

1 H.736

2 Introduced by Representatives Ralston of Middlebury, Scheuermann of Stowe,
3 Botzow of Pownal, Bouchard of Colchester, Carr of Brandon,
4 Cross of Winooski, Dickinson of St. Albans Town, Kitzmiller
5 of Montpelier, Kupersmith of South Burlington, Marcotte of
6 Coventry, and Young of Glover

7 Referred to Committee on

8 Date:

9 Subject: Commerce and economic development; energy; taxation

10 Statement of purpose of bill as introduced: This bill proposes to expand
11 opportunities for economic development in Vermont.

12 An act relating to creating targeted economic development initiatives

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 * * * One-Stop Business Support Services * * *

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

16 CHAPTER 47. COMMERCE AND COMMUNITY DEVELOPMENT

17 * * *

18 § 2471. DEPARTMENT OF ECONOMIC DEVELOPMENT

19 (a) ~~The department of economic development~~ Department of Economic
20 Development is created within the ~~agency of commerce and community~~

1 ~~development as the successor to and the continuation of the department of~~
2 ~~development~~ Agency of Commerce and Community Development.

3 (b) In addition to its other duties provided by law, the Department shall
4 serve as a one-stop resource for new businesses to obtain a start-up checklist,
5 contact information of relevant State administrators; formation, registration,
6 and related requirements of State business regulations, including those
7 administered by the Secretary of State, the Department of Taxes, and the
8 Department of Labor; State economic development and business support
9 programs; and such additional information as the Commissioner of Economic
10 Development determines would benefit new and prospective Vermont
11 businesses.

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

14 § 2471a. THE VERMONT BUSINESS REGISTRY; CERTIFICATION
15 AND REGISTRATION OF A VERMONT
16 KNOWLEDGE-BASED BUSINESS

17 (a) ~~The department of economic development~~ Department of Economic
18 Development shall develop and maintain a Vermont business registry. The
19 registry Registry shall develop a comprehensive ~~data base~~ database of
20 information on Vermont businesses, including information on industrial
21 classification, size (including employment size and annual revenues),

1 ownership characteristics (including type of business entity, gender, race,
2 nationality, incidence of low- and moderate-income ownership, and percent of
3 the ownership with such characteristics), location, and export data. In
4 developing the ~~registry~~ Registry, the ~~department~~ Department shall
5 affirmatively conduct outreach and request, but not require, information from
6 all Vermont businesses.

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

19 (c) To ensure the adequate provision of services and to provide accurate
20 data on businesses in the technology and related sectors of the new economy,
21 the Department shall collect such additional information as it determines is

1 appropriate in order to officially certify each business that, in the
2 Commissioner's discretion, qualifies as a "knowledge-based business," which
3 includes a business:

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

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

11 * * *

12 * * * Vermont Entrepreneurial Lending Program;

13 Vermont Entrepreneurial Investment Tax Credit * * *

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

15 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT

16 AUTHORITY

17 * * *

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

19 Program

1 § 280aa. FINDINGS AND PURPOSE

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

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

12 (b) To support the growth of ~~technology based companies~~ seed, start-up,
13 and growth-stage businesses and the resultant creation of high-wage
14 employment in Vermont, a ~~technology loan program is established under this~~
15 ~~subchapter~~ the General Assembly hereby creates in this subchapter the
16 Vermont Entrepreneurial Lending Program to support the growth and
17 development of seed, start-up, and growth-stage businesses.

18 § 280bb. ~~TECHNOLOGY LOAN~~ VERMONT ENTREPRENEURIAL
19 LENDING PROGRAM

20 (a) There is created a ~~technology (TECH) loan program~~ the Vermont
21 Entrepreneurial Lending Program to be administered by the Vermont ~~economic~~

1 ~~development authority~~ Economic Development Authority. The ~~program~~
2 Program shall seek to meet the working capital and capital-asset financing
3 needs of ~~technology-based companies~~ start-up, early stage, and growth-stage
4 businesses in Vermont. The Program shall specifically seek to fulfill capital
5 requirement needs that are unmet in Vermont, including:

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

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

11 (3) investments in knowledge-based businesses certified under 3 V.S.A.
12 § 2471a(c) that are unable to access adequate capital resources because the
13 primary assets of these businesses are typically intellectual property or similar
14 nontangible assets.

