

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Ways & Means to which was referred Senate Bill No.  
3 138 entitled “An act relating to promoting economic development” respectfully  
4 reports that it has considered the same and recommends that the House propose  
5 to the Senate that the bill be amended as follows:

6 \* \* \* Declared State Disasters \* \* \*

7 First: In Sec. A.1, in 11 V.S.A. § 1702(a)(1)(B), by striking “sales and use  
8 tax”

9 Second: In Sec. A.2, in 11 V.S.A. § 1702(b), after the final period, by  
10 adding a new sentence to read: “An out-of-state business making retail sales of  
11 tangible personal property during the disaster response period shall be subject  
12 to all sales tax registration, collection, reporting, and other requirements set  
13 forth in 32 V.S.A. chapter 233.”

14 \* \* \* Tourism and Marketing \* \* \*

15 Third: In Sec. D.2, by striking out 3 V.S.A. § 2477 (tourism and economic  
16 development marketing funding formula) in its entirety

17 \* \* \* Vermont Employment Growth Incentive;

18 Qualifying Jobs; Benefits \* \* \*

19 Fourth: In Sec. G.2, in 32 V.S.A. § 5930b(a), by inserting the following  
20 after the asterisks:

1           ~~(20) "Qualifying jobs" means new, full time Vermont jobs held by~~  
2           ~~nonowners that meet the wage threshold~~

3           (20) "Qualifying job" means a new, full time Vermont job held by a  
4           nonowner that meets the wage threshold and for which the employer provides  
5           at least three of the following:

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

8                 (B) dental assistance;

9                 (C) paid vacation;

10                (D) paid holidays;

11                (E) child care;

12                (F) other extraordinary employee benefits;

13                (G) retirement benefits;

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

15   \* \* \*

16                         \* \* \* Vermont Employment Growth Incentive; Wage Threshold \* \* \*

17           Fifth: In Sec. G.2, in 32 V.S.A. § 5930b(a), by striking out subdivision (24)  
18           in its entirety and inserting in lieu thereof a new subdivision (24) to read:

19                         (24) "Wage threshold" means the minimum annualized Vermont gross  
20           wages and salaries paid, as determined by the Council, but not less than:

1           (A) 60 percent above the minimum wage at the time of application;  
2           ~~in order for a new job to be a qualifying job under this section; or~~

3           (B) for a business located in a labor market area in which the  
4           unemployment rate is at least 0.5 percent higher than the average  
5           unemployment rate for the State, the greater of:

6                   (i) 40 percent above the State minimum wage at the time of  
7           application; or

8                   (ii) \$13.00 per hour.

9           \* \* \* Vermont Employment Growth Incentive; Grace Period Extension \* \* \*

10           Sixth: In Sec. G.2, in 32 V.S.A. § 5930b(c)(6)(B), by striking out  
11           subdivision (iii) in its entirety and inserting in lieu thereof a new subdivision  
12           (iii) to read:

13                   (iii) If the Council grants an extension pursuant to this subdivision  
14           (B), the Council shall recalculate the value of the incentive using the  
15           cost-benefit model and the wage threshold applicable at the time the extension  
16           is granted and shall adjust the amount of the award as is necessary to account  
17           for the extension of the award period and the updated wage threshold.

18           \* \* \* Vermont Employment Growth Incentive; Value-Added VEGI \* \* \*

19           Seventh: In Sec. G.2, in 32 V.S.A. § 5930b, by striking out subsection (i) in  
20           its entirety and inserting in lieu thereof a new subsection (i) to read:

21                   (i) Employment growth incentive for value-added business.

1           (1) In this subsection:

2                   (A) “Advanced manufacturing” means:

3                           (i) an activity that depends on the use and coordination of  
4                   information, automation, computation, software, sensing, and networking, or

5                           (ii) an activity that uses cutting edge materials and emerging  
6                   capabilities enabled by the physical and biological sciences, including  
7                   nanotechnology, chemistry, and biology, that includes both new ways to  
8                   manufacture existing products and the manufacture of new products emerging  
9                   from new advanced technologies;

10                   (B) “Value-added business” means a person that is subject to income  
11                   taxation in Vermont and whose current or prospective economic activity in  
12                   Vermont for which incentives are sought under this section is certified by the  
13                   Secretary of Commerce and Community Development to be primarily in one  
14                   or more of the following sectors:

