

1  
2  
3  
4  
5  
6  
7  
8  
  
9  
10  
  
11  
12  
13  
14  
15  
16  
17  
18  
19

H.10

Introduced by Representatives Kornheiser of Brattleboro and Marcotte of  
Coventry

Referred to Committee on

Date:

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to amend the  
Vermont Employment Growth Incentive Program.

An act relating to amending the Vermont Employment Growth Incentive  
Program

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

Sec. 1. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE  
PROGRAM

Subchapter 1. Vermont Economic Progress Council

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

(a) Creation. The Vermont Economic Progress Council is created to  
exercise the authority and perform the duties assigned to it, including its  
authority and duties relating to:

1 (1) the Vermont Employment Growth Incentive Program pursuant to  
2 subchapter 2 of this chapter; and

3 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,  
4 subchapter 5 and section 5404a of this title.

5 (b) Membership.

6 (1) The Council shall have ~~11~~ nine voting members:

7 ~~(A) nine who are~~ residents of the State ~~appointed by the Governor~~  
8 ~~with the advice and consent of the Senate~~ and who are knowledgeable and  
9 experienced in the subjects of community development and planning,  
10 education funding requirements, economic development, State fiscal affairs,  
11 property taxation, or entrepreneurial ventures and represent diverse  
12 geographical areas of the State and municipalities of various sizes; appointed  
13 as follows:

14 (A) five members appointed by the Governor with the advice and  
15 consent of the Senate;

16 (B) two members appointed by the Speaker of the House; and

17 (C) two members appointed by the Senate Committee on Committees

18 ~~(B) one member of the Vermont House of Representatives appointed~~  
19 ~~by the Speaker of the House; and~~

20 ~~(C) one member of the Vermont Senate appointed by the Senate~~  
21 ~~Committee on Committees.~~

1 (2)(A) The Council shall have two regional members from each region  
2 of the State, one appointed by the regional development corporation of the  
3 region and one appointed by the regional planning commission of the region.

4 (B) A regional member shall be a nonvoting member and shall serve  
5 during consideration by the Council of an application from ~~his or her~~ the  
6 member's region.

7 \* \* \*

8 (e) Operation.

9 (1) The Governor shall appoint a chair from the Council's members.

10 (2)(A) The Council shall receive administrative support from the  
11 ~~Agency of Commerce and Community Development~~ Department of Financial  
12 Regulation and the Department of Taxes.

13 (B) The Council shall receive legal counsel exclusively from the  
14 Office of the Attorney General.

15 \* \* \*

16 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;  
17 ELIGIBLE APPLICANT

18 (a) Purpose. The purpose of the Vermont Employment Growth Incentive  
19 Program is to generate net new revenue to the State by ~~encouraging~~ rewarding  
20 a business ~~to add~~ for adding new payroll, ~~create~~ new jobs, and ~~make~~ new

1 capital investments it otherwise would not have undertaken without the  
2 incentive and sharing a portion of the revenue with the business.

3 (b) ~~Form of incentives; enhanced incentives.~~

4 (1) ~~The Vermont Economic Progress Council may approve an incentive~~  
5 ~~under this subchapter in the form of a direct cash payment in annual~~  
6 ~~installments.~~

7 (2) ~~The Council may approve the following enhanced incentives:~~

8 (A) ~~an enhanced incentive for a business in a labor market area with~~  
9 ~~higher than average unemployment or lower than average wages pursuant to~~  
10 ~~section 3334 of this title; and~~

11 (B) ~~an enhanced incentive for an environmental technology business~~  
12 ~~pursuant to section 3335 of this title.~~

13 (C) ~~[Repealed.]~~

14 (e) Eligible applicant.

15 (1) Only a business may apply for an incentive pursuant to this  
16 subchapter.

17 (2) For purposes of the Program, the Council shall treat a business and  
18 its legal predecessor or successor in interest as the same entity.

19 \* \* \*

20 § 3332. APPLICATION; APPROVAL CRITERIA

21 (a) Application.

