

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 * * * Vermont Entrepreneurial Lending Program;

9 Vermont Entrepreneurial Investment Tax Credit * * *

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

11 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

12 AUTHORITY

13 * * *

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

16 § 280aa. FINDINGS AND PURPOSE

17 (a)(1) ~~Technology-based companies~~ Vermont-based seed, start-up, and
18 growth-stage businesses are a vital source of innovation, employment, and
19 economic growth in Vermont. The continued development and success of ~~this~~
20 ~~increasingly important sector of Vermont's economy~~ these businesses is
21 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 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 businesses that are unable to access adequate capital
7 resources because the primary assets of these businesses are typically
8 intellectual property or similar nontangible assets.

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

16 (c) When considering entrepreneurial lending through the Program, the
17 Authority shall give additional consideration and weight to an application of a
18 business whose business model and practices will have a demonstrable effect
19 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 The Vermont Economic Development Authority shall capitalize loan loss
5 reserves for the Vermont Entrepreneurial Lending Program created in
6 10 V.S.A. § 280bb with
7 up to \$1,000,000.00 from Authority funds or eligible federal funds
8 currently administered by the Authority

9 :

10 (b) The Vermont Economic Development Authority shall use the funds
11 allocated to the Program, as referenced in subsection (a) of this section, solely
12 for the purpose of establishing and maintaining loan loss reserves to guarantee
13 entrepreneurial loans.

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

15 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

16 CREDITS

17 (a) A person may receive a credit against his or her income tax imposed
18 by this chapter in an amount equal to 50 percent of his or her direct investment
19 in a Vermont-domiciled business that had gross revenues in the preceding
20 12 months of less than \$3,000,000.00.

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

4 (c)(1) A person may claim no more than 25 percent of the amount of a
5 credit under this section in a single tax year and may not use the credit to
6 reduce the amount of tax due under this chapter by more than 50 percent of the
7 person’s liability in a taxable year.

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

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

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

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

22

1 Sec. 7. RESERVED

2 * * * Energy Rates for Manufacturers * * *

3 Sec. 8. CREATION OF MANUFACTURING RATE CLASSES

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

7 (b) Notwithstanding 30 V.S.A. § 209 and any other provision of law to the
8 contrary, a manufacturing business shall have the right to opt out of the energy
9 efficiency charge, provided that if a business exercises its right to opt out of the
10 energy efficiency 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; or 40 percent of adjusted net capital gain
18 income from the sale of assets held by the taxpayer for more than three years,
19 except not adjusted net capital gain income from:

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

1 (II) the sale of depreciable personal property other than farm
2 property and standing timber; or stocks or bonds publicly traded or traded on
3 an exchange, or any other financial instruments; regardless of whether sold by
4 an individual or business;
5 and provided that the total amount of decrease under this subdivision
6 (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and
7 (iii) recapture of ~~state~~ State and local income tax deductions not
8 taken against Vermont income tax.

9 Secs. 17-18. RESERVED

10 * * * Criminal Penalties for Computer Crimes * * *

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

12 CHAPTER 87. COMPUTER CRIMES

13 * * *

14 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

4 (2) if the damage or loss does not exceed \$500.00 for a second or
5 subsequent offense, imprisoned not more than two years or fined not more than
6 ~~\$1,000.00~~ \$10,000.00, or both; or

7 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
8 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

9 § 4105. THEFT OR DESTRUCTION

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

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

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

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

4 (2) if the damage or loss does not exceed \$500.00 for a second or
5 subsequent offense, imprisoned not more than two years or fined not more than
6 ~~\$1,000.00~~ \$10,000.00, or both; or

7 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
8 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

9 § 4106. CIVIL LIABILITY

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

13 * * *

14 * * * Statute of Limitations to Commence Action
15 for Misappropriation of Trade Secrets * * *

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

17 § 523. TRADE SECRETS

18 An action for misappropriation of trade secrets under 9 V.S.A. chapter 143
19 ~~of Title 9~~ shall be commenced within ~~three~~ five years after the cause of action
20 accrues, and not after. The cause of action shall be deemed to accrue as of the

1 date the misappropriation was discovered or reasonably should have been
2 discovered.

3 * * * Protection of Trade Secrets * * *

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

5 CHAPTER 143. TRADE SECRETS

6 § 4601. DEFINITIONS

7 As used in this chapter:

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

11 (2) “Misappropriation” means:

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

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

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

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

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

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

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

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

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

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

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

16 § 4602. INJUNCTIVE RELIEF

17 (a) ~~Actual~~ A court may enjoin actual or threatened misappropriation ~~may~~
18 ~~be enjoined~~ of a trade secret. Upon application to the court, an injunction shall
19 be terminated when the trade secret has ceased to exist, but the injunction may
20 be continued for an additional reasonable period of time in order to eliminate

1 commercial advantage that otherwise would be derived from the
2 misappropriation.

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

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

11 § 4603. DAMAGES

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

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

19 (3) In lieu of damages measured by any other methods, the damages
20 caused by misappropriation may be measured by imposition of liability for a

1 reasonable royalty for a misappropriator's unauthorized disclosure or use of a
2 trade secret.

