H.641

Introduced by Representative Kimbell of Woodstock

Referred to Committee on

Date:

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to authorize an incentive award under the Vermont Employment Growth Incentive program to be made as a forgivable loan.

An act relating to promoting technology-based economic development

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

Sec. 1. FINDINGS; PURPOSE

(a) The General Assembly finds:

(1) In a tight labor market, businesses need to make capital investments to improve productivity and grow. Financial incentives based on increasing the number of employees are misaligned in a tight labor market. Establishing incentives based on capital investments and the increase in wages to incumbent workers are much better aligned to incentivize behavior to grow.

(2) The current Vermont Employment Growth Incentive (VEGI) program is difficult to manage and administer for all parties, including

applicants, the Vermont Economic Progress Council, and the Departments of Taxes and of Labor.

(3) The current VEGI incentive has a long delay of five to nine years in the financial benefits realized by a participating business, which minimizes the effectiveness of a meaningful incentive.

(b) The purpose of Sec. 2 of this act is to authorize a VEGI incentive to be offered in the form of a forgivable loan through the Vermont Economic Development Authority, consistent with the following:

(1) this act does not increase the annual allocation cap for the VEGI program;

(2) the amount of loan forgiveness available to a business is limited to the benefit to the State, as calculated using the REMI model maintaining by the Vermont Economic Progress Council; and

(3) the Agency of Commerce and Community Development shall include in its budget the anticipated costs incurred by the Vermont Economic Development Authority in administering the loan program.

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

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

(a) Purpose. The purpose of the Vermont Employment Growth Incentive Program is to generate net new revenue to the State by encouraging a business to add new payroll, create new jobs, and make new capital investments and sharing a portion of the revenue with the business.

(b) Form of incentives; enhanced incentives.

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

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§ 3331. DEFINITIONS

As used in this subchapter:

(1) "Award period" means the consecutive ~~five~~ three years during which a business may apply for an incentive under this subchapter.

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(10) "Utilization period" means each year of the award period and the ~~four~~ two years immediately following each year of the award period.

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§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

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

(2) A business may apply for an incentive in the form of a forgivable loan only if the term of the loan and the performance period will not coincide with any portion of the term for another incentive awarded under this subchapter.

(3) For each award year the business applies for an incentive, including a forgivable loan for capital investment, the business shall:

(A) specify a payroll performance requirement;

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

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

(b) Mandatory criteria. The Council shall not approve an application or recommend an application to the Vermont Economic Development Authority, unless it finds:

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

(2) The host municipality welcomes the new business.

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

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

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

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

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

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

(A) would not occur; or

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

<u>(c) Forgivable loan for capital investments. The Council may recommend to the Vermont Economic Development Authority an application for a forgivable loan in a total amount not to exceed the incentive value determined by the approved cost benefit model where the Council has determined an</u>

application submitted by the business in a format specified by the Council meets the following criteria:

(1) the business does not have another pending incentive under this subchapter or an application for the same;

(2) the application is for capital investment to upgrade facilities, machinery, or equipment; and

(3) the application satisfies the mandatory criteria under subsection (b) of this section.

(d) Approval process for a forgivable loan for capital investments.

(1) The Vermont Economic Development Authority pursuant to its authority under 10 V.S.A. chapter 12 shall provide underwriting of an application for a forgivable loan recommended by the Council.

(2) The decision of the Vermont Economic Development Authority to approve or deny a forgivable loan shall be communicated to the Council and be a final decision.

(3) The Vermont Economic Development Authority quarterly shall request reimbursement from the Agency of Commerce and Community Development for underwriting and loan administration expenses as well as the cost of the pilot program, which includes among other fees, the interest carry cost differential between the one percent due from the borrower and VEDA's market interest rate until such time that the loan is either:

(A) forgiven pursuant to subsection 3333(b) of this title; or

(B) the loan is converted to a payable obligation pursuant to subsection 3339(c) of this title.

(e) Other incentives; denial. A business denied a forgivable loan for capital investment may apply for other incentives administered by the Council under this chapter.

§ 3333. CALCULATING THE VALUE OF AN INCENTIVE

(a) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, an enhanced incentive for an environmental technology business under section 3335 of this title, or ~~an enhanced incentive for workforce training under section 3336 of this title~~ a forgivable loan for capital investment under section 3332 of this title and subsection (b) of this section, the Council shall calculate the value of an incentive for an award year as follows:

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

(2) Calculate the business's potential share of new revenue growth. Except as otherwise provided for an environmental technology business in

section 3335 of this title, to calculate the business's potential share of new revenue growth, the Council shall multiply the new revenue growth determined under subdivision (1) of this subsection by 80 percent.

