

1 H.141

2 Introduced by Representative Wizowaty of Burlington

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; economic development; government

6 transparency

7 Statement of purpose: This bill proposes to improve government transparency

8 by enhancing the standards and mechanisms for collecting, reporting, and

9 analyzing information on economic development spending.

10 An act relating to improving transparency in government and economic
11 development policy and expenditures

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

13 * * * Government Transparency * * *

14 Sec. 1. 10 V.S.A. chapter 2 is added to read:

15 CHAPTER 2. FINANCIAL REPORTING AND TRANSPARENCY IN

16 GOVERNMENT EXPENDITURES

17 § 17. DEFINITIONS

18 As used in this chapter:

19 (1) “Consulting services” means work that a person other than a
20 regular employee of a state contracting agency or local contracting agency

1 does for or on behalf of the agency in return for compensation provided under
2 the terms of a public contract.

3 (2) “Contract” means any expenditure of public funds of at least
4 \$25,000.00 for the purpose of establishing an agreement and outlining a
5 transaction between an entity and a government body to perform a specific
6 service for compensation.

7 (3) “Contracting agency” means any agency of the state that awards
8 contracts.

9 (4) “Contractor” means any person other than a regular employee of a
10 state contracting agency who performs work for or on behalf of the agency in
11 return for compensation provided under the terms of a public contract.

12 (5) “Corporate parent” means any person, association, corporation, joint
13 venture, partnership, or other entity that owns or controls 50 percent or more of
14 a recipient corporation.

15 (6) “Date of subsidy” means the date that a granting agency provides the
16 initial monetary value of a development subsidy to a recipient corporation.

17 (7) “Development subsidy” means any expenditure of public funds with
18 a value of at least \$25,000.00 for the purpose of stimulating economic
19 development within the state, including bonds, grants, loans, loan guarantees,
20 tax increment financing, fee waivers, matching funds, tax abatements, tax
21 exemptions, and tax credits.

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

3 (9) “Granting agency” means any agency, board, office, public benefit
4 corporation, or authority of the state that provides a development subsidy.

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

7 (11) “Project site” means the site of a project for which any
8 development subsidy is provided.

9 (12) “Recipient contractor” means any person that is awarded a contract.

10 (13) “Recipient corporation” means any person that receives a
11 development subsidy.

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

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

17 (16) “Subsidy value” means the face value of any and all development
18 subsidies provided to a recipient corporation.

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

1 § 18. APPLICATION INFORMATION AND REQUIREMENTS

2 (a)(1) Application for economic development subsidy. Each granting
3 agency, together with the applicant for a development subsidy, shall complete
4 an application for the subsidy on a form prepared by the secretary of the
5 agency of commerce and community development. In addition to any
6 information required by any other statute, the information required on the
7 application shall include the following:

8 (A) An application tracking number for the granting agency and the
9 project;

10 (B) The name, street and mailing address, and telephone number of:
11 (i) the chief officer of the granting agency and the official
12 responsible for monitoring the subsidy;

13 (ii) the chief officers of the applicant and the applicant's corporate
14 parent;

15 (C) The street address of the project site;

16 (D) The name, type, and description of the economic development
17 subsidy;

18 (E) The six-digit North American Industry Classification System
19 code or codes of the project site;

1 (F) The total number of individuals employed by the applicant at the
2 project site on the date of the application, broken down by full-time, part-time,
3 and temporary positions;

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

8 (H) The development subsidy or subsidies being applied for with the
9 granting agency, and the value of such subsidy or subsidies; the name of any
10 other granting agency from which development subsidies are sought or
11 obtained; and the aggregate value of all development subsidies requested or
12 received from all sources;

13 (I) The number, six-digit standard occupational classification, and the
14 expected hourly wage of each new job to be created by the applicant at the
15 project site, broken down by full-time, part-time, and temporary positions;

16 (J) The expected amount the applicant will contribute toward the
17 health care benefits provided to each new employee;

18 (K) The number of current employees provided health benefits;

19 (L) The number of current employees and anticipated new employees
20 represented by a collective bargaining agreement;

1 (M) A statement as to whether the development subsidy may reduce
2 employment at any other site controlled by the applicant or its corporate
3 parent, within or outside the state, and if so, the number of jobs to be relocated
4 and the address from which they are to be relocated;

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

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

12 (P) A certification by the chief officer of the applicant as to the
13 accuracy of the application; and

14 (Q) The projected percentage of total funding that the development
15 subsidy would represent for each project for which the recipient would use the
16 subsidy.