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

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

8 § 4605. PRESERVATION OF SECRECY

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

15 § 4607. EFFECT ON OTHER LAW

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

19 (b) This chapter does not affect:

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

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

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

5 * * *

6 * * * Knowledge-Based Businesses and Government Contracting * * *

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

8 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

9 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

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

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

15 (2) authorizes the contractor to use the intellectual property for
16 additional commercial purposes.

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

1 § 347. STATE CONTRACTING; INTELLECTUAL PROPERTY,

2 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY;

3 E-RFP PROCESS

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

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

16 * * * Study; Effective Date * * *

17 Sec. 25. RESERVED

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

19 LICENSED LENDER REQUIREMENTS; COMMERCIAL

20 LENDERS

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

8 Sec. 27. RESERVED

9 * * * Tourism Funding * * *

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

11 § 668. TOURISM FUNDING

12 (a) In addition to any other funds appropriated to the Department of
13 Tourism and Marketing, in each fiscal year, the General Assembly shall
14 appropriate to the Department of Tourism and Marketing 75 percent of the
15 amount by which the total meals and rooms tax revenue collected in the
16 immediately preceding fiscal year exceeds the total meals and rooms tax
17 revenue collected in the fiscal year two years preceding the current fiscal year.

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

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21

1 * * * Land Use; Housing; Industrial Development * * *

2 Sec. 28A. ENTERPRISE ZONE; DESIGNATION; INCENTIVES

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

7 (1) has clearly defined boundaries that are zoned or permitted for
8 industrial use and has been approved by one or more municipalities in their
9 municipal plans to accommodate a share of the industrial growth anticipated by
10 the municipality or municipalities over a 20-year period;

11 (2) functions as a single, integrated area and provides functional
12 connections, namely connections to existing or planned public or private
13 infrastructure.

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

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

1 (II) within a municipality that:

2 (aa) has a duly adopted municipal plan regionally approved
3 pursuant to 24 V.S.A. § 4350;

4 (bb) has duly adopted permanent zoning and subdivision
5 bylaws necessary to implement the municipal plan;

6 (cc) has adopted a development review board; and,

7 (dd) has elected by ordinance, adopted under chapter 59 of
8 Title 24, to have municipal jurisdiction under this subdivision (3)(D)(vi) apply,
9 in lieu of jurisdiction that would otherwise apply under this chapter. A
10 municipality that has elected by ordinance to exercise jurisdiction over
11 improvements under this subsection (viii) shall implement and enforce all
12 provisions and conditions of the applicable master permit.

13 Sec. 30. 10 V.S.A. § 6083(h) is added to read:

14 (h) Regulatory incentives; Vermont Enterprise Zones.

15 (1) Master plan permit application. A person who owns or controls an
16 area encompassing all or part of a Vermont Enterprise Zone designated under
17 [INSERT STATUTE] may apply to the District Commission for a master plan
18 permit for that area or any portion of that area pursuant to the procedures and
19 policies of the Natural Resources Board. However, a municipality may apply
20 under this subdivision without owning or controlling the affected property. In
21 approving a master permit, the District Commission may include conditions

1 that an applicant for an individual industrial project permit shall be required to
2 meet during the review by a Development Review Board in a municipality that
3 has elected by ordinance to assume such regulatory authority pursuant to 10
4 V.S.A. § 6001(3)(D)(iv).

5 (2) Individual project permits within a Vermont Enterprise Zone. A
6 Development Review Board created pursuant 24 V.S.A. chapter 117 shall
7 review individual industrial permit applications within a Vermont Enterprise
8 Zone in accordance with the specific findings of fact and conclusions of law
9 determinations on the criteria of section 6086(a) of this title issued by the
10 District Environmental Commission in the applicable master plan permit. A
11 person proposing a development or subdivision within a Vermont Enterprise
12 Zone where no master plan permit is in effect shall be required to file an
13 application with the District Commission for review under the criteria of of
14 6086(a) of this title.

15 * * * Primary Agricultural Soils; Industrial Parks * * * * *

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

17 (4) Industrial parks.

18 (A) Notwithstanding any provision of this chapter to the contrary, a
19 conversion of primary agricultural soils located in an industrial park as defined
20 in subdivision 212(7) of this title ~~and permitted under this chapter and in~~
21 ~~existence as of January 1, 2006,~~ shall be allowed to pay a mitigation fee

1 ~~computed according to the provisions of subdivision (1) of this subsection,~~
2 ~~except that it shall be entitled to a ratio of 1:1, protected acres to by~~
3 ~~multiplying the acres of affected primary agricultural soil by the “price-per-~~
4 ~~acre” value that the Secretary of Agriculture, Food and Markets has~~
5 ~~determined to be the recent, per-acre cost to acquire conservation easements~~
6 ~~for primary agricultural soils in the same geographic region as the industrial~~
7 ~~park. If an industrial park is developed to the fullest extent before any~~
8 ~~expansion, this ratio shall apply to any contiguous expansion of such an~~
9 ~~industrial park that totals no more than 25 percent of the area of the park or no~~
10 ~~more than 10 acres, whichever is larger; provided any expansion based on~~
11 ~~percentage does not exceed 50 acres. Any expansion larger than that described~~
12 ~~in this subdivision shall be subject to the mitigation provisions of this~~
13 ~~subsection at ratios that depend upon the location of the expansion.~~

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

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

§ 6001. DEFINITIONS

In this chapter:

* * *

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

* * *

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

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

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

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

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

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

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

1 be enforceable through a grant condition, deed covenant, or other legally
2 binding document.