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

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

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

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

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

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

<u>(b) Capital investment loan pilot program; loan amount and terms. To determine the amount of a forgivable loan, the Council shall use the cost-</u>

benefit model established under section 3326 of this title with the following exceptions:

(1) The total base payroll of the business will increase by at least twice the annual increase in the Consumer Price Index on or before the end of the initial three years of the loan term.

(2) The total amount of capital investment will be made on or before the end of the initial three-years of the loan term.

(3) The business shall make monthly interest payments on the loan at the rate of one percent during the initial three-years of the loan term as provided in the loan agreement prepared by the Vermont Economic Development Authority.

(4) The Department of Taxes shall verify the total amount of increase from base payroll of the business during the initial three years of the loan term.

(c) Granting loan forgiveness. The Department of Taxes shall not approve loan forgiveness to a business unless it finds:

(1) at the end of the initial three years of the loan term, the Vermont Economic Development Authority has verified that the business has made the required amount of capital investment; and

(2) at the end of the initial three years of the loan term, the Department of Taxes has verified that the business has increased its payroll by the required amount in the loan agreement.

(d) Upon the verifications required under subdivisions (c)(1) and (2) of this section having been made, the Department of Taxes shall reimburse the Vermont Economic Development Authority for the full amount of the loan.

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§ 3339. RECAPTURE; REDUCTION; REPAYMENT

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(c) Conversion of forgivable loans to repayable obligations.

(1) At the end of the initial three years of the loan term, upon verification by the Department of Taxes that the business failed to increase its payroll by the required amount in the loan agreement, the total amount of the loan shall be converted to a repayable obligation in accordance with the terms established in the loan agreement.

(2) At the end of the initial three years of the loan term, upon verification by the Vermont Economic Development Authority that the business failed to make the required amount of capital investment, the total percentage calculated as deficient shall be converted to a repayable obligation.

(3) The Vermont Economic Development Authority shall determine the schedule and conditions for the business to repay the State the total amount of deficiency in payroll and capital investment calculated under subdivisions (1) and (2) this subsection.

(4) In the event a business disputes a determination by the Department of Taxes or the Council under subdivisions (1) and (2) of this subsection, the Vermont Economic Development Authority shall be held harmless.

(d) Tax liability.

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

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

Sec. 3. REPEAL

2018 Acts and Resolves No. 197, Sec. 2 (ThinkVermont Innovation Initiative) is repealed.

Sec. 4. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose. The U.S. economy is undergoing a fundamental shift toward a technology and innovation-driven economy, with new technological applications changing how existing industries operate as well as spawning new industries of their own. Amid these rapid and transformative changes, Vermont increasingly competes nationally and globally for market share. To ensure Vermont remains relevant and competitive in the global economy over the next 20 years, the ThinkVermont Innovation Initiative is designed to strengthen our State's economic base by providing the essential tools and resources necessary to foster a climate where technology-based businesses can be created and thrive. The Initiative shall enable the State to contract with technical service providers and provide grants that can be accessed more quickly and with fewer restrictions than traditional federal initiatives.

(b) Technical Support. The Department of Economic Development shall contract with a technical service provider to assist Vermont-based technology companies in applying for federal small business innovation research and small business technology transfer grants.

(c) Matching Grants. Eligible Vermont companies who receive a federal SBIR/STTR Phase I or II grant will be eligible to apply for a matching grant from the Department of Economic Development. Grantees would be eligible for up to 50 percent of the federal award up to $50,000.00.

(d) Industry Research Partnership Program. Eligible Vermont companies can apply for grants to purchase services from universities and research institutions to stimulate innovation. Eligible uses include research and development assistance, technology assessments, product prototyping, lab validation, and overcoming product development hurdles. Grantees must provide a dollar-for-dollar match to State funding.

(e) EPSCOR pass-through grant. The Department of Economic Development shall administer a pass-through grant to the Vermont Established

Program to Stimulate Competitive Research (EPSCOR). Vermont EPSCOR shall administer grants to support the research and development of technologies with commercial potential and help them prepare to advance from the university toward eligibility for federal small business innovation research funding.

(f) Outcomes; measures. The Secretary shall adopt measures to evaluate the effectiveness of the funding, including federal dollars leveraged, amount of private capital raised by participating companies, and the number of new jobs created.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.