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

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;

9 (2) private capital raised by investment contributions to the Program that
10 qualify for the Vermont Entrepreneurial Investment Tax Credit created in
11 32 V.S.A. § 5930zz; and

12 (3) the amount of \$1,000,000.00 for the purposes of funding loan loss
13 reserves for the Program, which:

14 (A) notwithstanding any provision of law to the contrary, shall
15 originate from a reallocation of \$1,000,000.00 of existing moral obligation
16 authority from the Vermont Telecommunications Authority to the Vermont
17 Economic Development Authority upon approval of the Treasurer; or

18 (B) if the Treasurer does not approve the reallocation of moral
19 obligation authority pursuant to subdivision (A) of this subdivision (3), shall be
20 transferred to the Vermont Economic Development Authority from the

1 amounts appropriated in fiscal year 2015 from the General Fund to the Agency
2 of Commerce and Community Development.

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

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

8 § 5930zz. VERMONT ENTREPRENEURIAL INVESTMENT TAX

9 CREDITS

10 (a) A person may receive a credit against his or her income tax imposed
11 by this chapter in an amount equal to 60 percent of his or her direct investment
12 in a Vermont-domiciled business that had gross revenues in the preceding
13 12 months of less than \$3,000,000.00.

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

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

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

3 (d) A person who makes a direct investment contribution and thereby
4 qualifies for a credit pursuant to this section shall not have a right to receive a
5 return of the person's principal for a period of five years from the date of the
6 contribution without prior approval of the Authority; provided, however, that
7 the investor may have the right to receive stock options, warrants, or other
8 forms of return that are not in the nature of return of principal

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

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

1 * * * Connecting Capital Providers and Entrepreneurs * * *

2 Sec. 5. NETWORKING INITIATIVES; APPROPRIATION

3 There is appropriated from the General Fund to the Agency of Commerce
4 and Community Development in fiscal year 2015 the amount of \$10,000.00,
5 which the Agency shall transfer to the Vermont Technology Alliance. The
6 Alliance shall have discretion to award grants of up to \$2,000.00 per event to
7 an applicant who sponsors a networking event designed to connect capital
8 providers with one another or with Vermont entrepreneurs, or both.

9 * * * Downtown Tax Credits * * *

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

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

13 § 5930aa. DEFINITIONS

14 As used in this subchapter:

15 (1) "Qualified applicant" means an owner or lessee of a qualified
16 building involving a qualified project, but does not include a religious entity
17 operating with a primarily religious purpose; a State or federal agency or a
18 political subdivision of either; or an instrumentality of the United States.

19 (2) "Qualified building" means a building built prior to 1983, located
20 within a designated downtown or village center, which upon completion of the

1 project supported by the tax credit will be an income-producing building not
2 used solely as a single-family residence.

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

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

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

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

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

19 (5) “Qualified façade improvement project” means the rehabilitation of
20 the façade of a qualified building that contributes to the integrity of the
21 designated downtown or designated village center. Façade improvements to

1 qualified buildings listed, or eligible for listing, in the State or National
2 Register of Historic Places must be consistent with Secretary of the Interior
3 Standards, as determined by the Vermont Division for Historic Preservation.

4 (6) “Qualified historic rehabilitation project” means an historic
5 rehabilitation project that has received federal certification for the
6 rehabilitation project.

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

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

12 (9) “Qualified technology infrastructure project” means a project to
13 install or upgrade the electrical, data, plumbing, heating and cooling, or other
14 systems necessary to enable a qualified building to serve as a sufficient
15 commercial location for a technology or knowledge-based business, as
16 provided in 3 V.S.A. § 2471a(c).