1           (1) A business may apply for an incentive in one or more years of an  
2           award period by submitting an application to the Council in the format the  
3           Council specifies for that purpose.

4           (2) For each award year the business applies for an incentive, the  
5           business shall:

6                   (A) specify a payroll performance requirement;

7                   (B) specify a jobs performance requirement or a capital investment  
8           performance requirement, or both; and

9                   (C) provide any other information the Council requires to evaluate  
10          the application under this subchapter.

11          (b) Mandatory criteria. The Council shall not approve an application  
12          unless it finds:

13                   (1) ~~Except as otherwise provided for an enhanced incentive for a~~  
14          ~~business in a qualifying labor market area under section 3334 of this title, the~~  
15          The new revenue the proposed activity would generate to the State would  
16          exceed the costs of the activity to the State.

17                   (2) The host municipality welcomes the new business.

18                   (3) Pursuant to a self-certification or other documentation the Council  
19          requires by rule or procedure, the business attests to the best of its knowledge:

20                   (A) the business is not a named party to an administrative order,  
21          consent decree, or judicial order issued by the State or a subdivision of the

1 State, or if a named party, that the business is in compliance with the terms of  
2 such an order or decree;

3 (B) the business complies with applicable State laws and rules; and

4 (C) the proposed economic activity would conform to applicable  
5 town and regional plans and with applicable State laws and rules.

6 (4) If the business proposes to expand within a limited local market, an  
7 incentive would not give the business an unfair competitive advantage over  
8 other Vermont businesses in the same or similar line of business and in the  
9 same limited local market.

10 (5) ~~But~~ The business attests that, but for the incentive, the proposed  
11 economic activity:

12 (A) would not occur; or

13 (B) would occur in a significantly different manner that is  
14 significantly less desirable to the State.

15 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

16 ~~Except as otherwise provided for an enhanced incentive for a business in a~~  
17 ~~qualifying labor market area under section 3334 of this title or an enhanced~~  
18 ~~incentive for an environmental technology business under section 3335 of this~~  
19 ~~title, the~~

20 The Council shall calculate the value of an incentive for an award year as  
21 follows:

1 (1) Calculate new revenue growth. To calculate new revenue growth,  
2 the Council shall use the cost-benefit model created pursuant to section 3326  
3 of this title to determine the amount by which the new revenue generated by  
4 the proposed economic activity to the State exceeds the costs of the activity to  
5 the State.

6 (2) Calculate the business's potential share of new revenue growth.  
7 ~~Except as otherwise provided for an environmental technology business in~~  
8 ~~section 3335 of this title, to~~ To calculate the business's potential share of new  
9 revenue growth, the Council shall multiply the new revenue growth determined  
10 under subdivision (1) of this subsection by 80 percent.

11 \* \* \*

12 § 3334. ~~ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING~~  
13 ~~LABOR MARKET AREA~~

14 (a) ~~The Council may increase the value of an incentive for a business that is~~  
15 ~~located in a labor market area in which:~~

16 (1) ~~the average annual unemployment rate is greater than the average~~  
17 ~~annual unemployment rate for the State; or~~

18 (2) ~~the average annual wage is less than the average annual wage for the~~  
19 ~~State.~~

20 (b) ~~In each calendar year, the amount by which the Council may increase~~  
21 ~~the value of all incentives pursuant to this section is:~~

1           ~~(1) \$1,500,000.00 for one or more initial approvals; and~~

2           ~~(2) \$1,000,000.00 for one or more final approvals.~~

3           ~~(c) The Council may increase the cap imposed in subdivision (b)(2) of this~~  
4 ~~section by not more than \$500,000.00 upon application by the Governor to,~~  
5 ~~and approval of, the Joint Fiscal Committee.~~

6           ~~(d) In evaluating the Governor's request, the Committee shall consider the~~  
7 ~~economic and fiscal condition of the State, including recent revenue forecasts~~  
8 ~~and budget projections.~~

9           ~~(e) The Council shall provide the Committee with testimony,~~  
10 ~~documentation, company specific data, and any other information the~~  
11 ~~Committee requests to demonstrate that increasing the cap will create an~~  
12 ~~opportunity for return on investment to the State.~~

13           ~~(f) The purpose of the enhanced incentive for a business in a qualifying~~  
14 ~~labor market area is to increase job growth in economically disadvantaged~~  
15 ~~regions of the State, as provided in subsection (a) of this section. [Repealed.]~~

16       § 3335. ~~ENHANCED INCENTIVE FOR ENVIRONMENTAL~~  
17                           ~~TECHNOLOGY BUSINESS~~

18           ~~(a) As used in this section, an "environmental technology business" means a~~  
19 ~~business that:~~

20           ~~(1) is subject to income taxation in Vermont; and~~



1           ~~(2) seeks an incentive for economic activity in Vermont that the~~  
2           ~~Secretary of Commerce and Community Development certifies is primarily~~  
3           ~~research, design, engineering, development, or manufacturing related to one or~~  
4           ~~more of the following:~~

5                   ~~(A) waste management, including waste collection, treatment,~~  
6                   ~~disposal, reduction, recycling, and remediation;~~

7                   ~~(B) natural resource protection and management, including water and~~  
8                   ~~wastewater purification and treatment, air pollution control and prevention or~~  
9                   ~~remediation, soil and groundwater protection or remediation, and hazardous~~  
10                  ~~waste control or remediation;~~

11                  ~~(C) energy efficiency or conservation;~~

12                  ~~(D) clean energy, including solar, wind, wave, hydro, geothermal,~~  
13                  ~~hydrogen, fuel cells, waste to energy, or biomass.~~

14           ~~(b) The Council shall consider and administer an application from an~~  
15           ~~environmental technology business pursuant to the provisions of this~~  
16           ~~subchapter, except that:~~

17                   ~~(1) the business's potential share of new revenue growth shall be 90~~  
18           ~~percent; and~~

19                   ~~(2) to calculate qualifying payroll, the Council shall:~~

20                           ~~(A) determine the background growth rate in payroll for the~~  
21           ~~applicable business sector in the award year;~~





1 (b) The Council may increase the cap imposed in subdivision (a)(2) of this  
2 section by not more than \$5,000,000.00 upon application by the Governor to,  
3 and approval of, the Joint Fiscal Committee.

4 (c) In evaluating the Governor's request, the Committee shall consider the  
5 economic and fiscal condition of the State, including recent revenue forecasts  
6 and budget projections.

7 (d) The Council shall provide the Committee with testimony,  
8 documentation, company-specific data, and any other information the  
9 Committee requests to demonstrate that increasing the cap will create an  
10 opportunity for return on investment to the State.

11 (e) Notwithstanding any provision of this subchapter to the contrary, the  
12 Council shall not award any incentives during the six-month period following a  
13 January or July consensus revenue forecast if the State unemployment rate at  
14 the time of the forecast is five percent or lower.

15 Sec. 2. IMPLEMENTATION

16 (a) Subject to subsections (b) and (c) of this section, 32 V.S.A. §§ 3341 and  
17 3342, as amended in Sec. 1 of this act, apply to current and future participants  
18 in the Vermont Employment Growth Incentive Program.

19 (b) A business with an approved application may opt out of the amended  
20 reporting requirements in 32 V.S.A. §§ 3341 and 3342 and withdraw from  
21 future participation in the Program, except as otherwise provided in subsection

1       (c) of this section, by providing written notice of its intent to the Vermont  
2       Economic Progress Council on or before December 31, 2023.

3           (c) A business that provides notice pursuant to subsection (b) of this section  
4       is subject to and shall comply with the requirements of 32 V.S.A. chapter 105  
5       as it appeared prior to the effective date of this act for the remainder of its  
6       participation in the Program.

7       Sec. 3. EFFECTIVE DATE

8           This act shall take effect on July 1, 2023.