person  
10                  partially or completely outside a designated downtown development district,  
11                  designated growth center, designated Vermont neighborhood, or designated  
12                  neighborhood development area to determine jurisdiction over the housing  
13                  units constructed by a person partially or completely outside the designated  
14                  downtown development district, designated growth center, designated Vermont  
15                  neighborhood, or designated neighborhood development area ~~and within a~~  
16                  ~~five mile radius in accordance with subdivision (3)(A)(iv) of this section.~~

17                  (iii) ~~Discrete Housing Projects in Designated Areas and Exclusive~~  
18                  ~~Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19)~~  
19                  ~~of this section, jurisdiction shall be determined exclusively by counting~~  
20                  ~~housing units constructed by a person within a designated downtown~~  
21                  ~~development district, designated growth center, designated Vermont~~

1 ~~neighborhood, or designated neighborhood development area, provided that~~  
2 ~~the housing units are part of a discrete project located on a single tract or~~  
3 ~~multiple contiguous tracts of land. [Repealed.]~~

4 \* \* \*

5 (27) “Mixed income housing” means a housing project in which the  
6 following apply:

7 (A) Owner-occupied housing. At the option of the applicant,  
8 owner-occupied housing may be characterized by either of the following:

9 (i) at least 15 percent of the housing units have a purchase price  
10 which at the time of first sale does not exceed 85 percent of the new  
11 construction, targeted area purchase price limits established and published  
12 annually by the Vermont Housing Finance Agency; or

13 (ii) at least 20 percent of the housing units have a purchase price  
14 which at the time of first sale does not exceed 90 percent of the new  
15 construction, targeted area purchase price limits established and published  
16 annually by the Vermont Housing Finance Agency;

17 (B) Affordable Rental Housing. At least 20 percent of the housing  
18 units that ~~is~~ are rented by the occupants whose gross annual household income  
19 does not exceed ~~60~~ 80 percent of the county median income, or ~~60~~ 80 percent  
20 of the standard metropolitan statistical area income if the municipality is  
21 located in such an area, as defined by the United States Department of Housing

1 and Urban Development for use with the Housing Credit Program under  
2 Section 42(g) of the Internal Revenue Code, and the total annual cost of the  
3 housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the  
4 gross annual household income as defined at Section 42(g)(2)(C), and with a  
5 duration of affordability of no less than ~~30~~ 20 years.

6 (28) “Mixed use” means construction of both mixed income housing  
7 and construction of space for any combination of retail, office, services,  
8 artisan, and recreational and community facilities, provided at least 40 percent  
9 of the gross floor area of the buildings involved is mixed income housing.

10 “Mixed use” does not include industrial use.

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

12 (A) Housing that is owned by its occupants whose gross annual  
13 household income does not exceed 80 percent of the county median income, or  
14 80 percent of the standard metropolitan statistical area income if the  
15 municipality is located in such an area, as defined by the United States  
16 Department of Housing and Urban Development, and the total annual cost of  
17 the housing, including principal, interest, taxes, insurance, and condominium  
18 association fees, is not more than 30 percent of the gross annual household  
19 income.

20 (B) Housing that is rented by the occupants whose gross annual  
21 household income does not exceed 80 percent of the county median income, or

1 80 percent of the standard metropolitan statistical area income if the  
2 municipality is located in such an area, as defined by the United States  
3 Department of Housing and Urban Development, and the total annual cost of  
4 the housing, including rent, utilities, and condominium association fees, is not  
5 more than 30 percent of the gross annual household income.

6 (30) “Designated ~~growth~~ center” means a ~~growth~~ center designated by  
7 the Vermont Downtown Development Board under the provisions of  
8 24 V.S.A. chapter 76A.

9 Sec. X. EFFECTIVE DATE

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

11

12

13

14

15

16 (Committee vote: \_\_\_\_\_)

17

\_\_\_\_\_

18

Senator [surname]

19

FOR THE COMMITTEE