

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 10 entitled “An act relating to amending the
4 Vermont Employment Growth Incentive Program” respectfully reports that it
5 has considered the same and recommends that the Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 Sec. 1. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022
9 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72,
10 Sec. 39, is further amended to read:

11 Sec. H.12. ~~VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES~~

12 ~~Notwithstanding any provision of law to the contrary, the Vermont~~
13 ~~Economic Progress Council shall not accept or approve an application for a~~
14 ~~Vermont Employment Growth Incentive under 32 V.S.A. chapter 105,~~
15 ~~subchapter 2 on or after January 1, 2025. [Repealed.]~~

16 Sec. 2. 32 V.S.A. chapter 105 is amended to read:

17 CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE
18 PROGRAM

19 Subchapter 1. Vermont Economic Progress Council

20 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

21 * * *

1 (b) Membership.

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

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

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

12 ~~(C) one member of the Vermont Senate appointed by the Senate~~
13 ~~Committee on Committees~~

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
18 Committees.

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

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

4 (3) The Council shall provide not less than 30 days' notice of a vacancy
5 to the relevant appointing authority, which shall appoint a replacement not
6 later than 30 days after receiving notice.

7 (c) Terms.

8 (1) Members of the Council appointed by the Governor shall serve
9 initial staggered terms with ~~five~~ three members serving four-year terms, and
10 ~~four~~ two members serving two-year terms.

11 (2) After the initial term expires, a member's term is four years, and a
12 member may be reappointed.

13 (3) A term commences on April 1 of each odd-numbered year.

14 (d) Compensation.

15 (1) For attendance at a meeting and for other official duties, a member
16 appointed by the Governor shall be entitled to compensation for services and
17 reimbursement of expenses as provided in section 1010 of this title, except that
18 a member who is a member of the General Assembly shall be entitled to
19 compensation for services and reimbursement of expenses as provided in
20 2 V.S.A. § 23.

1 (2) A regional member who does not otherwise receive compensation
2 and reimbursement of expenses from ~~his or her~~ the member's regional
3 development or planning organization shall be entitled to compensation and
4 reimbursement of expenses for attendance at meetings and for other official
5 duties as provided in section 1010 of this title.

6 (e) Operation.

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

8 (2) The Council shall receive administrative support from the Agency of
9 Commerce and Community Development and the Department of Taxes.

10 (3) The Council shall have:

11 (A) an executive director appointed by the Governor with the advice
12 and consent of the Senate who is knowledgeable in subject areas of the
13 Council's jurisdiction and who is an exempt State employee; and

14 (B) administrative staff.

15 (4) The Council shall adopt and make publicly available a policy
16 governing conflicts of interest that meets or exceeds the requirements of the
17 State Code of Ethics and shall include:

18 (A) clear standards for when a member of the Council may
19 participate or must be recused when an actual or perceived conflict of interest
20 exists; and

1 (B) a provision that requires a witness who is an officer of the State
2 or its political subdivision or instrumentality to disclose a conflict of interest
3 related to an application.

4 (5) The Council shall not enter into executive session to discuss
5 applications or other matters pertaining to the Vermont Employment Growth
6 Incentive Program under subchapter 2 of this chapter unless the Executive
7 Branch State economist is present and has been provided all relevant materials
8 concerning the session.

9 * * *

10 § 3326. COST-BENEFIT MODEL

11 (a) The Council shall adopt and maintain a cost-benefit model for assessing
12 and measuring the projected net fiscal cost and benefit to the State of proposed
13 economic development activities.

14 (b) The Council shall not modify the cost-benefit model without the prior
15 approval of the Joint Fiscal Committee.

16 (c)(1) The Council shall **consult** with the Executive Branch State economist
17 to perform the cost-benefit analysis using the cost-benefit model when
18 considering an application for incentives under subchapter 2 of this chapter.

19 (2) The Executive Branch State economist shall consult with the Joint
20 Fiscal Office or its agent concerning the performance of the cost-benefit
21 analysis and the operation of the cost-benefit model for each application in

1 which the value of potential incentives an applicant may earn equals or
2 exceeds \$1,000,000.00.