15                           (i) advanced manufacturing; or

16                           (ii) information processing or information management services,  
17                   including:

18                                   (I) computer hardware or software, and information and  
19                   communication technologies, such as high-level software languages, graphics  
20                   hardware and software, speech and optical character recognition, high-volume  
21                   information storage and retrieval, and data compression;

1                   (II) technological applications that use biological systems,  
2                   living organisms or derivatives thereof, to make or modify products or  
3                   processes for specific use;

4                   (III) custom computer programming services, such as writing,  
5                   modifying, testing, and supporting software to meet the needs of a particular  
6                   customer;

7                   (IV) computer systems design services such as planning and  
8                   designing computer systems that integrate computer hardware, software, and  
9                   communication technologies; and

10                  (V) computer facilities management services, such as providing  
11                  on-site management and operation of clients' computer systems or data  
12                  processing facilities, or both.

13                  (2) A value-added business located in a labor market area in which the  
14                  unemployment rate is at least 0.5 percent higher than the average  
15                  unemployment rate for the State may submit an application for an enhanced  
16                  incentive pursuant to this subsection.

17                  (3) The Council shall consider and administer an application and award  
18                  for an enhanced incentive under this subsection pursuant to the provisions of  
19                  this section, except that:

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

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

4                           \* \* \* R & D Tax Credit \* \* \*

5           Eighth: By striking out Sec. G.10 in its entirety (R & D tax credit)

6                           \* \* \* Tax Havens \* \* \*

7           Ninth: By inserting new Secs. G.10-G.12 to read:

8           Sec. G.10. 32 V.S.A. § 5811(24) is amended to read:

9                   (24) “Overseas business organization” means a business organization  
10           that ordinarily has 80 percent or more of its payroll and property outside the 50  
11           states and the District of Columbia, but not located in a tax haven.

12           Sec. G.11. TAX HAVENS

13           On or before September 1, 2015, the Commissioner of Taxes shall publish a  
14           list of jurisdictions that are considered tax havens as of that date under the  
15           criteria specified in 32 V.S.A. § 5811(28)(B)(i)-(vi). The Commissioner’s  
16           decision concerning which jurisdictions are tax havens under this section is  
17           final and not subject to further review.

18           Sec. G.12. 32 V.S.A. § 5811(28) is added to read:

19                   (28)(A) “Tax haven” means the jurisdictions identified by the  
20           Commissioner of Taxes and published on or before September 1, 2015.

1           (B) Annually, on or before January 15, the Department of Taxes shall  
2           recommend whether to add or subtract any jurisdictions to the list in this  
3           subdivision (28) by considering whether the jurisdiction:

4                   (i) during the tax year in question has no or nominal effective tax  
5                   on corporate income;

6                   (ii) has laws or practices that prevent effective exchange of  
7                   information for tax purposes with other governments on taxpayers benefiting  
8                   from the tax regime;

9                   (iii) has a tax regime which lacks transparency, which means the  
10                  details of the legislative, legal, or administrative provisions of that regime are  
11                  not open and apparent or are not consistently applied among similarly situated  
12                  taxpayers, or if the information needed by tax authorities to determine a  
13                  taxpayer's correct tax liability, such as accounting records and underlying  
14                  documentation, is not adequately available;

15                  (iv) facilitates the establishment of foreign-owned entities without  
16                  the need for a local substantive presence or prohibits these entities from having  
17                  any commercial impact on the local economy;

18                  (v) explicitly or implicitly excludes the jurisdiction's resident  
19                  taxpayers from taking advantage of the tax regime's benefits or prohibits  
20                  enterprises that benefit from the regime from operating in the jurisdiction's  
21                  domestic market; or

1                   (vi) has created a tax regime which is favorable for tax avoidance,  
2                   based upon an overall assessment of relevant factors, including whether the  
3                   jurisdiction has a significant untaxed offshore financial or other services sector  
4                   relative to its overall economy.