17 § 5930bb. ELIGIBILITY AND ADMINISTRATION

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

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

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

5 (d) Notwithstanding any other provision of this subchapter, qualified
6 applicants may apply to the State Board at any time prior to June 30, 2013 to
7 obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of
8 this title of 10 percent of qualified expenditures resulting from damage caused
9 by a federally declared disaster in Vermont in 2011. The credit shall only be
10 claimed against the taxpayer's State individual income tax under section 5822
11 of this title. To the extent that any allocated tax credit exceeds the taxpayer's
12 tax liability for the first tax year in which the qualified project is completed,
13 the taxpayer shall receive a refund equal to the unused portion of the tax credit.
14 If within two years after the date of the credit allocation no claim for a tax
15 credit or refund has been filed, the tax credit allocation shall be rescinded and
16 recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of
17 tax credits available under this subsection shall not be more than \$500,000.00
18 and shall not be subject to the limitations contained in subdivision 5930ee(2)
19 of this subchapter.

1 § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

2 CREDITS

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

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

16 (c) Code improvement tax credit. The qualified applicant of a qualified
17 code improvement project shall be entitled, upon the approval of the State
18 Board, to claim against the taxpayer's State individual income tax, State
19 corporate income tax, or bank franchise or insurance premiums tax liability a
20 credit of 50 percent of qualified expenditures up to a maximum tax credit of
21 \$12,000.00 for installation or improvement of a platform lift, a maximum tax

1 credit of \$50,000.00 for installation or improvement of an elevator, a
2 maximum tax credit of \$50,000.00 for installation or improvement of a
3 sprinkler system, and a maximum tax credit of \$25,000.00 for the combined
4 costs of all other qualified code improvements.

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

11 § 5930dd. CLAIMS; AVAILABILITY

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

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

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

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

7 (e) In lieu of using a tax credit to reduce its own tax liability, an applicant
8 may request the credit in the form of a bank credit certificate that a bank may
9 accept in return for cash, or may accept for adjusting the rate or term of the
10 applicant's mortgage or loan related to an ownership or leasehold interest in
11 the qualified building. The amount of the bank credit certificate shall equal the
12 unused portion of the credit allocated under this subchapter, and an applicant
13 requesting a bank credit certificate shall provide to the State Board a copy of
14 any returns on which any portion of the allocated credit under this section was
15 claimed. A bank that purchases a bank credit certificate may use it to reduce
16 its franchise tax liability under section 5836 of this title in the first tax year in
17 which the qualified building is placed back in service after completion of the
18 qualified project or in the subsequent nine years.

19 (f) In lieu of using a tax credit to reduce its own tax liability, an applicant
20 may request the credit in the form of an insurance credit certificate that an
21 insurance company may accept in return for cash and for use in reducing its tax

1 liability under subchapter 7 of chapter 211 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. The amount of the insurance
4 credit certificate shall equal the unused portion of the credit allocated under
5 this subchapter, and an applicant requesting an insurance credit certificate shall
6 provide to the State Board a copy of any returns on which any portion of the
7 allocated credit under this section was claimed.

8 § 5930ee. LIMITATIONS

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

11 (1) The total amount of tax credits awarded annually, together with sales
12 tax reallocated under section 9819 of this title, does not exceed ~~\$1,700,000.00~~
13 \$2,200,000.00. Of this amount, not less than \$500,000.00 shall be allocated
14 for technology infrastructure tax credits unless, in the discretion of the Board,
15 there are an insufficient number of qualified technology infrastructure projects
16 to exhaust this allocation within the relevant one-year period.

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

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

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

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

6 § 5921. MINIMUM TAX

7 (a) A partnership or a limited liability company which is taxed as a
8 partnership under the Internal Revenue Code and is subject to the provisions of
9 section 5920 of this title shall pay an annual tax of \$250.00 to the
10 Commissioner of Taxes on or before the due date prescribed for the filing of
11 the entity's federal return. The tax shall be submitted together with a form
12 prescribed by the Commissioner. A limited liability company that does not
13 receive partnership treatment under the Internal Revenue Code shall be taxed
14 for state purposes in the same manner as taxed under the Internal Revenue
15 Code. Partnerships whose activities are limited to the maintenance and
16 management of their intangible investments and whose annual investment
17 income does not exceed \$5,000.00 and whose total assets are not in excess of
18 \$20,000.00 shall be exempt from the tax imposed by this section.

19 (b) A partnership or limited liability company that is certified as a
20 knowledge-based business under 3 V.S.A. § 2471a(c) shall be exempt from the
21 tax imposed by this section for the first three years in which the tax would

1 otherwise be due, beginning with the taxable year in which the business
2 initially files its articles of organization.

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

4 (c) The Secretary of State shall not collect any fee otherwise due under
5 this section from a limited liability company that is a certified as a
6 knowledge-based business under 3 V.S.A. § 2471a(c) for a three-year period
7 beginning with the company's initial filing of its articles of organization.

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

9 (c) The Secretary of State shall not collect any fee otherwise due under this
10 section from a partnership that is certified as a knowledge-based business
11 under 3 V.S.A. § 2471a(c) for a three-year period beginning with the
12 company's initial filing of a statement.

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

14 (c) The Secretary of State shall not collect any fee otherwise due from a
15 limited liability partnership that is a knowledge-based business under 3 V.S.A.
16 § 2471a(c) for a three-year period beginning with the company's initial filing
17 of its certificate of limited partnership.

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

2 § 208. FILING FEES

3 (a) The filing fees for records filed under this article by the Secretary of
4 State are the same as those set forth for a limited liability company under
5 11 V.S.A. § 3013.

6 (b) The Secretary of State shall not collect any fee otherwise due from a
7 mutual benefit enterprise that is certified as a knowledge-based business under
8 3 V.S.A. § 2471a(c) for a three-year period beginning with the company's
9 initial filing of its articles of organization.

10 * * * Cloud Tax * * *

11 Sec. 15. SALES TAX ON PREWRITTEN SOFTWARE DOES NOT APPLY
12 TO REMOTELY ACCESSED SOFTWARE

13 (a) The imposition of sales and use tax on prewritten computer software by
14 32 V.S.A. chapter 233 shall not apply to charges for remotely accessed
15 software made after December 31, 2006.

16 (b) In this section, "charges for remotely accessed software" means charges
17 for the right to access and use prewritten software run on underlying
18 infrastructure that is not managed or controlled by the consumer.

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

1 income from the sale of assets of a knowledge-based business certified under
2 3 V.S.A. § 2471a(c) held by the taxpayer for more than one year for
3 investments made on or after July 1, 2014; or 40 percent of adjusted net capital
4 gain income from the sale of assets held by the taxpayer for more than three
5 years, except not adjusted net capital gain income from:

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

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

12 and provided that the total amount of decrease under this subdivision
13 (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

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

16 * * * Property Tax Exemption * * *

17 Sec. 17. 32 V.S.A. § 3802 is amended to read:

18 § 3802. PROPERTY TAX

19 The following property shall be exempt from taxation:

20 * * *

1 (19) Real property designated under 10 V.S.A. § 2787 as a regional
2 incubator space.

3 Sec. 18. 24 V.S.A. § 2787 is added to read:

4 § 2787. DESIGNATION OF DOWNTOWN INCUBATOR SPACE

5 A recipient of a performance contract to provide regional economic
6 development under this chapter shall have the authority to designate one parcel
7 of real property in its service region to be used exclusively as a regional
8 incubator space exempt from property tax pursuant to 32 V.S.A. § 2802(18) for
9 the five years following the designation, consistent with the following criteria:

10 (1) The incubator space is located within a designated downtown,
11 village center, or growth center.

12 (2) The regional economic development service provider determines
13 that the incubator space provides a co-working environment with access to
14 technology, mentoring, and other amenities sufficient to foster the
15 development and collaboration of knowledge-based businesses certified under
16 3 V.S.A. § 2471a(c).

17 (3) The owner or lessee of the property who operates the incubator
18 space demonstrates a commitment to use the property as an incubator space for
19 at least five years.