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

1 (b)(1) Application for contract bid. Each contracting agency, together with
2 the applicant for a contract bid, shall complete an application for the contract
3 on a form prepared by the commissioner of the department of buildings and
4 general services. In addition to any information required by any other statute,
5 the information required on the application shall include the following:

6 (A) An application tracking number for the contracting agency and
7 the contract;

8 (B) The name, street, and mailing address, and telephone number of:

9 (i) the chief officer of the contracting agency and the agency
10 official responsible for monitoring the contract; and

11 (ii) the chief officers of the applicant and the applicant's corporate
12 parent;

13 (C) The name, street, mailing address, and the employer and
14 employment category or job description of each person that will provide
15 consulting services under the contract, including subcontractors.

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

18 (E) The type of service required by contract;

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

1 (G) 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 (H) The number of contractors or subcontractors needed to perform
6 required services, broken down by full-time, part-time, and temporary
7 positions;

8 (I) The types of services the contractor, subcontractor, and any
9 contract employees provide;

10 (J) The number, six-digit standard occupational classification, and
11 expected hourly wage to be paid to each contractor, subcontractor, and contract
12 employee, broken down by full-time, part-time, and temporary positions;

13 (K) The number of hours each person, including each subcontractor
14 and contract employees, is expected to work in providing consulting services
15 to the agency under the terms of the contract;

16 (L) The total compensation of each contractor and subcontractor;

17 (M) The expected amount the applicant will contribute toward the
18 health care benefits provided to each employee;

19 (N) The number of contractors or subcontractors associated with the
20 contract represented by a collective bargaining agreement;

21 (O) The start and end dates for the contract;

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

3 (Q) Projected total cost of contract;

4 (R) A certification by the chief officer of the applicant as to the
5 accuracy of the application.

6 (2) If the contracting agency shall approve the contract bid, it shall send
7 a copy to the department buildings and general services within 15 days of such
8 approval. If the application is not approved, the granting agency shall retain
9 the application in its records.

10 § 19. PERFORMANCE STANDARDS FOR SUBSIDIES AND

11 CONTRACTS

12 (a) Establishment of measurable standards for development subsidies.
13 Before granting a development subsidy, a granting agency shall establish
14 measurable standards for assessing the performance of a recipient corporation
15 in stimulating economic development within the state.

16 (b)(1) Establishment of measurable standards for contracts. Before
17 entering into a public contract, a contracting agency shall establish measurable
18 standards for assessing the quality of the goods or services that a contractor
19 will provide or perform under the contract.

20 (2) If a contracting agency performs a cost analysis before a
21 procurement for goods or services with an estimated contract price that

1 exceeds \$25,000.00, that analysis shall be subject to disclosure under
2 subchapter 3 of chapter 5 of Title 1. The contracting agency shall provide a
3 comparison of the findings of the cost analysis with the actual cost of the
4 contract in its annual report described in subsection (c) of this section.

5 § 20. REPORTS ON SUBSIDIES AND CONTRACTS

6 (a) Annual report on economic development subsidies.

7 (1) Each granting agency, together with the recipient of the subsidy,
8 shall complete a report for the subsidy on a form prepared by the secretary of
9 the agency of commerce and community development no later than 30 days
10 after the start of the fiscal year. The report shall include the most current data
11 for the information required in subdivisions 18(a)(1)(A) through (Q) of this
12 chapter, and:

13 (A) Inclusion of any cost analysis or feasibility study that may have
14 been conducted by the state or granting agency before the subsidy was
15 awarded;

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

18 (2) Each granting agency shall compile the data specified in
19 subdivision (1) of this subsection and file a progress report with the agency of
20 commerce and community development for each project for which a

1 development subsidy has been granted no later than 60 days after the start of
2 the fiscal year.

3 (3) On each subsequent annual progress report, the granting agency shall
4 indicate whether the recipient corporation is still in compliance with its job
5 creation, wage and benefit goals, whether the corporate parent is still in
6 compliance with its state employment requirement, and shall evaluate the
7 recipient corporation's performance against the performance standards adopted
8 under subsection 19(a) of this chapter.