3 § 3327. STRATEGIC PLANNING

4 (a) The Council shall engage in a strategic planning process to evaluate
5 current State-funded economic development incentive programs on a five-year
6 cycle. This strategic planning process shall include an examination of the
7 performance of current State-funded economic development incentive
8 programs and a determination as to whether changes are necessary to advance
9 workforce development or economic development systems in this State.

10 (b) Pursuant to the strategic planning process, the Council shall consult
11 with representatives of:

12 (1) regional development corporations;

13 (2) regional chambers of commerce; and

14 (3) business and development organizations identified by the Vermont
15 Sustainable Jobs Fund to be geographically and demographically diverse, in
16 reviewing and considering:

17 (A) the purpose and performance of current State-funded economic
18 development incentive programs; and

19 (B) appropriate incentives during low employment and during high
20 employment.

1 (c) Starting on December 1, 2026 and repeating every five years thereafter,
2 the Council shall submit a report to the House Committee on Commerce and
3 Economic Development and the Senate Committee on Economic
4 Development, Housing and General Affairs with its findings on its strategic
5 planning process and any recommendations for legislative action, including
6 whether and how any proposed program addition, revision, or other legislative
7 action would:

8 (1) integrate with and further advance the current workforce
9 development and economic development systems in this State; and

10 (2) advance the four principles of economic development articulated in
11 10 V.S.A. § 3.

12 * * *

13 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

14 ELIGIBLE APPLICANT

15 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
16 Program is to generate net new revenue to the State by ~~encouraging~~ providing
17 incentives to a business to add for adding new payroll, ~~create~~ new jobs, ~~and or~~
18 ~~make~~ new capital investments ~~and sharing a portion of the revenue with the~~
19 business it otherwise would not have without the incentive.

20 (b) Form of incentives; enhanced incentives.

1 (1) The Vermont Economic Progress Council may approve an incentive
2 under this subchapter in the form of a direct cash payment in annual
3 installments or in the form of a forgivable loan from the Vermont Economic
4 Development Authority.

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

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

9 (B) an enhanced incentive for an environmental technology business
10 pursuant to section 3335 of this title.

11 (C) [Repealed.]

12 (c) Eligible applicant. Only a business may apply for an incentive pursuant
13 to this subchapter.

14 § 3331. DEFINITIONS

15 As used in this subchapter:

16 (1) “Award period” means the consecutive five years during which a
17 business may apply for an incentive under this subchapter.

18 (2) “Base employment” means the number of full-time Vermont jobs
19 held by non-owner employees as of the date a business with an approved
20 application commences its proposed economic activity.

1 (3) “Base payroll” means the Vermont gross salaries and wages paid as
2 compensation to full-time Vermont jobs held by non-owner employees as of
3 the date a business with an approved application commences its proposed
4 economic activity.

5 (4) “Capital investment performance requirement” means the minimum
6 value of additional investment in one or more capital improvements.

7 (5) “Economically disadvantaged region” means a labor market area in
8 which:

9 (A) the average annual unemployment rate is greater than the average
10 annual unemployment rate for the State; or

11 (B) the average annual wage is less than the average annual wage for
12 the State.

13 (6) “Jobs performance requirement” means the minimum number of
14 qualifying jobs a business must add.

15 ~~(6)~~(7) “Labor market area” means a labor market area as designated by
16 the Vermont Department of Labor.

17 ~~(7)~~(8) “Non-owner” means a person with ~~no~~ not more than 10 percent
18 ownership interest, including attribution of ownership interests of the person’s
19 spouse, parents, spouse’s parents, siblings, and children.

20 ~~(8)~~(9) “Payroll performance requirement” means:

1 (A) ~~the~~ The minimum value of Vermont gross salaries and wages a
2 business must pay as compensation for one or more qualifying jobs.

3 (B) For purposes of the forgivable loan incentive, a qualifying
4 business that maintains at minimum the same number of full-time employees
5 on its payroll throughout the term of the loan agreement.

6 (10) “Qualifying business” shall only apply to forgivable loan applicants
7 and means a business that has 50 or fewer full-time employees.

8 ~~(9)~~(11) “Qualifying job” means a new, permanent position in Vermont
9 that meets each of the following criteria:

10 (A) The position is filled by a non-owner employee who regularly
11 works at least 35 hours each week.

12 (B) The business provides compensation for the position that equals
13 or exceeds the wage threshold.

14 (C) The business provides for the position at least three of the
15 following:

16 (i) health care benefits with 50 percent or more of the premium
17 paid by the business;

18 (ii) dental assistance;

19 (iii) paid vacation;

20 (iv) paid holidays;

21 (v) child care;

- 1 (vi) other extraordinary employee benefits;
- 2 (vii) retirement benefits; and
- 3 (viii) other paid time off, excluding paid sick days.

4 (D) The position is not an existing position that the business transfers
5 from another facility within the State.

6 (E) When the position is added to base employment, the business’s
7 total employment exceeds its average annual employment during the two
8 preceding years, unless the Council determines that the business is establishing
9 a significantly different, new line of business and creating new jobs in the new
10 line of business that were not part of the business prior to filing its application.

11 ~~(10)~~(12) “Utilization period” means each year of the award period and
12 the ~~four~~ two years immediately following each year of the award period.

13 ~~(11)~~(13) “Vermont gross wages and salaries” means Medicare wages as
14 reported on Federal Tax Form W-2 to the extent those wages are Vermont
15 wages, excluding income from nonstatutory stock options.

16 ~~(12)~~(14) “Wage threshold” means the minimum amount of annualized
17 Vermont gross wages and salaries a business must pay for a qualifying job, as
18 required by the Council in its discretion, but not less than:

19 (A) 60 percent above the State minimum wage at the time of
20 application; or

1 (B) for a business located in a labor market area in which the average
2 annual unemployment rate is higher than the average annual unemployment
3 rate for the State, 40 percent above the State minimum wage at the time of
4 application.

5 § 3332. APPLICATION; APPROVAL CRITERIA

6 (a) Application.

7 (1) A business may apply for:

8 (A) ~~an~~ a direct-cash payment incentive in one or more years of an
9 award period by submitting an application to the Council in the format the
10 Council specifies for that purpose; or

11 (B) a forgivable loan incentive from the Vermont Economic
12 Development Authority by submitting an application to the Council in the
13 format the Council specifies, provided it is a qualifying business as defined in
14 subdivision 3331(10) of this title.

15 (2) For each award year the business applies for ~~an~~ a direct-cash
16 payment incentive, the business shall:

17 (A) specify a payroll performance requirement;

18 (B) specify a jobs performance requirement or a capital investment
19 performance requirement, or both; and

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

1 (3) In a forgivable loan incentive application, the business shall be
2 required to:

3 (A) specify a payroll performance requirement;

4 (B) specify a jobs performance requirement or a capital investment
5 performance requirement, or both; and

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

8 (b) Mandatory criteria. The Council shall not approve an application for
9 the Vermont Employment Growth Incentive program or the forgivable loan
10 incentive unless it finds:

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

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

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

18 (A) the business is not a named party to an administrative order,
19 consent decree, or judicial order issued by the State or a subdivision of the
20 State, or if a named party, that the business is in compliance with the terms of
21 such an order or decree;

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

2 (C) the proposed economic activity would conform to applicable

3 town and regional plans and with applicable State laws and rules.

4 (4) If the business proposes to expand within a limited local market, an

5 incentive would not give the business an unfair competitive advantage over

6 other Vermont businesses in the same or similar line of business and in the

7 same limited local market.

8 (5) But for the incentive, the proposed economic activity:

9 (A) would not occur; or

10 (B) would occur in a significantly different manner that is

11 significantly less desirable to the State.

12 (c) Forgivable loan incentive.

13 (1) Vermont Economic Development Authority, in coordination with the

14 Council, and in accordance with the approval criteria set forth this section,

15 shall have the authority to review and approve an application for a forgivable

16 loan incentive for a qualifying business.

17 (2) The Vermont Economic Development Authority shall provide the

18 underwriting and loan decision for an eligible application.

19 (3) The Vermont Economic Development Authority shall establish loan

20 loss reserves, which shall be supported by funds appropriated by the General

21 Assembly for this purpose.

1 (4) A business denied a forgivable loan incentive may apply for other
2 incentives administered by the Council pursuant to this subchapter.

3 (d) A qualifying business is not eligible for a forgivable loan incentive if it
4 has another incentive pending pursuant to this subchapter.

5 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

6 (a) Except as otherwise provided for an enhanced incentive for a business
7 in a qualifying labor market area under section 3334 of this title ~~or~~, an
8 enhanced incentive for an environmental technology business under section
9 3335 of this title, or a forgivable loan pursuant to subsection 3332(c) of this
10 title and subsection (b) of this section, the Council shall calculate the value of
11 ~~an~~ a direct-cash payment incentive for an award year as follows:

12 (1) Calculate ~~new~~ revenue ~~growth~~ benefit. To calculate ~~new~~ revenue
13 ~~growth~~ benefit, the Council shall use ~~the~~ a cost-benefit model created pursuant
14 to section 3326 of this title to determine the amount by which the ~~new~~ revenue
15 benefit generated by the proposed economic activity to the State exceeds the
16 costs of the activity to the State.

17 (2) Calculate the business's potential share of ~~new~~ revenue ~~growth~~
18 benefit. Except as otherwise provided for an environmental technology
19 business in section 3335 of this title, to calculate the business's potential share
20 of ~~new~~ revenue ~~growth~~ benefit, the Council shall multiply the ~~new~~ revenue

1 ~~growth~~ benefit determined under subdivision (1) of this subsection by
2 80 percent.

3 (3) Calculate the incentive percentage. To calculate the incentive
4 percentage, the Council shall divide the business's potential share of ~~new~~
5 revenue ~~growth~~ benefit by the sum of the business's annual payroll
6 performance requirements.

7 (4) Calculate qualifying payroll. To calculate qualifying payroll, the
8 Council shall subtract from the payroll performance requirement the projected
9 value of background growth in payroll for the proposed economic activity.

10 (5) Calculate the value of the incentive. To calculate the value of the
11 incentive, the Council shall multiply qualifying payroll by the incentive
12 percentage.

13 (6) Calculate the amount of the annual installment payments. To
14 calculate the amount of the annual installment payments, the Council shall:

15 (A) divide the value of the incentive by ~~five~~ three; and

16 (B) adjust the value of the first installment payment so that it is
17 proportional to the actual number of days that new qualifying employees are
18 employed in the first year of hire.

19 (b) Forgivable loan incentive program; loan amount and terms.

20 (1) To determine the dollar amount for a forgivable loan incentive, the
21 Council shall:

1 (A) multiply the number of full-time employees of a qualifying
2 business by a maximum of \$5,000.00, with a maximum total award of
3 \$200,000.00; and

4 (B) take the lesser of 20 percent of total capital investments made by
5 the qualifying business or \$500,000.00.

6 (2) A qualifying business that is approved for a forgivable loan incentive
7 and receives the loan funds shall make monthly interest payments on the loan
8 at a rate determined by the Vermont Economic Development Authority during
9 the loan term and pursuant to the loan agreement.

10 (3) The Department of Taxes shall verify the total amount of increase
11 from base payroll and full-time employee count of the qualifying business
12 during the loan term.

13 (4) The Vermont Economic Development Authority shall verify the total
14 amount of capital investment during the loan term.

15 (5) The Department of Taxes shall not approve the forgiveness of a loan
16 to a qualifying business pursuant to this subchapter unless it finds that:

17 (A) at the end of the loan term, the Vermont Economic Development
18 Authority has verified that the qualifying business has made the required
19 amount, if any, of capital investment agreed in the loan agreement; and

1 Development Authority in an amount and manner established in the loan
2 agreement.

3 (d) Tax liability.

4 (1) A person who has the duty and authority to remit taxes under this
5 title shall be personally liable for an installment payment that is subject to
6 recapture under this section.

7 (2) For purposes of this section, the Department of Taxes may use any
8 enforcement or collection action available for taxes owed pursuant to chapter
9 151 of this title.

10 § 3340. REPORTING

11 (a) On or before September 1 of each year, the Vermont Economic
12 Progress Council and the Department of Taxes shall submit a joint report on
13 the incentives authorized in this subchapter to the House Committees on Ways
14 and Means, on Commerce and Economic Development, and on
15 Appropriations, to the Senate Committees on Finance, on Economic
16 Development, Housing and General Affairs, and on Appropriations, and to the
17 Joint Fiscal Committee.

18 (b) The Council and the Department shall include in the joint report:

19 (1) the total amount of incentives authorized during the preceding year
20 and the amount per business;

21 (2) with respect to each business with an approved application:

1 (A) the date and amount of authorization;

2 (B) the calendar year or years in which the authorization is expected
3 to be exercised;

4 (C) whether the authorization is active; ~~and~~

5 (D) the date the authorization will expire; ~~and~~

6 (E) the aggregate number of new qualifying jobs anticipated to be
7 created;

8 (F) Vermont gross wages and salaries for new qualifying jobs, sorted
9 by groups in \$25,000.00 increments;

10 (G) the aggregate amount of new full-time payroll anticipated to be
11 created; and

12 (H) NAICS code; and

13 (3) the following aggregate information for claims processed:

14 (A) the number of claims and incentive payments made in the current
15 and prior claim years;

16 (B) the number of qualifying jobs for each approved claim; and

17 (C) the amount of new payroll and capital investment for each
18 approved claim.

19 (c)(1) The Council and the Department shall present data and information
20 in the joint report in a searchable format.

1 (2) Notwithstanding a provision of this section to the contrary, when
2 reporting data and information pursuant to this section, the Council and
3 Department shall take steps necessary to avoid disclosing any information that
4 would enable the identification of an individual employee or the employee’s
5 compensation.

6 (d) Notwithstanding any provision of law to the contrary, an incentive
7 awarded pursuant to this subchapter shall be treated as a tax expenditure for
8 purposes of chapter 5 of this title.

9 § 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS

10 INFORMATION

11 (a) The Vermont Economic Progress Council and the Department of Taxes
12 shall use measures to protect proprietary financial information, including
13 reporting information in an aggregate form.

14 (b) Information and materials submitted by a business concerning its
15 application, income taxes, and other confidential financial information shall
16 not be subject to public disclosure under the State’s public records law in
17 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent
18 upon authorization of the Joint Fiscal Committee or a standing committee of
19 the General Assembly, and shall also be available to the Auditor of Accounts
20 in connection with the performance of duties under section 163 of this title;
21 provided, however, that the Joint Fiscal Office or its agent and the Auditor of

1 Accounts shall not disclose, directly or indirectly, to any person any
2 proprietary business information or any information that would identify a
3 business except in accordance with a judicial order or as otherwise specifically
4 provided by law.

5 (c) Nothing in this section shall be construed to prohibit the publication of
6 statistical information, rulings, determinations, reports, opinions, policies, or
7 other information ~~so long as,~~ provided the data are disclosed in a form that
8 cannot identify or be associated with a particular business.

9 * * *

10 Sec. 3. ONE-TIME APPROPRIATION FOR FORGIVABLE LOAN;
11 ELIGIBILITY IN FY 2025

12 (a) Appropriation. In fiscal year 2025, the General Assembly shall
13 appropriate \$350,000.00 from the General Fund to the Vermont Economic
14 Development Authority for the purpose of supporting the forgivable loan track
15 program created in this act.

16 (b) Eligibility. For fiscal year 2025, only businesses in the State that
17 suffered losses due to 2023 flooding events are eligible for the forgivable loan
18 track program created in this act. Losses include the following and shall be
19 confirmed by the Vermont Economic Progress Council:

20 (1) physical or structural damages from flooding;

21 (2) lost revenue of businesses;

1 (3) lost wages of employees of businesses;

2 (4) lost inventory and new supplies;

3 (5) damaged equipment; and

4 (6) other administrative or operating expenses.

5 Sec. 4. VEPC MEMBERSHIP TRANSITION PERIOD

6 (a) A member of the Council on June 30, 2024 shall cease being a member
7 of the Council on July 1, 2024 but may be reappointed by an appointing
8 authority.

9 (b) An appointing authority for the Vermont Economic Progress Council
10 pursuant to 32 V.S.A. § 3325(b) shall make all appointments as required to the
11 Council on or before August 1, 2024.

12 (c) The Governor shall appoint a chair of the Council pursuant to 32 V.S.A.
13 § 3325(e) on or before August 15, 2024.

14 Sec. 5. EFFECTIVE DATE

15 This act shall take effect on July 1, 2024.

16

17 (Committee vote: _____)

18

19

Senator _____

20

FOR THE COMMITTEE