1 § 4104. ALTERATION, DAMAGE, OR INTERFERENCE

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

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

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

10 (2) if the damage or loss does not exceed \$500.00 for a second or
11 subsequent offense, imprisoned not more than two years or fined not more than
12 ~~\$1,000.00~~ \$10,000.00, or both; or

13 (3) if the damage or loss exceeds \$500.00, imprisoned not more than
14 10 years or fined not more than ~~\$10,000.00~~ \$25,000.00, or both.

15 § 4105. THEFT OR DESTRUCTION

16 (a)(1) A person shall not intentionally and without claim of right deprive
17 the owner of possession, take, transfer, copy, conceal, or retain possession of,
18 or intentionally and without lawful authority, destroy any computer system,
19 computer network, computer software, computer program, or data contained in
20 such computer, computer system, computer program, or computer network.

1 * * * Statute of Limitations to Commence Action
2 for Misappropriation of Trade Secrets * * *

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

4 § 523. TRADE SECRETS

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

10 * * * Protection of Trade Secrets * * *

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

12 CHAPTER 143. TRADE SECRETS

13 § 4601. DEFINITIONS

14 As used in this chapter:

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

18 (2) “Misappropriation” means:

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

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

3 (i) used improper means to acquire knowledge of the trade
4 secret; or

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

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

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

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

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

16 (3) "Trade secret" means information, including a formula, pattern,
17 compilation, program, device, method, technique, or process, that:

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

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

3 § 4602. INJUNCTIVE RELIEF

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

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

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

18 § 4603. DAMAGES

19 (a)(1) Except to the extent that a material and prejudicial change of position
20 prior to acquiring knowledge or reason to know of misappropriation renders a

1 monetary recovery inequitable, a complainant is entitled to recover damages
2 for misappropriation.

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

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

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

13 (b) If malicious misappropriation exists, the court may award punitive
14 damages.

15 § 4605. PRESERVATION OF SECRECY

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

1 § 4607. EFFECT ON OTHER LAW

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

5 (b) This chapter does not affect:

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

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

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

12 * * *

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

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

15 § 346. STATE CONTRACTING; INTELLECTUAL PROPERTY,

16 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY

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

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

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

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

8 § 347. STATE CONTRACTING; INTELLECTUAL PROPERTY,

9 SOFTWARE DESIGN, AND INFORMATION TECHNOLOGY;

10 E-RFP PROCESS

11 (a) The Secretary of Administration shall adopt an "E-RFP" process to
12 provide knowledge-based businesses certified under subsection 2471a(c) of
13 this title with early electronic notice of requests for proposals and state
14 contracts to provide software design services, computer coding, or other
15 intellectual property-based services to State agencies and departments.

16 (b) The Secretary shall have the authority to require all State agencies and
17 departments to participate in the E-RFP process adopted pursuant to subsection
18 (a) of this section, and to adopt such policies and procedures as are necessary
19 to improve the transparency and function of the State procurement process in
20 order to increase the number of State contracts awarded to qualified

1 knowledge-based businesses certified by the Secretary of Commerce and
2 Community Development under subsection 2471a(c) of this title.

3 * * * Securities Exemption for Knowledge-Based Business Offering * * *

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

5 § 5202. EXEMPT TRANSACTIONS

6 The following transactions are exempt from the requirements of sections
7 5301 through 5306 and 5504 of this chapter:

8 * * *

9 (24) a sale or an offer to sell securities by or on behalf of a
10 knowledge-based business certified under 3 V.S.A. § 2471a(c) for:

11 (A) up to 1,000 residents of Vermont;

12 (B) up to \$10,000.00 per individual investor; and

13 (C) up to a total amount of \$1,000,000.00.

14 * * * Study; Effective Date * * *

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

16 LICENSED LENDER REQUIREMENTS; COMMERCIAL

17 LENDERS

18 On or before January 15, 2015, the Department of Financial Regulation
19 shall evaluate and report to the House Committee on Commerce and Economic
20 Development and to the Senate Committees on Finance and on Economic
21 Development, Housing and General Affairs any statutory and regulatory

1 changes to the State's licensed lender requirements that are necessary to open
2 private capital markets and remove unnecessary barriers to business investment
3 in Vermont.

4 Sec. 27. EFFECTIVE DATE

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