5                   \* \* \* Down Payment Assistance Program \* \* \*

6                   Tenth: In Sec. G.7, in 32 V.S.A. § 5930u(b)(2)(B), by striking “sale” and  
7                   inserting in lieu thereof “transfer”

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

9                   Eleventh: By striking out Sec. H.1 in its entirety (effective dates) and  
10                  inserting in lieu thereof a new Sec. H.1 to read:

11                  Sec. H.1. EFFECTIVE DATES

12                  (a) This section and the following sections shall take effect on passage:

13                   (1) Sec. A.3 (blockchain technology study);

14                   (2) Sec. B.1 (Uniform Commercial Code, Article 4A);

15                   (3) Secs. C.1–C.2 (Vermont Strong Scholars and Internship Initiative);

16                   (4) Sec. C.4. (youth employment working group);

17                   (5) Sec. C.5 (Vermont Governor’s Committee on Employment of People  
18                  with Disabilities);

19                   (6) Secs. C.6–C.8 (Vermont ABLE Savings Program);

20                   (7) Sec. C.9 (Medicaid for working people with disabilities);

21                   (8) Sec. C.10 (Vermont career technical education report);



1           (9) Secs. D.5–D.6 (Domestic Export Program);

2           (10) Sec. E.1–E.2 (Vermont economic development authority; green  
3 manufacture of microbeads);

4           (11) Sec. E.3 (extending sunset of Treasurer’s credit facility for local  
5 investments and Treasurer’s local investment advisory committee);

6           (12) Sec. F.1 (deference to regional planning);

7           (13) Secs. F.2–F.4 (Southern Vermont Economic Development Zone);

8           (14) Sec. F.5 (Act 250; implementation of settlement patterns criterion;  
9 criterion 9(L)); and

10           (15) Sec. F.9 (certificate of public good; methane digesters).

11           (b) The following sections shall take effect on July 1, 2015:

12           (1) Secs. A.1 (business rapid response to declared State disasters);

13           (2) Sec. A.2 (manufacture of gun suppressors);

14           (3) Sec. C.3 (Workforce Education and Training Fund revisions);

15           (4) Secs. D.1–D.4 (Tourism and marketing initiative; appropriation),

16 except as otherwise provided in subsection (f) of this section;

17           (5) Sec. E.4 (increase in license exemption for commercial lending);

18           (6) Sec. F.6 (municipal land use; neighborhood development area);

19           (7) Sec. F.7 (Act 250; primary agricultural soils);

20           (8) Sec. F. 8 (conservation easements);

21           (9) Sec. G.5 (employee relocation tax credit study);

1           (10) Sec. G.6–7 (downpayment assistance program);

2           (11) Sec. G.8 (prewritten software accessed remotely);

3           (12) Sec. G.9 (wood products manufacturer incentive); and

4           (13) Secs. G.10-G.12 (tax havens).

5           (c)(1) In Sec. A.4, in 7 V.S.A. § 2, subdivisions (27) (definition; “special  
6 events permit”) and (28) (definition; “fourth-class license”) shall take effect on  
7 July 1, 2015. The remaining provisions of Sec. A.4 (alcoholic beverages;  
8 definitions) shall take effect on January 1, 2016.

9           (d) Secs. A.5–A.15 (fortified wines) shall take effect on January 1, 2016.

10           (e) Secs. B.2–B.9 (Uniform Commercial Code; Article 7) shall take effect  
11 on passage and shall apply as follows:

12           (1) This act shall apply to a document of title that is issued or a bailment  
13 that arises on or after the effective date of this act.

14           (2) This act does not apply to a document of title that is issued or a  
15 bailment that arises before the effective date of this act even if the document of  
16 title or bailment would be subject to this act if the document of title had been  
17 issued or bailment had arisen on or after the effective date of this act.

18           (3) This act does not apply to a right of action that has accrued before  
19 the effective date of this act.

20           (4) A document of title issued or a bailment that arises before the  
21 effective date of this act and the rights, obligations, and interests flowing from

1 that document or bailment are governed by any statute or other rule amended  
2 or repealed by this act as if amendment or repeal had not occurred and may be  
3 terminated, completed, consummated, or enforced under that statute or other  
4 rule.

5 (f)(1) Notwithstanding 1 V.S.A. § 214, other than 32 V.S.A. § 5930b(c)  
6 (extension of time to meet first or second year award targets), Secs. G.1–G.4  
7 (Vermont Employment Growth Incentive) shall take effect retroactively as of  
8 January 1, 2015;

9 (2) In Sec. G.2, 32 V.S.A. § 5930b(c)(extension of time to meet first or  
10 second year award targets) shall take effect on July 1, 2015.

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

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE