

1 H.723

2 Introduced by Representative Nease of Johnson

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; corporate transparency

6 Statement of purpose: This bill proposes to strengthen corporate transparency
7 and reporting requirements for businesses receiving economic development
8 subsidies from the state.

9 An act relating to corporate transparency in the state budget

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

11 Sec. 1. FINDINGS AND PURPOSE

12 (a) The general assembly finds that, although the state and its local
13 government units have granted numerous economic development subsidies,
14 awarded several public contracts, and distributed enormous tax breaks in the
15 last 25 years, the real wage levels and health care coverage of working families
16 have declined.

17 (b) The general assembly further finds that some programs providing
18 economic development subsidies lack measurable job creation goals, and in
19 some cases, businesses have closed, relocated, or outsourced facilities or jobs
20 for which subsidies were provided to sites outside the state.

1 (c) The general assembly further finds that some contractors do not fulfill
2 intended savings goals, which places a great burden on taxpayers.

3 (d) The general assembly further finds that citizen participation in
4 economic development and the contracting process has been impeded by a lack
5 of readily accessible information regarding expenditures and outcomes.

6 (e) The general assembly further finds that data collected by the federal
7 government indicate that state corporate income taxes represent a declining
8 share of state tax revenue, and that the effective rate at which states are taxing
9 corporate profits has fallen sharply in recent decades. Numerous state studies
10 have found that a majority of corporations filing income tax returns have zero
11 liability, even in years in which the economy is growing and corporate profits
12 are healthy.

13 (f) The general assembly further finds that research conducted by leading
14 academics suggests that the causes of state corporate tax base erosion include
15 such factors as greater corporate aggressiveness and sophistication in
16 exploiting loopholes and structural weaknesses in state corporate income tax
17 laws, state conformity to federal tax law changes that reduced state corporate
18 tax revenues as well, the enactment of tax cuts and special credits aimed
19 stimulating in-state job creation and other desired corporate behavior, and
20 corporate implementation of federal corporate income tax shelters that also
21 reduce state corporate tax payments.

1 (g) The general assembly further finds data extracted from state corporate
2 income tax returns and then published in an aggregated form that averages
3 results for corporations falling within certain income or asset-size categories
4 are extremely limited in their capacity to illuminate the source of state
5 corporate income tax base erosion. Such data do not, for example, permit an
6 examination of whether corporations that reported losses on their state income
7 tax returns reported profits to their shareholders in the same year.

8 (h) The general assembly further finds to determine whether Vermont's
9 corporate income tax is structured in such a way as to ensure that all
10 corporations doing business here are paying their fair share and whether tax
11 incentives enacted to encourage corporations to invest and create jobs here are
12 effective, it is necessary to begin requiring corporations to publicly disclose the
13 amount of corporate income tax they pay, the amount of economic
14 development tax incentives they receive, the number of employees they have
15 in this state, and additional, limited information drawn from their tax returns
16 needed to understand the major factors that determine their corporate income
17 tax liability.

18 (i) Therefore, in order to augment the effectiveness of expenditures for
19 economic development and ensure the state is achieving savings when using
20 contractors, and improve the social, economic, and fiscal outcomes for
21 taxpayers and working families in this state, the general assembly finds it

1 necessary to collect, analyze, and make publicly available information
2 regarding those expenditures and to enact certain safeguards for their use.
3 Furthermore, by providing concrete, real-world examples of the operation of
4 Vermont's corporate income tax, such company-specific disclosure will
5 facilitate both understanding of and interest in critical corporate tax policy
6 issues that confront Vermont on the part of policymakers and interested
7 citizens alike.

8 Sec. 2. REPEAL

9 10 V.S.A. § 7 (economic development assistance reporting) is repealed.

10 Sec. 3. 10 V.S.A. chapter 2 is added to read:

11 CHAPTER 2. CORPORATE TRANSPARENCY

12 IN THE STATE BUDGET

13 § 17. DEFINITIONS

14 As used in this chapter:

15 (1) "Consulting services" means work that a person other than a regular
16 employee of a state contracting agency or local contracting agency does for or
17 on behalf of the agency in return for compensation provided under the terms of
18 a public contract. The work may include:

19 (A) Performing or providing research, analysis, assessments, data
20 processing or computer programming, training or education, accounting, audits
21 or evaluations, treatment, or security;

1 (B) Giving professional advice or recommendations;

2 (C) Designing business or communications processes, procedures,
3 methods, or strategies; or

4 (D) Other work related to the functions of the state contracting
5 agency or local contracting agency.

6 (2) "Contract" means any expenditure of public funds of at least
7 \$25,000.00 for the purpose of establishing an agreement and outlining a
8 transaction between an entity and a government body to perform a specific
9 service for compensation.

10 (3) "Contracting agency" means any agency of the state or a local
11 government unit that awards contracts.

12 (4) "Contractor" means any person other than a regular employee of a
13 state contracting agency or local contracting agency who performs work for or
14 on behalf of the agency in return for compensation provided under the terms of
15 a public contract

16 (5) "Corporate parent" means any person, association, corporation, joint
17 venture, partnership, or other entity that owns or controls 50 percent or more of
18 a recipient corporation.

19 (6) "Corporation" means any entity subject to the tax levied by
20 32 V.S.A. § 5832 or by Section 11 of the Internal Revenue Code of 1986 as
21 amended, except that "qualified personal service corporations," as defined in

1 section 448 of the Internal Revenue Code of 1986, as amended, shall be
2 exempt from this chapter.

3 (7) “Date of subsidy” means the date that a granting body provides the
4 initial monetary value of a development subsidy to a recipient corporation;
5 provided, however, that where the subsidy is for the installation of new
6 equipment, such date shall be the date the corporation puts the equipment into
7 service and provided, further, that where the subsidy is for improvements to
8 property, such date shall be the date the improvements are finished or the date
9 the corporation occupies the property, whichever is earlier.

10 (8) “Development subsidy” means any expenditure of public funds with
11 a value of at least \$25,000.00 for the purpose of stimulating economic
12 development within the state, including bonds, grants, loans, loan guarantees,
13 enterprise zones, empowerment zones, tax increment financing, grants, fee
14 waivers, land price subsidies, matching funds, tax abatements, tax exemptions,
15 and tax credits.

16 (9) “Doing business in this state” means owning or renting real or
17 tangible personal property physically located in this state; having employees,
18 agents, or representatives acting on the corporation’s behalf in this state;
19 making sales of tangible personal property to purchasers that take possession
20 of such property in this state; performing services for customers located in this
21 state; performing services in this state; earning income from intangible

1 property that has a business sites in this state; engaging in regular and
2 systematic solicitation of sales in this state; being a partner in a partnership
3 engaged in any of the preceding activities in this state; or being a member of a
4 limited liability company engaged in any of the preceding activities in this
5 state.

6 (10) “Full-time job” means a job in which an individual is employed by
7 a recipient corporation for at least 35 hours per week.

8 (11) “Granting body” means any agency, board, office, public benefit
9 corporation, or authority of the state or a local government unit that provides a
10 development subsidy.

11 (12) “Local government unit” means an agency, board, commission,
12 office, public benefit corporation, or public authority of a political subdivision
13 of the state.

14 (13) “Part-time job” means a job in which an individual is employed by
15 a recipient corporation for less than 35 hours per week.

16 (14) “Project site” means the site of a project for which any
17 development subsidy is provided.

18 (15) “Property-taxing entity” means any entity which levies taxes upon
19 real or personal property.

20 (16) “Recipient contractor” means any person, association, corporation,
21 joint venture, partnership, or other entity that is awarded a contract bid.

1 (17) “Recipient corporation” means any person, association,
2 corporation, joint venture, partnership, or other entity that receives a
3 development subsidy.

4 (18) “Small business” means a corporation whose corporate parent and
5 all subsidiaries thereof employed fewer than 20 full-time employees or had
6 total gross receipts of less than \$1 million during the calendar year.

7 (19) “State” means an agency, board, commission, office, public benefit
8 corporation, or public benefit authority of the state.

9 (20) “Subsidy value” means the face value of any and all development
10 subsidies provided to a recipient corporation.

11 (21) “Tax expenditure” means a statutory provision, however
12 denominated, that exempts certain persons, property, goods, or services, in
13 whole or in part, from the operation of a tax.

14 (22) “Tax expenditure budget” means a compilation of information
15 about the state’s tax expenditures that includes data from the previous, current,
16 and upcoming fiscal years.

17 (23) “Temporary job” means a job in which an individual is hired for a
18 season or for a limited period of time.

19 § 18. APPLICANT AND RECIPIENT CORPORATION REPORTING

20 (a)(1) Application for economic development subsidies. Each granting
21 body, together with the applicant for a development subsidy, shall complete an

1 application for the subsidy on a form prepared by the department of finance
2 and management. In addition to any information required by any other statute,
3 the information required on the application shall include the following:

4 (A) An application tracking number for the granting agency and the
5 project;

6 (B) The name, street and mailing address, and telephone number of
7 the chief officer of the granting body;

8 (C) The name, street and mailing address, and telephone number of
9 the chief officer of the applicant's corporate parent;

10 (D) The name, street and mailing address, and telephone number of
11 the chief officer of the applicant;

12 (E) The name, street and mailing address, and telephone number of
13 the granting agency official responsible for monitoring the subsidy;

14 (F) The street address of the project site;

15 (G) The name, type, and description of the economic development
16 subsidy;

17 (H) The three-digit North American Industry Classification System
18 number of the project site;

19 (I) The total number of individuals employed by the applicant at the
20 project site on the date of the application, broken down by full-time, part-time,
21 and temporary positions;

1 (J) The total number of individuals employed in the state by the
2 applicant's corporate parent and all subsidiaries thereof as of December 31 of
3 the prior fiscal year, broken down by full-time, part-time, and temporary
4 positions;

5 (K) The development subsidy or subsidies being applied for with the
6 granting body, and the value of such subsidy or subsidies; the name of any
7 other granting body from which development subsidies are sought or obtained;
8 and the aggregate value of all development subsidies requested or received
9 from all sources;

10 (L) The number of new jobs to be created by the applicant at the
11 project site, broken down by full-time, part-time, and temporary positions;

12 (M) The average hourly wage to be paid to all current and new
13 employees at the project site, broken down by full-time, part-time, and
14 temporary positions, and further broken down by wage groups as follows:
15 \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to
16 \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to
17 \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and
18 \$14.01 or more per hour;

19 (N) The type and amount of health care coverage to be provided by
20 the applicant within 90 days of commencement of employment at the project
21 site, including any costs to be borne by the employees;

1 (O) The number of current employees provided health benefits;

2 (P) The number of current employees and anticipated new employees
3 represented by a collective bargaining;

4 (Q) For project sites located in a Metropolitan Statistical Area, as
5 defined by the federal Office of Management and Budget, the average hourly
6 wage paid to nonmanagerial employees in the state for the industries involved
7 at the project, as established by the United States Bureau of Labor Statistics;

8 (R) For project sites located outside Metropolitan Statistical Areas,
9 the average weekly wage paid to nonmanagerial employees in the county for
10 industries involved at the project, as established by the United States
11 Department of Commerce;

12 (S) Whether or not the project will be LEED-certified and if so,
13 provide the rating;

14 (T) The start and end dates for the economic development subsidy;

15 (U) The project site's proximity to mass transit, a regional rail line, or
16 a major highway off-ramp;

17 (V) A statement as to whether the development subsidy may reduce
18 employment at any other site controlled by the applicant or its corporate
19 parent, within or outside the state, resulting from automation, merger,
20 acquisition, corporate restructuring, or other business activity;

1 (W) A statement confirming the subsidy applicant's past legal
2 compliance, including minimum wage, employee rights, and affirmative action
3 laws;

4 (X) A statement as to whether the project involves the relocation of
5 work from another address and if so, the number of jobs to be relocated and the
6 address from which they are to be;

7 (Y) The projected net tax revenue accruing to the local agency as a
8 result of the economic development subsidy;

9 (Z) Inclusion of any material documents, such as insurance policies,
10 rating agency reports, or other pertinent documents, that are necessary to
11 ensure the subsidy is reasonably crafted and geared toward its public interest
12 within a co-financed or leveraged project;

13 (AA) Projected subsidy value; and

14 (BB) A certification by the chief officer of the applicant as to the
15 accuracy of the application.

16 (2) If the granting body shall approve the application, it shall send a
17 copy to the department of finance and management within 15 days of such
18 approval. If the application is not approved, the granting body shall retain the
19 application in its records.

20 (3) Before granting an economic development subsidy, each local
21 agency shall provide public notice and a hearing regarding the economic

1 development subsidy. A public hearing and notice under this subdivision is
2 not required if a hearing and notice regarding the economic development
3 subsidy is otherwise required by law.

4 (b)(1) Application for contract bid. Each contracting agency, together with
5 the applicant for a contract bid, shall complete an application for the contract
6 on a form prepared by the department of finance and management. In addition
7 to any information required by any other statute, the information required on
8 the application shall include the following:

9 (A) An application tracking number for the contracting agency and
10 the contract;

11 (B) The name, street and mailing address, and telephone number of
12 the chief officer of the contracting agency;

13 (C) The name, street and mailing address, and telephone number of
14 the chief officer of the applicant's corporate parent;

15 (D) The name, street and mailing address, and telephone number of
16 the chief officer of the applicant;

17 (E) The name, street and mailing address, and the employer and
18 employment category or job description of each person that will provide
19 consulting services under the contract, including subcontractors.

20 (F) The name, street and mailing address, and telephone number of
21 the contracting agency official responsible for monitoring the contract;

1 (G) The three-digit North American Industry Classification System
2 number of the entity applying for a bid;

3 (H) The type of service required by contract;

4 (I) The total number of individuals employed by the applicant on the
5 date of the application, broken down by full-time, part-time, and temporary
6 positions;

7 (J) The total number of individuals employed in the state by the
8 applicant's corporate parent and all subsidiaries thereof as of December 31 of
9 the prior fiscal year, broken down by full-time, part-time and temporary
10 positions;

11 (K) The bids being applied for with the contracting agency, and the
12 value of such contract or contracts; the name of any other contracting agencies
13 from which bids are sought or obtained; and the aggregate value of all bids
14 requested or received from all sources;

15 (L) The number of contractors or subcontractors needed to perform
16 required services, broken down by full-time, part-time, and temporary
17 positions;

18 (M) The types of services the contractor, subcontractor, and any
19 contract employees provide;

20 (N) The average hourly wage to be paid to each contractor,
21 subcontractor, and contract employee, broken down by full-time, part-time,

1 and temporary positions, and further broken down by wage groups as follows:
2 \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to
3 \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to
4 \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and
5 \$14.01 or more per hour;

6 (O) The number of hours each person, including each subcontractor
7 and contract employees, is expected to work in providing consulting services
8 to the agency under the terms of the contract;

9 (P) The total compensation of each contractor and subcontractor;

10 (Q) The type and amount of health care coverage to be provided by
11 the applicant within 90 days of commencement of the contract, including any
12 costs to be borne by the employees;

13 (R) The number of contractors or subcontractors associated with the
14 contract represented by a collective bargaining;

15 (S) For applicants based in a Metropolitan Statistical Area, as defined
16 by the federal Office of Management and Budget, the average hourly wage
17 paid to nonmanagerial employees in the state for the industries involved at the
18 project, as established by the United States Bureau of Labor Statistics;

19 (T) For applicants based outside Metropolitan Statistical Areas, the
20 average weekly wage paid to nonmanagerial employees in the county for

1 industries involved at the project, as established by the United States

2 Department of Commerce;

3 (U) The start and end dates for the contract;

4 (V) A statement confirming the applicant's past legal compliance,
5 including minimum wage, employee rights, and affirmative action laws;

6 (W) Projected savings accruing to the contracting agency;

7 (X) Projected total cost of contract;

8 (Y) A certification by the chief officer of the applicant as to the
9 accuracy of the application.

10 (2) If the contracting agency shall approve the contract bid, it shall send
11 a copy to the department of finance and management within 15 days of such
12 approval. If the application is not approved, the granting body shall retain the
13 application in its records.

14 (3) Before approving a contract bid, each contracting agency shall
15 provide public notice and a hearing regarding the contract bid. A public
16 hearing and notice under this subdivision is not required if a hearing and notice
17 regarding the contract bid is otherwise required by law.

18 § 19. REPORTS ON SUBSIDIES AND CONTRACTS

19 (a)(1) Establishment of measurable standards. Before entering into a
20 public contract, a contracting agency shall establish measurable standards for
21 assessing the quality of the goods or services, personal services, personal

1 property, public improvements or public works, alterations, repairs, or
2 maintenance that a contractor will provide or perform under the contract. The
3 contracting agency may develop the quality standards applicable to the public
4 contract in cooperation with or as a result of negotiations with the contractor to
5 which the contracting agency has awarded the public contract. Unless the
6 contracting agency for good cause specifies otherwise, the quality standards
7 may not be less than the highest standards prevalent in the industry or business
8 most closely involved in providing the appropriate goods or services, personal
9 services, personal property, public improvements, public works, alterations,
10 repairs, or maintenance.

11 (2) If a contracting agency performs a cost analysis before a
12 procurement for goods or services with an estimated contract price that
13 exceeds \$25,000.00, that analysis shall be subject to disclosure under
14 subchapter 3 of chapter 5 of Title 1. The contracting agency shall provide a
15 comparison of the findings of the cost analysis with the actual cost of the
16 contract in its annual and biannual reports described in subsection (c) of this
17 section.

18 (b) Report on economic development subsidies.

19 (1) Annual reports.

20 (A) Each granting body, together with the recipient of the subsidy,
21 shall complete a report for the subsidy on a form prepared by the department of

1 finance and management no later than 30 days after the start of the fiscal year.

2 The report shall include the following information:

3 (i) The application tracking number;

4 (ii) The name, street and mailing addresses, telephone number,
5 and chief officer of the granting body;

6 (iii) The name, street and mailing addresses, telephone number,
7 and chief officer of the recipient corporation;

8 (iv) The name, street and mailing address, and telephone number
9 of the contracting agency official responsible for monitoring the subsidy;

10 (v) A summary of the number of jobs required, created, and lost,
11 broken down by full-time, part-time, and temporary positions;

12 (vi) The name, type, and description of the economic development
13 subsidy;

14 (vii) The average hourly wage to be paid to all current and new
15 employees at the project site, broken down by full-time, part-time, and
16 temporary positions, and further broken down by wage groups as follows:

17 \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to

18 \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to

19 \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and

20 \$14.01 or more per hour;

21 (viii) Location of employees by zip code;

- 1 (ix) The type and amount of health care coverage provided to the
2 employees at the project site, including any costs borne by the employees;
- 3 (x) The number of current employees represented by collective
4 bargaining;
- 5 (xi) Whether the project will be LEED-certified and if so, provide
6 the rating;
- 7 (xii) The start and end dates and schedule for the economic
8 development subsidy;
- 9 (xiii) The project site's proximity to mass transit, a regional rail
10 line, or a major highway off-ramp;
- 11 (xiv) The comparison of the total employment in the state by the
12 recipient's corporate parent on the date of the application and the date of the
13 report, broken down by full-time, part-time, and temporary positions;
- 14 (xv) A statement as to whether the use of the development subsidy
15 during the previous fiscal year has reduced employment at any other site
16 controlled by the recipient corporation or its corporate parent, within or outside
17 the state as a result of automation, merger, acquisition, corporate restructuring,
18 or other business activity;
- 19 (xvi) A statement as to whether any affordable housing has been
20 displaced by the project;

1 (xvii) A statement as to whether the project has involved the
2 relocation of work from another address and if so, the number of jobs relocated
3 and the address from which they were;

4 (xviii) Identification of all sources of public and private financing
5 in relation to the project;

6 (xix) Inclusion of any cost analysis or feasibility study that may
7 have been conducted by the state or granting agency before the subsidy was
8 awarded;

9 (xx) Inclusion of any material documents, such as insurance
10 policies, rating agency reports, or other pertinent documents, that are necessary
11 to ensure the subsidy is reasonably crafted and geared toward its public interest
12 within a cofinanced or leveraged project;

13 (xxi) The net tax revenue accruing to the local agency as a result
14 of the economic development subsidy;

15 (xxii) Total subsidy value;

16 (xxiii) Record action, if any, the granting agency has taken against
17 potential noncompliance;

18 (xxiv) A signed certification by the chief officer of the recipient
19 corporation as to the accuracy of the progress report.

20 (B) The granting body will then compile the data specified in
21 subdivision (1)(A) of this subsection and file a progress report with the

1 department of finance and management for each project for which a
2 development subsidy has been granted no later than 60 days after the start of
3 the fiscal year.

4 (C) On all subsequent annual progress reports, the granting body
5 shall indicate whether the recipient corporation is still in compliance with its
6 job creation, wage and benefit goals, and whether the corporate parent is still in
7 compliance with its state employment requirement.

8 (D) Granting bodies and recipient corporations shall file annual
9 progress reports for the duration of the subsidy or not less than five years,
10 whichever period is greater.

11 (2) Two-year report.

12 (A) No later than 15 days after the second anniversary of the date of
13 subsidy, the granting body shall file with the department of finance and
14 management a two-year progress report, including the same information as
15 required under subdivision (1)(A) of this subsection. The recipient corporation
16 shall certify as to the accuracy of such report.

17 (B) The granting body shall state in the two-year report whether the
18 recipient corporation has achieved its job creation, wage and benefit goals, and
19 whether the corporate parent has maintained 90 percent of its employment in
20 the state.

1 (3) The department of finance and management shall compile and
2 publish all data from the progress reports in both written and electronic form,
3 including the department's website. The department's website shall provide an
4 easily accessible, searchable database of the specified data.

5 (4) The local agency shall provide a final report at the conclusion of
6 each economic development subsidy that shall contain the information
7 described in subdivision (1)(A) of this subsection, in written form available to
8 the public, and through its website. The local agency's website shall provide
9 an easily accessible, searchable database of the specified data.

10 (5) The granting body and the department of finance and management
11 shall have access at all reasonable times to the project site and the records of
12 the recipient corporation in order to monitor the project and to prepare progress
13 reports.

14 (6) A recipient corporation that fails to provide the granting body with
15 the information or access required under this section shall be subject to a fine
16 of not less than \$500.00 per day if they have not provided the agency with
17 necessary information 30 days after the start of each fiscal year.

18 (c) Report on contracts.

19 (1) Annual reports.

20 (A) Each contracting agency, together with the contract recipient,
21 shall complete a report for the contract on a form prepared by the department

1 of finance and management no later than 30 days after the start of the fiscal
2 year. The report shall include the following information:

3 (i) An application tracking number for the contracting agency for
4 the service;

5 (ii) The name, street and mailing address, and telephone number
6 of the chief officer of the contracting agency;

7 (iii) The name, street and mailing address, and telephone number
8 of the chief officer of the applicant's corporate parent;

9 (iv) The name, street and mailing address, and telephone number
10 of the chief officer of the applicant;

11 (v) The name, street and mailing address, employer, and
12 employment category or job description of each person that provided
13 consulting services under the contract, including subcontractors;

14 (vi) The name, street and mailing address, and telephone number
15 of the contracting agency official responsible for monitoring the contract;

16 (vii) The three-digit North American Industry Classification
17 System number of the entity applying for a bid;

18 (viii) The procedure the agency used to solicit and award the
19 contract. The record should note whether the procedure involved competitive
20 bidding or competitive proposals and summarize the extent to which the

1 procedure sought to solicit and succeeded in soliciting bids or proposals from
2 minorities, women, or emerging small businesses;

3 (ix) Type of service required by contract;

4 (x) The total number of individuals employed by the applicant on
5 the date of the application and the date of the report, broken down by full-time,
6 part-time, and temporary positions;

7 (xi) The total number of individuals employed in the state by the
8 applicant's corporate parent, and all subsidiaries thereof, as of December 31 of
9 the prior fiscal year, broken down by full-time, part-time, and temporary
10 positions;

11 (xii) The bids applied for with the contracting agency, and the
12 value of such contract or contracts; the name of any other contracting agencies
13 from which bids were sought or obtained, and the aggregate value of all bids
14 requested or received from all sources;

15 (xiii) The number of contractors, subcontractors, and contract
16 employees who performed required services, broken down by full-time,
17 part-time, and temporary positions;

18 (xiv) The types of services the contractor, subcontractor, and any
19 contract employees provide;

20 (xv) The average hourly wage paid to each contractor,
21 subcontractor, and contract employee, broken down by full-time, part-time,

1 and temporary positions, and further broken down by wage groups as follows:
2 \$6.00 or less an hour, \$6.01 to \$7.00 an hour, \$7.01 to \$8.00 an hour, \$8.01 to
3 \$9.00 an hour, \$9.01 to \$10.00 an hour, \$10.01 to \$11.00 an hour, \$11.01 to
4 \$12.00 an hour, \$12.01 to \$13.00 an hour, \$13.01 to \$14.00 an hour, and
5 \$14.01 or more per hour;

6 (xvi) The number of hours each person, including each
7 subcontractor, works in providing consulting services to the agency under the
8 terms of the contract;

9 (xvii) The total compensation of each contractor, subcontractor,
10 and any contract employees;

11 (xviii) A summary of each amendment to the contract that
12 changed the contract term, the contract price or estimated total value, the
13 nature of the consulting services, or the identity of a person providing
14 consulting services under the contract, including the identity of subcontractors;

15 (xix) The type and amount of health care coverage provided by the
16 applicant within 90 days of commencement of the contract, including any costs
17 to be borne by the employees;

18 (xx) The number of contractors or subcontractors associated with
19 the contract represented by a collective bargaining;

20 (xxi) For applicants based in a Metropolitan Statistical Area, as
21 defined by the federal Office of Management and Budget, the average hourly

1 wage paid to nonmanagerial employees in the state for the industries involved
2 at the project, as established by the United States Bureau of Labor Statistics;

3 (xxii) For applicants based outside Metropolitan Statistical Areas,
4 the average weekly wage paid to nonmanagerial employees in the county for
5 industries involved at the project, as established by the United States
6 Department of Commerce;

7 (xxiii) The start and end dates for the contract;

8 (xxiv) A statement confirming the applicant's past legal
9 compliance, including minimum wage, employee rights, and affirmative action
10 laws;

11 (xxv) The savings accrued to the contracting agency;

12 (xxvi) Total cost of contract;

13 (xxvii) Inclusion of cost analysis, if previously conducted by state
14 or contracting agency;

15 (xxviii) A comparison of the actual cost with the findings of a cost
16 analysis, if previously conducted by the contracting agency;

17 (xxix) A copy of the actual contract and any revisions or
18 amendments;

19 (xxx) A certification by the chief officer of the applicant as to the
20 accuracy of the application.

1 (B) Each contracting agency shall compile the data specified in
2 subdivision (1)(A) of this subsection and file a progress report with the
3 department of finance and management for each contract, no later than 60 days
4 after the start of the fiscal year.

5 (C) On all subsequent annual progress reports, the contracting agency
6 shall indicate whether the recipient corporation is still in compliance with its
7 savings, wage, and benefit goals, and have met the measurable standards set by
8 the agency under subdivision (a)(1) of this section.

9 (D) Each contracting agency and recipient contractor shall file annual
10 progress reports for the duration of the contract, or not less than five years,
11 whichever period is greater.

12 (2) Two-year report.

13 (A) No later than 15 days after the second anniversary of the date of
14 contract, the contracting agency shall file with the department of finance and
15 management a two-year progress report including the same information as
16 required under subdivision (1)(A) of this subsection. The recipient contractor
17 shall certify as to the accuracy of such report.

18 (B) The contracting agency shall state in the two-year report whether
19 the recipient contractor has achieved its savings, wage, and benefit goals, and
20 have met the measurable standards set by the agency under subdivision (a)(1)
21 of this section.

1 (3) The department of finance and management shall compile and
2 publish all data from the progress reports in both written and electronic form,
3 including on the department's website. The department's website shall provide
4 an easily accessible, searchable database of the specified data.

5 (4) The contracting agency shall provide a final report at the conclusion
6 of each economic development subsidy that shall contain the information
7 described in subdivision (1)(A) of this subsection, in written form available to
8 the public, and through its website. The local agency's website shall provide
9 an easily accessible, searchable database of the specified data.

10 (5) The contracting agency and the department of finance and
11 management shall have access at all reasonable times to the project site and the
12 records of the recipient corporation in order to monitor the project and to
13 prepare progress reports.

14 (6) A recipient contractor that fails to provide the contracting agency
15 with the information or access required under this section shall be subject to a
16 fine of not less than \$500.00 per day if the contractor has not provided the
17 agency with necessary information 30 days after the start of each fiscal year.

18 (d)(1) Contract audits. The commissioner of finance and management has
19 authority to audit a contractor's performance under a public contract into
20 which a state contracting agency enters. The audit shall use generally accepted
21 accounting principles and may:

1 (A) Examine the contractor's books, papers, correspondence, and
2 other records related to the public contract;

3 (B) Assess whether the contractor has met the quality standards set
4 forth in the public contract under subsection (a) of this section;

5 (C) Determine whether the contractor has met commercial standards
6 of good faith and fair dealing in the contractor's course of dealing with the
7 contracting agency;

8 (D) Examine other issues that the commissioner deems germane to
9 assessing the contractor's performance under the public contract.

10 (2) A state contracting agency may request the commissioner of finance
11 and management to audit a contractor's performance under a public contract
12 for any reason and at any point during which the public contract is in effect or
13 for a period of six years after the date on which the public contract terminates.

14 (3) The terms of a public contract shall require a contractor to keep
15 books, papers, and other records and to document the contractor's performance
16 under the terms of the public contract, with particular reference to the
17 contractor's compliance with the quality standards set forth in the public
18 contract, in as much detail as will enable the commissioner of finance and
19 management to conduct an audit under this section. The contractor shall keep
20 the records described in this subsection for a minimum period of six years after
21 the date on which the public contract terminates.

1 (4) A local contracting agency shall designate a person that will have the
2 authority to audit contractor performance under a public contract into which
3 the local contracting agency enters. The person the local contracting agency
4 authorizes to conduct the audit shall do so in accordance with the standards
5 prescribed in this section and shall follow as closely as practicable the
6 procedures employed by the department of finance and management.

7 (5) The contracting agency and the contractor shall cooperate with the
8 auditing agency in all respects and shall permit full access to all information
9 that the auditing agency deems necessary for a true and complete review.

10 § 20. UNIFIED REPORTING

11 (a)(1) Unified tax expenditure budget. No later than 60 days after the end
12 of the fiscal year, the commissioner of finance and management shall compile
13 a tax expenditure budget for the previous fiscal year and present the tax
14 expenditure budget, including an analysis of tax expenditures, to the governor
15 and the general assembly. The tax expenditure budget shall include tax
16 expenditures with revenue impacts equal to or greater than \$5,000.00 in the
17 aggregate for a specific tax expenditure, and shall include:

18 (A) The amount of uncollected state tax revenues resulting from
19 every tax credit, abatement, exemption, and reduction provided by the state or
20 a local governmental unit, including gross receipts, income, sales, use, raw
21 materials, excise, property, utility, and inventory taxes;

1 (B) The name of each corporate taxpayer which claimed any tax
2 credit, abatement, exemption, or reduction under subdivision (A) of this
3 subdivision (1) of any value equal to or greater than \$5,000.00, together with
4 the dollar amount received by each such corporation;

5 (C) A projection of the costs of tax expenditures for all significant
6 general fund revenue sources;

7 (D) Identification of each tax expenditure and its statutory basis,
8 purpose, year of enactment, and date of repeal, if any;

9 (E) Identification, to the extent possible, of the beneficiaries of each
10 tax expenditure, including the number of businesses that used the tax
11 expenditure and the number of businesses that potentially qualified for but
12 failed to use the tax expenditure;

13 (F) Identification of any unintended consequences of the tax
14 expenditure that have come to the attention of the commissioner;

15 (G) An estimate of total state revenue distributed for tax expenditures
16 in the current fiscal year;

17 (H) An estimate of total state revenue to be distributed for tax
18 expenditures in the upcoming fiscal year;

19 (I) All state-appropriated expenditures for economic development,
20 including line-item budgets for every state-funded entity concerned with
21 economic development, including the agency of commerce and community

1 development, the department of labor, vocational education programs, state
2 university research programs, manufacturing extension service, workforce
3 investment boards, the Vermont economic development authority, industrial
4 development authorities, regional development authorities, and finance
5 authorities. The report shall additionally include a comprehensive presentation
6 of the costs of all development subsidies to the state during the prior fiscal
7 year, an estimate of the anticipated costs of development subsidies for the
8 current fiscal year, and an estimate of the costs of all development subsidies
9 for the fiscal year of the requested budget, including:

10 (i) The total cost to the state of tax expenditures resulting from the
11 development subsidies, the costs for each category of tax expenditure, and the
12 amounts of tax expenditures by geographical area;

13 (ii) The cost to the state of all appropriated expenditures for
14 development subsidies, including line-item budgets for every state-funded
15 entity concerned with economic development.

16 (2) Any tax credit, abatement, exemption, or reduction received by a
17 corporation of less than \$5,000.00 each shall not be itemized. The
18 commissioner of finance and management shall report an aggregate dollar
19 amount of such expenditures and the number of companies so aggregated for
20 each tax expenditure.

1 (3) The commissioner of finance and management is authorized to
2 request from a state agency or a local government agency official information
3 necessary to complete the tax expenditure budget required by this section. An
4 agency or official shall comply with a request made pursuant to this section.

5 (4) Before the conclusion of any tax expenditure under subdivision
6 (a)(1) of this section of any value equal to or greater than \$5,000.00, the
7 commissioner of finance and management shall submit a report to the general
8 assembly and the governor to assess whether to reappraise the particular tax
9 credit, abatement, exemption, or reduction, which includes:

10 (A) A statement of the purpose served by the tax expenditure;

11 (B) An appraisal of the tax expenditure's effectiveness in serving its
12 purpose;

13 (C) An evaluation of whether the tax expenditure serves a public
14 need;

15 (D) An evaluation of whether other statutes have enhanced or
16 impeded the tax expenditure's effectiveness in serving its purpose;

17 (E) An appraisal of whether the tax expenditure promotes economic
18 growth and development;

19 (F) An estimate of the amount of revenue lost each fiscal year
20 because of the tax expenditure;

1 (G) A recommendation as to whether the tax expenditure should be
2 allowed to expire or be renewed; and

3 (H) Any other relevant information.

4 (5) The department of finance and management shall compile and
5 publish all data from the report in both written and electronic form, including
6 the department's website. The department's website shall provide an easily
7 accessible, searchable database of the specified data.

8 (b)(1) Unified reporting of contracts. For the aggregated total of public
9 contracts, each contracting agency must provide a comprehensive report to the
10 department of finance and management no later than three months after the end
11 of the fiscal year detailing:

12 (A) The total number of contracts that the local contracting agency or
13 each state contracting agency awarded in the previous fiscal year, along with
14 the total expenditures for all such contracts up until the date on which the
15 agency produced the report, including:

16 (i) Consulting;

17 (ii) Construction;

18 (iii) Equipment;

19 (iv) Grants;

20 (v) Leases;

21 (vi) Miscellaneous services;

- 1 (vii) Printing;
- 2 (viii) Repayment agreements;
- 3 (ix) Intergovernmental agreements; and
- 4 (x) Goods.
- 5 (B) The total workforce of the agency;
- 6 (C) The total number of persons, including subcontractors that
7 provided consulting services to the agency;
- 8 (D) A calculation of contractors as a percent of total agency
9 workforce;
- 10 (E) The total number of minorities, women, or emerging small
11 businesses that provided consulting services to the agency;
- 12 (F) The total number of bids or proposals the agency received in
13 connection with each contract;
- 14 (G) Description of the types of contracts the agency awarded;
- 15 (H) The frequency of contracts awarded during the previous fiscal
16 year arranged by the number of bids or proposals and the source selection
17 method;
- 18 (I) The number of contracts disapproved by the agency during the
19 previous fiscal year and the reasons for disapproval arranged by state agency
20 and source selection method, and the number and outcome of bid protests;