9 (4) Each granting agency and recipient corporation shall file an annual
10 progress report for the duration of the subsidy or not less than five years,
11 whichever period is greater.

12 (b) Annual report on contracts.

13 (1) Each contracting agency, together with the contract recipient, shall
14 complete a report for the contract on a form prepared by the department of
15 buildings and general services no later than 30 days after the start of the fiscal
16 year. The report shall include the most current data available for the
17 information required in subdivisions 18(b)(1)(A) through (Q) of this chapter,
18 and:

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

1 to solicit and succeeded in soliciting bids or proposals from minorities,
2 women, locally owned, and socially responsible businesses, as defined in
3 10 V.S.A. § 4.

4 (B) Inclusion of cost analysis, if previously conducted by state or
5 contracting agency, and a comparison of the actual cost with the findings of a
6 cost analysis, if previously conducted by the contracting agency;

7 (C) A copy of the actual contract and any revisions or amendments;

8 (2) On each subsequent annual progress report the contracting agency
9 shall indicate whether the recipient corporation is still in compliance with its
10 savings, wage, and benefit goals, and have met the measurable standards set
11 under subsection 19(b) of this chapter.

12 (3) Each contracting agency and recipient contractor shall file an annual
13 progress report for the duration of the contract.

14 (c) The agency of commerce and community development and the
15 department of buildings and general services, for development subsidies and
16 contracts respectively, shall compile and publish all data from the progress
17 reports in both written and electronic form, including on their respective
18 websites, which shall provide an easily accessible, searchable database of the
19 specified data.

1 (d) Each granting agency and contracting agency shall have access at all
2 reasonable times to the project site and the records of a recipient corporation or
3 contractor in order to monitor the project and to prepare progress reports.

4 (e) A recipient corporation or contractor that fails to provide the granting
5 agency or contracting agency with the information or access required under
6 this section shall be subject to a fine of not less than \$500.00 per day, if the
7 recipient has not provided the agency with necessary information 30 days after
8 the start of each fiscal year.

9 § 21. UNIFIED REPORTING

10 (a) Unified reporting of economic development subsidies.

11 (1) Unified economic development budget. For purposes of evaluating
12 the effect on economic development in this state, the secretary of commerce
13 and community development, in collaboration with the commissioner of
14 finance and management, shall submit a unified economic development budget
15 to the general assembly no later than January 15 or each year.

16 (2) The unified economic development budget shall include line-item
17 appropriations or expenditures for all development subsidies and all types of
18 development assistance, workforce training and education, and the
19 development-related research granted or managed by the state during the prior
20 four fiscal years by all agencies, departments, authorities, and other

1 instrumentalities of the state. The budget shall adjust expenditures or
2 appropriations to enable year-to-year comparisons to be made.

3 (3) The unified development budget shall specifically include:

4 (A) The aggregate amount and program-specific amounts of all state
5 economic development assistance, including grants, loans, and tax
6 expenditures.

7 (B) The aggregate amount and program-specific amounts of
8 uncollected or diverted state tax revenues resulting from each type of
9 development assistance provided in the tax statutes, as reported in the annual
10 tax expenditure report (32 V.S.A. § 312). If current data are not available, the
11 report may use the average of the three most recent years reported.

12 (C) Performance measurements, including estimated jobs created,
13 increases or decreases in payroll including benefits, and other measures of
14 economic advancement, with clear descriptions of data sources and
15 methodologies.

16 (D) A report of progress in developing consistent and measurable
17 benchmarks of job creation.

18 (4) The data presented shall be organized by categories such as
19 administration, workforce education and training, tax expenditures, agriculture,
20 tourism, technical assistance, planning, housing, transportation, technology,

1 and research, among others deemed appropriate. Every effort shall be made to
2 standardize definitions of positions and other measures.

3 (b)(1) Unified reporting of contracts. For the aggregated total of public
4 contracts, each contracting agency must provide a comprehensive report to the
5 department of buildings and general services no later than three months after
6 the end of the fiscal year detailing:

7 (A) The total number of contracts that the contracting agency
8 awarded in the previous fiscal year, along with the total expenditures for all
9 such contracts up until the date on which the agency produced the report,

10 including:

11 (i) Consulting;

12 (ii) Construction;

13 (iii) Equipment;

14 (iv) Grants;

15 (v) Leases;

16 (vi) Miscellaneous services;

17 (vii) Printing;

18 (viii) Repayment agreements;

19 (ix) Intergovernmental agreements; and

20 (x) Goods.

21 (B) The total workforce of the agency;

1 (C) The total number of persons, including subcontractors that
2 provided consulting services to the agency;

3 (D) A calculation of contractors as a percent of total agency
4 workforce;

5 (E) The total number of minorities, women, locally owned, or
6 socially responsible businesses, as defined in 10 V.S.A. § 4, that provided
7 consulting services to the agency;

8 (F) The total number of bids or proposals the agency received in
9 connection with each contract;

10 (G) Description of the types of contracts the agency awarded;

11 (H) The frequency of contracts awarded during the previous fiscal
12 year arranged by the number of bids or proposals and the source selection
13 method;

14 (I) The number of contracts disapproved by the agency during the
15 previous fiscal year and the reasons for disapproval arranged by state agency
16 and source selection method, and the number and outcome of bid protests;

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

20 (K) The total cost of all contracts awarded;

1 (L) A comparison of the number of contracts the agency solicited and
2 awarded independently to the number of contracts the agency solicited and
3 awarded in connection with a cooperative procurement process. This must
4 also show the sum of the contract prices or estimated dollar values of the
5 contracts solicited and awarded independently, together with the sum of the
6 agency's expenditures for the contracts up until the date on which the agency
7 produced the report, compared to the corresponding sums for contracts
8 solicited and awarded in connection with cooperative procurements.

9 (2) On or before January 15 of each year the department of buildings
10 and general services shall compile the data in subdivision (1) of this subsection
11 and provide to the general assembly and the governor a comprehensive
12 presentation of the data in subdivision (1) of this subsection as well as the costs
13 of all contracts to the state during the prior fiscal year, an estimate of the
14 anticipated costs of contracts for the then current fiscal year, and an estimate of
15 the costs of all contracts for the fiscal year of the requested budget.

16 (3) The department of buildings and general services shall compile and
17 publish all data from the report in both written and electronic form, including
18 the department's website. The department's website shall provide an easily
19 accessible, searchable database of the specified data.

1 § 22. ASSESSMENT OF ECONOMIC DEVELOPMENT SUBSIDIES.

2 (a) On or before March 15 of each year, the legislative joint fiscal office
3 shall undertake an analysis of the unified economic development budget and
4 submit to the general assembly a report that shall include, at minimum:

5 (1) an analysis of, and any necessary updates to, the regional and
6 program specific measures created pursuant to Secs. G9 and G10 of No. 146 of
7 the Acts of 2010; and

8 (2) an analysis of the investment returns of each economic development
9 expenditure reported in the unified economic development budget.

10 (b)(1) In order to perform its duties under this section, the joint fiscal office
11 shall maintain the comprehensive statistical benchmarking system designed by
12 the commission on the future of economic development in collaboration with
13 the state economists. The joint fiscal office shall perform at least biannual
14 updates of each indicator and ongoing monitoring and assessment of the
15 sufficiency and scope of economic data-sets and -series available for use in the
16 benchmarking system. The joint fiscal office shall cause the benchmark
17 indicators analytic database to be available to the public via its websites in both
18 manipulative and nonmanipulative electronic formats.

19 (2) The joint fiscal office shall use the comprehensive statistical
20 benchmarking system to:

1 (A) undertake its analysis of the development subsidies pursuant to
2 subsection (a) of this section; and

3 (B) generate reports, provide information and analysis, and make
4 policy recommendations with regard to specific economic development
5 policies and programs.

6 § 23. PRIVATE ENFORCEMENT AND PUBLIC DISCLOSURE

7 (a) Private enforcement action. If a granting agency or contracting agency
8 fails to enforce any provision of this chapter, any individual who paid personal
9 income taxes to the state in the calendar year prior to the year in dispute, or any
10 organization representing such taxpayers, shall be entitled to bring a civil
11 action in state court to compel enforcement under this chapter. The court shall
12 award reasonable attorney's fees and costs to a prevailing taxpayer or
13 organization.

14 (b) Public record disclosure.

15 (1) Notwithstanding any other provision of law to the contrary, all
16 records required to be prepared, maintained, or submitted under this chapter,
17 including applications, cost analyses, audits, progress reports, contracts, and
18 the identity of and actual amount awarded to a recipient corporation, and any
19 other records or proceedings relating thereto, shall be subject to disclosure
20 under subchapter 3 of chapter 5 of Title 1 (public records law).

1 (2) The identity of a recipient corporation or contractor, and the amount
2 of the development subsidy or contract awarded, shall not be available for
3 public inspection until 90 days after the grant of a development subsidy or the
4 awarding of a contract. After the expiration of the 90 day period such
5 information shall not be considered confidential, and may be disclosed
6 pursuant to subchapter 3, chapter 5 of Title 1.

7 Sec. 2. 10 V.S.A. chapter 1 is amended as follows:

8 CHAPTER 1. THE FUTURE OF ECONOMIC DEVELOPMENT

9 § 2. ~~UNIFIED ECONOMIC DEVELOPMENT BUDGET (UEDB)~~

10 ~~(a) For purposes of evaluating the effect on economic development in this~~
11 ~~state, the commissioner of finance and management, in collaboration with the~~
12 ~~secretary of commerce and community development, shall submit a unified~~
13 ~~economic development budget as part of the annual budget report to the~~
14 ~~general assembly under 32 V.S.A. § 306.~~

15 ~~(b) The unified economic development budget shall include appropriations~~
16 ~~or expenditures for all of the types of development assistance, workforce~~
17 ~~training and education, and the development related research granted or~~
18 ~~managed by the state during the prior four fiscal years by all agencies,~~
19 ~~departments, authorities, and other instrumentalities of the state. The budget~~
20 ~~shall adjust expenditures or appropriations to enable year to year comparisons~~
21 ~~to be made.~~

1 ~~(e) The unified development budget shall specifically include:~~

2 ~~(1) The aggregate amount and program specific amounts of all state~~
3 ~~economic development assistance, including grants, loans, and tax~~
4 ~~expenditures.~~

5 ~~(2) The aggregate amount and program specific amounts of uncollected~~
6 ~~or diverted state tax revenues resulting from each type of development~~
7 ~~assistance provided in the tax statutes, as reported in the annual tax expenditure~~
8 ~~report (32 V.S.A. § 312). If current data are not available, the report may use~~
9 ~~the average of the three most recent years reported.~~

10 ~~(3) Performance measurements, including estimated jobs created,~~
11 ~~increases or decreases in payroll including benefits, and other measures of~~
12 ~~economic advancement, with clear descriptions of data sources and~~
13 ~~methodologies.~~

14 ~~(4) A report of progress in developing consistent and measurable~~
15 ~~benchmarks of job creation.~~

16 ~~(d) The data presented shall be organized by categories such as~~
17 ~~administration, workforce education and training, tax expenditures, agriculture,~~
18 ~~tourism, technical assistance, planning, housing, transportation, technology,~~
19 ~~and research, among others deemed appropriate. Every effort shall be made to~~
20 ~~standardize definitions of positions and other measures.~~

1 § 3. ECONOMIC DEVELOPMENT; LONG-TERM GOALS; ~~REVIEW~~
2 ~~AND ASSESSMENT~~

3 * * *

4 ~~(d)(1) The commission on the future of economic development, or a~~
5 ~~working group thereof designated by the general assembly, shall work with the~~
6 ~~state economists and the joint fiscal office to adopt benchmarks for the four~~
7 ~~principal goals.~~

8 ~~(2) The commission or workgroup thereof shall on or before January 15,~~
9 ~~2010 report to the house committee on commerce and economic development,~~
10 ~~the senate committee on finance, and the senate committee on economic~~
11 ~~development, housing and general affairs concerning its review of the goals,~~
12 ~~benchmarks, and agency progress pursuant to this subsection.~~

13 ~~(3) On or before January 15, 2010, the commission shall recommend to~~
14 ~~the senate committee on economic development, housing and general affairs,~~
15 ~~the senate committee on finance, the house committee on commerce and~~
16 ~~economic development, the house committee on ways and means, and the~~
17 ~~governor on whether it would promote the best interests of Vermont for the~~
18 ~~commission to continue its review of the goals and benchmarks, or if a~~
19 ~~successor to that responsibility should be designated. Notwithstanding any~~
20 ~~recommendation, the commission shall continue to perform the review unless~~

1 ~~and until a successor is designated by legislation approved by the legislature~~
2 ~~and the governor.~~

3 § 4. DEVELOPMENT SUBSIDIES; PREFERENCE FOR LOCAL

4 CONTRACTORS AND SOCIALLY RESPONSIBLE BUSINESSES

5 (a) Notwithstanding any provision of law to the contrary, the state or its
6 instrumentalities, when awarding an economic development subsidy for which
7 two or more person have applied, shall:

8 (1) Award the subsidy to a local business, unless an eligible socially
9 responsible business as determined under subdivision (2) of this section, has
10 applied for the subsidy. For the purposes of this section, a “local business”
11 means either a sole proprietor whose primary residence is Vermont, or a
12 Vermont-domiciled business organization registered with the secretary of state.

13 (2) Award the subsidy to a socially responsible business. For the
14 purposes of this subdivision, “socially responsible business” means any person
15 that:

16 (A) is a Vermont-domiciled benefit corporation; or

17 (B) meets two or more of the following criteria:

18 (i) is a “local business” under subdivision (1) of this section;

19 (ii) spends 10 percent or more of its total payroll on employee

20 health benefits;

1 ~~form of a grant, a loan, a state tax abatement, a tax credit, a tax increment~~
2 ~~financing program, or such other form of economic development assistance or~~
3 ~~incentive as the secretary of commerce and community development may~~
4 ~~identify by rule.~~

5 ~~(b) Each economic development recipient shall state, on a form approved~~
6 ~~by the agency granting assistance, or awarding a tax credit or abatement, or~~
7 ~~approving any other form of economic development assistance, the number of~~
8 ~~new jobs that will be created or existing jobs that will be retained as a result of~~
9 ~~such assistance, the wages and employee benefits associated with such jobs,~~
10 ~~and a description of any other public benefits associated with such economic~~
11 ~~development assistance. Such statement shall be made prior to any such grant,~~
12 ~~award, or approval. Such statements and the information contained therein~~
13 ~~shall not be available for public inspection until 90 days after the granting of~~
14 ~~assistance, or the awarding of a tax credit or abatement, or the approving any~~
15 ~~other form of economic development assistance or incentive. After the~~
16 ~~expiration of such 90 day period such statements and information shall not be~~
17 ~~considered confidential, and may be inspected and copied pursuant to subchap~~
18 ~~ter 3, chapter 5 of Title 1 (public records law), notwithstanding the provisions~~
19 ~~of any other law.~~

20 ~~(c) Each economic development recipient shall report annually, in a manner~~
21 ~~and on a form prescribed by the commissioner of economic development, the~~

1 ~~amount or monetary value of economic assistance or incentive granted,~~
2 ~~awarded or approved, and such information as is necessary to determine~~
3 ~~whether the recipient has reached its job creation or other public benefit goals~~
4 ~~stated pursuant to subsection (b) of this section.~~

5 ~~(d) The commissioner of economic development shall adopt such rules as~~
6 ~~are necessary to carry out the purposes of this section.~~

7 * * *

8 * * * Government Contracts;

9 Socially Responsible and Local Contractors * * *

10 Sec. 3. 29 V.S.A. § 161(g) is added to read:

11 (g) When considering contract bids under this section, the commissioner
12 shall consider the interests of the state relating to the proximity of the supplier
13 and the costs of transportation, and relating to the economy of the state and the
14 need to maintain and create jobs in the state. The commissioner shall utilize an
15 econometric model developed and maintained by the legislative joint fiscal
16 office to evaluate the net costs of each contract.

17 Sec. 4. 29 V.S.A. § 903 is amended to read:

18 § 903. REQUISITION FOR SUPPLIES AND MATERIALS

19 * * *

20 (b) When purchasing any items or services mentioned in this chapter, the
21 commissioner of buildings and general services, in any determination of the

1 best interest of the state shall consider (1) specified quality; (2) price; (3) ease
2 of access of supply; (4) incidental administrative costs; (5) proven reliability of
3 bidder; (6) use of recycled materials or products; (7) minimizing the creation,
4 by the state, of solid waste; (8) the extent to which the usage of the item
5 involves the generation of pollutants; (9) life cycle costs, if required under the
6 state agency energy plan, as implemented; (10) the interests of the state
7 relating to the proximity of the supplier and the costs of transportation, and
8 relating to the economy of the state and the need to maintain and create jobs in
9 the state; and (11) the use of railroads and the increased revenues returning to
10 the state from its railroad leasing program. The commissioner, in the
11 commissioner's discretion, may spend up to 10 percent more for comp
12 arable products that are made of recycled materials. If products made of
13 recycled materials are to cost more than 10 percent more than comparable
14 products, the commissioner shall receive consent of state entities that are to use
15 the product, before completing the order for the materials in question. For
16 purposes of considering subdivision (10) of this subsection, the commissioner
17 shall utilize an econometric model developed and maintained by the legislative
18 joint fiscal office to evaluate the net costs of contracts with a value
19 of \$1 million or more.

20 (c) Whenever any business or industry located in Vermont and employing
21 citizens of this state has submitted a bid and the item or service has not been

1 purchased from them, the commissioner of buildings and general services shall
2 record his or her reason for assigning the order as he or she did and his or her
3 report shall be a public record available to any interested person. All bids or
4 quotations shall be kept on file in his or her office and open to public
5 inspection.

6 * * *

7 Sec. 5. 29 V.S.A. § 929 is added to read:

8 § 929. DEVELOPMENT SUBSIDIES; GOVERNMENT CONTRACTS;

9 PREFERENCES FOR LOCAL CONTRACTORS AND SOCIALLY

10 RESPONSIBLE BUSINESSES

11 (a) Notwithstanding any provision of law to the contrary, the state or its
12 instrumentalities, when entering into a contract for a project or the purchase of
13 goods or services, shall:

14 (1) Accept the bid of a local contractor which exceeds by up to
15 10 percent the lowest good faith bid for the contract, unless the bid of a local
16 contractor is the same or higher than a bid submitted by a socially responsible
17 business as determined under subdivision (2) of this section. For the purposes
18 of this section, a “local contractor” means either a sole proprietor whose
19 primary residence is Vermont, or a Vermont-domiciled business organization
20 registered with the secretary of state.

1 (2) Accept the bid of a socially responsible business which exceeds by
2 up to 10 percent the lowest good faith bid for the contract. For the purposes of
3 this subdivision, “socially responsible business” means any person that:

4 (A) is a Vermont-domiciled benefit corporation; or

5 (B) meets two or more of the following criteria:

6 (i) is a “local contractor” under subdivision (1) of this section;

7 (ii) spends 10 percent or more of its total payroll on employee

8 health benefits;

9 (iii) pays a liveable wage, as defined by the joint fiscal committee

10 in its biannual report pursuant to 2 V.S.A. § 505, to 50 percent or more of its

11 employees;

12 (iv) is in current compliance with applicable unemployment

13 insurance and workers’ compensation obligations under Vermont and federal

14 law.

15 Sec. 6. 32 V.S.A. § 5930a is amended to read:

16 * * *

17 (d) The council shall apply the cost-benefit model in reviewing applications
18 under subdivision (b)(1)(A) and (B) of this section to determine the net fiscal
19 benefit to the state. The cost-benefit model shall be a ~~uniform and~~
20 comprehensive methodology for assessing and measuring the projected net
21 fiscal benefit or cost to the state of proposed economic development activities.

1 Any modification of the cost-benefit model shall be subject to the approval of
2 the joint fiscal committee. The cost-benefit analysis shall include
3 consideration of the effect of the passage of time and inflation on the value of
4 multi-year fiscal benefits and costs.

5 * * *

6 (h) Information and materials submitted by a business concerning its
7 income taxes and other confidential financial information shall not be subject
8 to public disclosure under the state's public records law in Title 1, chapter 5,
9 but shall be available to the joint fiscal office or its agent upon authorization of
10 the joint fiscal committee or a standing committee of the general assembly, and
11 shall also be available to the auditor of accounts in connection with the
12 performance of duties under section 163 of this title; provided, however, that
13 the joint fiscal office or its agent, and the auditor of accounts, shall not
14 disclose, directly or indirectly, to any person any proprietary business
15 information ~~or any information which would identify a business~~ except in
16 accordance with a judicial order or as otherwise specifically provided by law.
17 Nothing in this subsection shall be construed to prohibit the publication of
18 statistical information, rulings, determinations, reports, opinions, policies, or
19 other information so long as the data is disclosed in a form that ~~cannot identify~~
20 ~~or be associated with a particular business~~ does not disclose confidential or
21 proprietary business information. For purposes of this section, the identity of

1 the award recipient, the amount of the award, and related performance data
2 shall not be considered confidential or proprietary business information.

3 * * *

4 ~~(j) By April 1 of each year, the council and the department of taxes shall~~
5 ~~file a joint report on economic advancement tax incentives with the chairs of~~
6 ~~the house committee on ways and means, the house committee on commerce,~~
7 ~~the senate committee on finance, the senate committee on economic~~
8 ~~development, housing and general affairs, the house and senate committees on~~
9 ~~appropriations, and the joint fiscal committee of the general assembly and~~
10 ~~provide notice of the report to the members of those committees. The joint~~
11 ~~report shall contain the gross and net value of incentives granted pursuant to~~
12 ~~subdivisions (b)(1), (4), and (5) of this section and pursuant to subdivisions~~
13 ~~(b)(2) and (3) of this section during the preceding year. The joint report shall~~
14 ~~include an account of each incentive granted under subsection (b) of this~~
15 ~~section, from inception of the program to the date of the report, including the~~
16 ~~date and amount of the award, the expected calendar year or years in which the~~
17 ~~award will be exercised, whether the award is currently available, the date the~~
18 ~~award will expire, and the amount and date of all incentives exercised. The~~
19 ~~joint report shall also describe the extent to which the tax credits allowed by~~
20 ~~the department of taxes in the previous calendar year supported economic~~
21 ~~activity that complied with the performance expectations in the written~~

1 notification of approval under subsection (k) of this section. The joint report
2 shall summarize all credits awarded and earned, applied for, and carried
3 forward by entities participating in the economic advancement tax incentives
4 program authorized by this subchapter through the end of the preceding
5 calendar year. The joint report shall include the claims by specific type of
6 credit, number of participating entities, and tax type against which the credit is
7 applied. The joint report shall also include information on award recaptures.
8 The joint report shall also include information on economic activity, benefits to
9 the state, and recipient performance in the fiscal year in which the credit was
10 applied. The department of taxes shall develop the capacity to report by fiscal
11 year the amount of total credits applied by tax type against the tax liabilities for
12 the prior fiscal year and any award recaptures. The joint report shall also
13 address the council's conformance with the annual authorizations established
14 in subsection (i) of this section. The council and department may use measures
15 to protect confidential financial information, such as reporting information in
16 an aggregate form or masking the identity of the tax award recipient.

17 [Repealed.]

18 * * *

19 (l)(1)(A) On or before the date, including the date of any extensions, that
20 an award recipient is required to file its return under the provisions of sections
21 5861, 5862, 5914, or 5920 of this title, an award recipient shall file a report

1 with the department of taxes and with the council for each tax year for which
2 the award is authorized by the council. The report shall respond directly to the
3 performance expectations in the written notification of approval issued under
4 subsection (k) of this section, and shall include a description of the economic
5 activity, including the total number of jobs created, the number of new jobs
6 filled by Vermont residents, the wages for the new jobs, investments made
7 according to the categories of incentives awarded, the nature and extent to
8 which the economic activity was consistent with the guidelines in
9 subsection (c) of this section, and any other information required by the
10 council or the department of taxes to assess the performance of the award
11 recipient.

12 * * *

13 (2) By December 31 of each year following the approval of an economic
14 incentive, until the December 31 following the taxable year in which the
15 approved incentive expires, an award recipient that has obtained the council's
16 approval under ~~subdivisions (b)(1), (4), or (5)~~ subsection (b) of this section
17 shall file a report with the council, stating the amount of any incentives used
18 during the preceding taxable year, and detailing compliance with all
19 performance expectations upon which the award was conditioned.

20 Sec. 7. EFFECTIVE DATE

21 This act shall take effect on passage.