3 (ii) Mixed Income Housing Jurisdictional Thresholds.

4 Notwithstanding the provisions of subdivision (3)(A) of this section, if a
5 project consists exclusively of mixed income housing and is located entirely
6 within a Vermont neighborhood designated pursuant to 24 V.S.A. § 2793d or a
7 neighborhood development area as defined in 24 V.S.A. § 2791(16),
8 “development” means:

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

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

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

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

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

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

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

13 (i) Incentive for Growth Inside Designated Areas.

14 (I) Notwithstanding subdivision (3)(A)(iv) of this section,
15 ~~housing units constructed by a person partially or~~ the determination of
16 jurisdiction over a discrete housing project that is located completely ~~outside~~
17 inside a designated downtown development district, designated growth center,
18 designated Vermont neighborhood, or designated neighborhood development
19 area shall ~~not be counted to determine jurisdiction over housing units~~
20 ~~constructed by that person entirely within a designated downtown development~~
21 ~~district, designated growth center, designated Vermont neighborhood, or~~

1 ~~designated neighborhood development area~~ count only the housing units
2 included in that discrete project.

3 (II) Notwithstanding subdivision (3)(A) of this section,
4 improvements within a downtown development district designated under
5 24 V.S.A. § 2793 shall be treated as exempt from the requirement to obtain a
6 permit under section 6081 of this title if there is compliance with a final
7 jurisdictional opinion issued under section 6007 of this title that concludes that
8 the improvements constitute a development or subdivision or a material change
9 to a permitted project and that the requestor has demonstrated each of the
10 following:

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

14 (bb) The improvements will meet or exceed the applicable
15 energy conservation and building energy standards under subdivision
16 6086(a)(9) of this title.

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

1 (dd) The Commissioner of Buildings and General Services
2 or designee has determined that the improvements will have no significant
3 impact on any adjacent land or facilities under the Commissioner’s
4 jurisdiction.

5 (ee) The Agency of Natural Resources has determined that
6 the project will have no significant impact on any land or facilities under its
7 jurisdiction or on any important natural resources, other than primary
8 agricultural soils. In this subdivision (ee), “important natural resources” shall
9 have the same meaning as under 24 V.S.A. § 2791.

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

14 (ii) Five-Year, Five-Mile Radius Jurisdiction Analysis. Within
15 any continuous period of five years, housing units constructed by a person
16 entirely within a designated downtown district, designated growth center,
17 designated Vermont neighborhood, or designated neighborhood development
18 area shall be counted together with housing units constructed by that person
19 partially or completely outside a designated downtown development district,
20 designated growth center, designated Vermont neighborhood, or designated
21 neighborhood development area to determine jurisdiction over the housing

1 units constructed by a person partially or completely outside the designated
2 downtown development district, designated growth center, designated Vermont
3 neighborhood, or designated neighborhood development area and within a
4 five-mile radius in accordance with subdivision (3)(A)(iv) of this section.

5 (iii) ~~Discrete Housing Projects in Designated Areas and Exclusive~~
6 ~~Counting for Housing Units. Notwithstanding subdivisions (3)(A)(iv) and (19)~~
7 ~~of this section, jurisdiction shall be determined exclusively by counting~~
8 ~~housing units constructed by a person within a designated downtown~~
9 ~~development district, designated growth center, designated Vermont~~
10 ~~neighborhood, or designated neighborhood development area, provided that~~
11 ~~the housing units are part of a discrete project located on a single tract or~~
12 ~~multiple contiguous tracts of land. [Repealed.]~~

13 * * *

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

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

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

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

5 (B) Affordable Rental Housing. At least 20 percent of the housing
6 units that ~~is~~ are rented by the occupants whose gross annual household income
7 does not exceed ~~60~~ 80 percent of the county median income, or ~~60~~ 80 percent
8 of the standard metropolitan statistical area income if the municipality is
9 located in such an area, as defined by the United States Department of Housing
10 and Urban Development for use with the Housing Credit Program under
11 Section 42(g) of the Internal Revenue Code, and the total annual cost of the
12 housing, as defined at Section 42(g)(2)(B), is not more than 30 percent of the
13 gross annual household income as defined at Section 42(g)(2)(C), and with a
14 duration of affordability of no less than ~~30~~ 20 years.

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

19 “Mixed use” does not include industrial use.

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

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Sec. X. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: _____)

Senator [surname]

FOR THE COMMITTEE