1 (J) The total compensation the agency paid to each person, including
2 subcontractors that provided consulting services to the agency under all
3 contracts the agency awarded to the person;

4 (K) Average wages paid;

5 (L) Total savings agency accrued from using contractors;

6 (M) Estimated number and costs of contracts to be awarded in the
7 following fiscal year;

8 (N) The total cost of all contracts awarded;

9 (O) A comparison of the number of contracts the agency solicited
10 and awarded independently to the number of contracts the agency solicited and
11 awarded in connection with a cooperative procurement process. This must
12 also show the sum of the contract prices or estimated dollar values of the
13 contracts solicited and awarded independently, together with the sum of the
14 agency's expenditures for the contracts up until the date on which the agency
15 produced the report, compared to the corresponding sums for contracts
16 solicited and awarded in connection with cooperative procurements.

17 (2) The department of finance and management shall compile the data in
18 subdivision (1) of this subsection and provide to the general assembly and the
19 governor a comprehensive presentation of the data in subdivision (1) of this
20 subsection as well as the costs of all contracts to the state during the prior fiscal
21 year, an estimate of the anticipated costs of contracts for the then current fiscal

1 year, and an estimate of the costs of all contracts for the fiscal year of the
2 requested budget.

3 (3) The department of finance and management shall compile and
4 publish all data from the report in both written and electronic form, including
5 the department's website. The department's website shall provide an easily
6 accessible, searchable database of the specified data.

7 (c)(1) Unified reporting of property tax reductions and abatements. Each
8 property-taxing entity shall annually submit a report to the department of
9 finance and management regarding any real property in the entity's jurisdiction
10 that has received a property tax abatement or reduction during the fiscal year.
11 The report shall contain information, including the name of the property
12 owner; the address of the property; the start and end dates of the property tax
13 reduction or abatement; the schedule of the tax reduction; each tax abatement,
14 reduction, and exemption for the property; and the amount of property tax
15 revenue not paid to the taxing entity as a result of the reduction or abatement.

16 (2) Each property-taxing entity shall also submit a report to the
17 department of finance and management setting forth the total property tax
18 revenue not paid to such entity during the fiscal year as a result of all property
19 tax reductions and abatements in the entity's jurisdiction.

20 (3) The reports required under subdivisions (1) and (2) of this subsection
21 shall be prepared on two forms prepared by the department of finance and

1 management, and shall be submitted to the department by the property-taxing
2 entity no later than three months after the end of the fiscal year.

3 (4) The department of finance and management shall annually compile
4 and publish all of the data contained in the reports required under subdivisions
5 (1) and (2) of this subsection in both written and electronic form, including on
6 the department's website. The department's website shall provide an easily
7 accessible, searchable database of the specified data.

8 (5) If a property-taxing entity fails to submit its reports to the
9 department of finance and management within the prescribed time, the
10 department shall notify the commissioner of the department of taxes,
11 whereupon the commissioner shall withhold further tax reductions or
12 abatements to the delinquent entity until the entity files its reports with the
13 department of finance and management.

14 § 21. CORPORATE TAX DISCLOSURE

15 (a) Tax disclosure statement required. The following corporations, if doing
16 business in this state, shall file with the department of finance and management
17 the statement described by subsection (b) of this section:

18 (1) All publicly traded corporations, including corporations traded on
19 foreign stock exchanges; and

20 (2) All corporations 50 percent or more of the voting stock of which is
21 owned, directly or indirectly, by a publicly traded corporation.

1 (b)(1) Content of tax disclosure statement. The statement required by
2 subsection (a) of this section shall be filed annually in an electronic format
3 specified by the commissioner of finance and management no more than 30
4 days following the filing of the tax return required by 32 V.S.A. § 5862 or, in
5 the case of a corporation not required to file such a tax return, within 90 days
6 of the filing of such corporation's federal tax return, including such
7 corporation's inclusion in a federal consolidated return. The statement shall
8 contain the following information:

9 (A) The name of the corporation and the street address of its principal
10 executive office;

11 (B) If different from subdivision (A) of this subdivision (1), the name
12 and the street address of the principal executive office of any corporation that
13 owns, directly or indirectly, 50 percent or more of the voting stock of the
14 corporation;

15 (C) The corporation's four-digit North American Industry
16 Classification System code number;

17 (D) A unique code number, assigned by the department of finance
18 and management, to identify the corporation, which code number will remain
19 constant from year to year.

20 (2) The following information reported on or used in preparing the
21 corporation's tax return filed under the requirements of 32 V.S.A. § 5862 or, in

1 the case of a corporation not required to file a tax return under the
2 requirements of 32 V.S.A. § 5862, the information that would be required to be
3 reported on or used in preparing the tax return were the corporation required to
4 file such a return:

5 (A) Total receipts of the unitary business of which the corporation is
6 a member;

7 (B) Total cost-of-goods-sold claimed as a deduction from gross
8 income by the unitary business of which the corporation is a member;

9 (C) Taxable income of the unitary business of which the corporation
10 is a member prior to net operating loss deductions or apportionment;

11 (D) Property, payroll, and sales apportionment factors of the
12 corporation as calculated on the combined report;

13 (E) Calculated overall apportionment factor in Vermont for the
14 corporation as calculated on the combined report;

15 (F) Total business income of the corporation apportioned to
16 Vermont;

17 (G) Net operating loss deduction, if any, of the corporation
18 apportioned to Vermont;

19 (H) Total nonbusiness income of the corporation and the amount of
20 nonbusiness income allocated to the state;

21 (I) Total taxable income of the corporation;

1 (J) Total tax before credits;

2 (K) Tax credits claimed, each credit individually enumerated;

3 (L) Tax due;

4 (M) Tax paid;

5 (N) Amount of tax due paid under protest, if applicable.

6 (3) The following is additional information:

7 (A) Total deductions for management services fees, for rent, and for
8 royalty, interest, license fee, and similar payments for the use of intangible
9 property paid to any affiliated entity that is not included in the unitary business
10 that includes the corporation and the names and principal office addresses of
11 the entities to which the payments were made;

12 (B) A description of the source of any nonbusiness income reported
13 on the return and the identification of the state to which such income was
14 reported;

15 (C) A listing of all corporations included in the unitary business that
16 includes the corporation, their state identification numbers assigned under the
17 provisions of this section, if applicable, and a listing of all variations in the
18 unitary group that includes the corporation used in filing corporate income or
19 franchise tax returns in any of the following states: Alaska, Arizona,
20 California, Colorado, Hawaii, Idaho, Illinois, Kansas, Maine, Minnesota,

1 Montana, Nebraska, New Hampshire, North Dakota, Oregon, Utah, and
2 Vermont;

3 (D) Full-time-equivalent employment of the corporation in the state
4 on the last day of the tax year for which the return is being filed and for the
5 three previous tax years;

6 (E) In the case of a publicly traded corporation incorporated in the
7 United States or the affiliate of such a publicly traded corporation, profits
8 before tax reported on the Securities and Exchange Commission Form 10-K
9 for the corporation or the consolidated group of which the corporation is a
10 member for the corporate fiscal year that contains the last day of the tax year
11 for which the return is filed;

12 (F) Accumulated tax credit carryovers, enumerated by credit.

13 (c) Alternative statement option for corporations not required to file tax
14 return. In lieu of the statement described in subsection (b) of this section, a
15 corporation doing business in this state but not required to file a tax return
16 under the requirements of 32 V.S.A. § 5862 may elect to file a statement with
17 the department of finance and management containing the following
18 information:

19 (1) The information specified in subsection (a) of this section.

20 (2) An explanation of why the corporation is not required to file a
21 corporate income tax return in this state, which explanation may take the form

1 of checking one or more possible explanations drafted by the department of
2 finance and management.

3 (3) Identification of which of the following ranges the corporation's
4 total gross receipts from sales to purchasers in this state fell into in the tax year
5 for which this statement is filed:

6 (A) Less than \$10 million;

7 (B) \$10 million to \$50 million;

8 (C) More than \$50 million to \$100 million;

9 (D) More than \$100 million to \$250 million;

10 (E) More than \$250 million.

11 (d) Supplemental information permitted. Any corporation submitting a
12 statement required by this section shall be permitted to submit supplemental
13 information that, in its sole judgment, could facilitate proper interpretation of
14 the information included in the statement. The mechanisms of public
15 dissemination of the information contained in the statements described in
16 subsection (f) of this section shall ensure that any such supplemental
17 information be publicly available and that notification of its availability shall
18 be made to any person seeking information contained in a statement.

19 (e) Amended tax disclosure statements required. If a corporation files an
20 amended tax return, the corporation shall file a revised statement under this
21 section within 60 calendar days after the amended return is filed. If a

1 corporation's tax liability for a tax year is changed as the result of an
2 uncontested audit adjustment or final determination of liability by the
3 commissioner of taxes as provided in subchapter 8 of chapter 51 of Title 32, or
4 by a court of law as provided in 32 V.S.A. § 5885, the corporation shall file a
5 revised statement under this section within 60 calendar days of the final
6 determination of liability.

7 (f) Public access to tax disclosure statements. The statements required
8 under this section shall be a public record. The commissioner of finance and
9 management shall make all information contained in the statements required
10 under this chapter for all filing corporations available to the public on an
11 ongoing basis in the form of a searchable database accessible through the
12 Internet. The commissioner of finance and management shall make available
13 and set charges that cover the cost to the state of providing copies on
14 appropriate computer-readable media of the entire database for statements filed
15 during each calendar year as well as hard copies of an individual annual
16 statement for a specific corporation. No statement for any corporation for a
17 particular tax year shall be publicly available until the first day of the third
18 calendar year that follows the calendar year in which the particular tax year
19 ends.

20 (g) Enforcing compliance. The accuracy of the statements required under
21 this chapter shall be attested to in writing by the chief operating officer of the

1 corporation and shall be subject to audit by the Vermont commissioner of taxes
2 as the agent of the commissioner of finance and management in the course of
3 and under the normal procedures applicable to corporate income tax return
4 audits. The commissioner of finance and management shall develop and
5 implement an oversight and penalty system applicable to both the chief
6 operating officer of the corporation and the corporation itself to ensure that
7 corporations doing business in this state, including those not required to file a
8 return under the requirements of 32 V.S.A. § 5862, shall provide the required
9 attestation and disclosure statements, respectively, in a timely and accurate
10 manner. The commissioner of finance and management shall publish the name
11 and penalty imposed upon any corporation subject to a penalty for failing to
12 file the required statement or filing an inaccurate statement. The commissioner
13 of finance and management shall promulgate appropriate rules to implement
14 the provisions of this section under the rulemaking procedures described in
15 3 V.S.A. chapter 25.

16 § 22. PRIVATE ENFORCEMENT AND PUBLIC DISCLOSURE

17 (a) Private enforcement action. If a granting body or contracting agency
18 fails to enforce any provision of this chapter, any individual who paid personal
19 income taxes to the state in the calendar year prior to the year in dispute, or any
20 organization representing such taxpayers, shall be entitled to bring a civil
21 action in state court to compel enforcement under this chapter. The court shall

1 award reasonable attorney's fees and costs to a prevailing taxpayer or
2 organization.

3 (b) Public record disclosure. All records required to be prepared or
4 maintained under this chapter, including applications, cost analyses, audits,
5 progress reports, and any other records or proceedings relating thereto, shall be
6 subject to disclosure under subchapter 3 of chapter 5 of Title 1.

7 (c) Preemption. Nothing in this chapter shall be read to require or
8 authorize any recipient corporation to reduce wages or benefits established
9 under any collective bargaining agreement or state or federal prevailing wage
10 law.

11 Sec. 4. EFFECTIVE DATE

12 This act shall take effect upon passage.