

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 * * * Down Payment Assistance Program * * *

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

7 * * * R & D Tax Credit * * *

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

9 * * * Tax Havens * * *

10 Tenth: By inserting Secs. G.10-G.12 to read:

11 * * * Tax Havens * * *

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

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

16 Sec. G.11. TAX HAVENS

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

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

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

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

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

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

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

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

1 (v) explicitly or implicitly excludes the jurisdiction’s resident
2 taxpayers from taking advantage of the tax regime’s benefits or prohibits
3 enterprises that benefit from the regime from operating in the jurisdiction’s
4 domestic market; or

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

9 * * * Tax Amnesty * * *

10 Eleventh: By adding Secs. G.13-G.14 to read:

11 Sec. G.13. TAX AMNESTY

12 (a) Notwithstanding any law to the contrary, the Commissioner of Taxes
13 shall establish a tax amnesty program during which all penalties that could be
14 assessed by the Commissioner shall be waived without the need for any
15 showing by the taxpayer of reasonable cause or the absence of willful neglect
16 if the taxpayer, prior to the expiration of the amnesty period, files proper
17 returns for any tax types and any period for which the taxpayer has or had a
18 filing obligation and pays the full amount of tax shown on such return together
19 with all interest due thereon. The amnesty program shall be established for a
20 period of six consecutive weeks to be determined by the Commissioner, to
21 expire not later than October 2, 2015.

1 (b) The amnesty program shall apply to a tax liability of any tax type for
2 any periods for which the due date of the return was before January 26, 2015
3 but shall not apply to those penalties which the Commissioner would not have
4 the sole authority to waive, including fuel taxes administered under the
5 International Fuel Tax Agreement or under the local option portions of taxes.

6 (c)(1) The Commissioner shall maintain records of the amnesty provided
7 under this section, including:

8 (A) the number of taxpayers provided with amnesty;

9 (B) the types of tax liability for which amnesty was provided and, for
10 each type of liability:

11 (i) the amount of tax liability collected by the Commissioner; and

12 (ii) the amount of penalties forgone by virtue of the amnesty; and

13 (iii) the total outstanding tax liability due to the State, for the
14 period through June 30, 2015, after the collection of all funds under this
15 section.

16 (2) The Commissioner shall file a report detailing the information
17 required by subdivision (1) of this subsection with the Clerk of the House of
18 Representatives and the Secretary of the Senate, the Joint Fiscal Committee,
19 the House Committee on Ways and Means, and the Senate Committee on
20 Finance not later than December 15, 2015; provided, however, that the report

1 shall not contain information sufficient to identify an individual taxpayer or the
2 amnesty an individual taxpayer was provided under this section.

3 Sec. G.14. TAX AMNESTY PROGRAM ADMINISTRATION FUNDING

4 (a) The Commissioner of Taxes shall supervise and direct the execution of
5 all laws vested in the Department of Taxes by, and shall formulate and carry
6 out all policies relating to, section G.13 of this act.

7 (b) The Commissioner may:

8 (1) adopt rules necessary to implement the provisions of this chapter;

9 and

10 (3) enter into contracts and perform such acts as are necessary to
11 accomplish the purposes of this chapter.

12 (c) There is hereby created a fund to be known as the Tax Amnesty
13 Administration Fund for the purpose of providing the financial means for the
14 Commissioner to administer section XX. All fees and assessments received by
15 the Department pursuant to such administration shall be credited to this Fund.

16 (1) All payments from the Tax Amnesty Administration Fund for the
17 advertising of the Tax Amnesty Program and associated expenses, including
18 contractual services as necessary, shall be disbursed from the State Treasury
19 only upon warrants issued by the Commissioner, after receipt of proper
20 documentation regarding services rendered and expenses incurred.

1 (2) The Commissioner may anticipate receipts to the Tax Amnesty
2 Administration Fund and issue warrants based thereon.

3 * * * Effective Dates * * *

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

6 Sec. H.1. EFFECTIVE DATES

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (12) Sec. F.1 (deference to regional planning);
- 2 (13) Secs. F.2–F.4 (Southern Vermont Economic Development Zone);
- 3 (14) Sec. F.5 (Act 250; implementation of settlement patterns criterion;
- 4 criterion 9(L));
- 5 (15) Sec. F.9 (certificate of public good; methane digesters); and
- 6 (16) Secs. G.13-G.14 (tax amnesty).
- 7 (b) The following sections shall take effect on July 1, 2015:
- 8 (1) Secs. A.1 (business rapid response to declared State disasters);
- 9 (2) Sec. A.2 (manufacture of gun suppressors);
- 10 (3) Sec. C.3 (Workforce Education and Training Fund revisions);
- 11 (4) Secs. D.1–D.4 (Tourism and marketing initiative; appropriation).
- 12 (5) Sec. E.4 (increase in license exemption for commercial lending);
- 13 (6) Sec. F.6 (municipal land use; neighborhood development area);
- 14 (7) Sec. F.7 (Act 250; primary agricultural soils);
- 15 (8) Sec. F. 8 (conservation easements);
- 16 (9) Sec. G.5 (employee relocation tax credit study);
- 17 (10) Sec. G.6–7 (downpayment assistance program);
- 18 (11) Sec. G.8 (prewritten software accessed remotely);
- 19 (12) Sec. G.9 (wood products manufacturer incentive); and
- 20 (13) Secs. G.10-G.12 (tax havens).

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

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

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

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

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

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

16 (4) A document of title issued or a bailment that arises before the
17 effective date of this act and the rights, obligations, and interests flowing from
18 that document or bailment are governed by any statute or other rule amended
19 or repealed by this act as if amendment or repeal had not occurred and may be
20 terminated, completed, consummated, or enforced under that statute or other
21 rule.

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

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

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12 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE