

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 641 entitled “An act relating to promoting technology-
4 based economic development” respectfully reports that it has considered the
5 same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 32 V.S.A. chapter 105, subchapter 2 is amended to read:

8 § 3330. Purpose; form of incentives; enhanced incentives; eligible applicant

9 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
10 and the Capital Investment Incentive Program is to generate net revenue
11 benefit to the State by encouraging a business to add new payroll, create new
12 jobs, ~~and~~ or make new capital investments and sharing a portion of the revenue
13 with the business.

14 (b) Form of incentives; enhanced incentives.

15 (1) The Vermont Economic Progress Council may approve an incentive
16 under this subchapter in the form of a direct cash payment in annual
17 installments or in the form of a loan from the Vermont Economic Development
18 Authority.

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

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

4 (B) an enhanced incentive for an environmental technology business
5 pursuant to section 3335 of this title; and

6 (C) an enhanced incentive for a business that participates in a State
7 workforce training program pursuant to section 3336 of this title.

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

10 § 3331. Definitions

11 As used in this subchapter:

12 (1) "Award period" means the consecutive three or 5 years depending on
13 the program option during which a business may apply for an incentive under
14 this subchapter

15 (2) "Base employment" means the number of full-time Vermont jobs
16 held by non-owner employees as of the date a business with an approved
17 application commences its proposed economic activity.

18 (3) "Base payroll" means the Vermont gross salaries and wages paid as
19 compensation to full-time Vermont jobs held by non-owner employees as of
20 the date a business with an approved application commences its proposed
21 economic activity.

1 (4) "Capital investment performance requirement" means the minimum
2 value of additional investment in one or more capital improvements.

3 (5) "Jobs performance requirement" means the minimum number of
4 qualifying jobs a business must add

5 (6) "Labor market area" means a labor market area as designated by the
6 Vermont Department of Labor.

7 (7) "Non-owner`" means a person with no more than 10 percent
8 ownership interest, including attribution of ownership interests of the person's
9 spouse, parents, spouse's parents, siblings, and children.

10 (8) "Payroll performance requirement" means:

11 (A) The minimum value of Vermont gross salaries and wages a
12 business must pay as compensation for one or more qualifying new jobs.

13 (B) For the Vermont investment incentive, for applicants with 100 or
14 more employees, and a capital investment target of at least \$20mm a sum not
15 less than 90 percent of base payroll.

16 (C) For a convertible loan program, for applicants with less than 100
17 employees, the sum of base payroll multiplied by the annual Employment Cost
18 Index.

19 (9) "Qualifying job" means a new, permanent position in Vermont that
20 meets each of the following criteria:

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

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

5 (C) The business provides for the position at least three of the
6 following:

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

9 (ii) dental assistance;

10 (iii) paid vacation;

11 (iv) paid holidays;

12 (v) child care;

13 (vi) other extraordinary employee benefits;

14 (vii) retirement benefits;

15 (viii) other paid time off, excluding paid sick days.

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

18 (E) When the position is added to base employment, the business's
19 total employment exceeds its average annual employment during the two
20 preceding years, unless the Council determines that the business is establishing

1 a significantly different, new line of business and creating new jobs in the new
2 line of business that were not part of the business prior to filing its application.

3 (10) “Qualifying job” means:

4 (A) For a business with 100 or more employees applying for the
5 convertible loan pilot program, an existing job that otherwise meets all of the
6 criteria of a “qualifying job” as defined in subsection (9) of this section.

7 (B) For a business with less than 100 employees applying for the
8 Vermont Investment Incentive Program , a full-time job as specified in the
9 application guidelines and criteria established by the Council.

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

12 ~~(11~~ 12) "Vermont gross wages and salaries" means Medicare wages as
13 reported on Federal Tax Form W-2 to the extent those wages are Vermont
14 wages, excluding income from nonstatutory stock options.

15 ~~(12~~ 13) "Wage threshold" means the minimum amount of annualized
16 Vermont gross wages and salaries a business must pay for a qualifying job, as
17 required by the Council in its discretion, but not less than:

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

20 (B) for a business located in a labor market area in which the average
21 annual unemployment rate is higher than the average annual unemployment

1 rate for the State, 40 percent above the State minimum wage at the time of
2 application.

3 § 3332. Application; approval criteria

4 (a) Application.

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

8 (2) A business employing not more than 100 full-time employees may
9 apply for an incentive in the form of a capital investment loan from the
10 Vermont Economic Development Authority only where the term of the loan
11 and performance period will not coincide with any portion of the term for
12 another incentive awarded under this subchapter.

13 (3) A business may apply for an capital investment incentive in the form
14 of a direct cash payment in annual installments in a format the Council
15 specifies where the business has base employment of at least 100 qualifying
16 jobs and proposes to make a capital investment in an amount of
17 \$20,000,000.00 or greater during a five-year award period and to meet the
18 payroll performance requirement for qualified jobs.

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

21 (A) specify a payroll performance requirement;

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

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

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

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

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

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

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

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

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

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

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

8 (A) would not occur; or

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

11 (c) Loan for capital investments. The Council may recommend to the
12 Vermont Economic Development Authority an application for a loan in a total
13 amount not to exceed the incentive value determined by the approved cost
14 benefit model where the Council has determined an application submitted by
15 the business in a format specified by the Council meets the following criteria:

16 (1) The business does not have another pending incentive under this
17 subchapter or an application for the same.

18 (2) The application is for capital investment to upgrade facilities,
19 machinery or equipment.

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

1 (d) Approval process for a loan for capital investments

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

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

8 (3) The Vermont Economic Development Authority shall receive an
9 annual appropriate for the underwriting and loan administration expenses as
10 well as the cost of the pilot program which includes among other fees, the
11 interest carry cost differential between the 1% due from the applicant/borrower
12 and VEDA's market interest rate until the date on which either the total
13 amount of the loan is converted to a grant pursuant to subsection 3333(c) of
14 this title or the failure of the business to satisfy the payroll performance or
15 capital investment requirements causes the loan to remain a payable obligation
16 pursuant to subsection 3339(c) of this title.

17 (e) A business denied a loan for capital investment may apply for other
18 incentives administered by the Council under chapter 105 of Title 32.

19 § 3333. Calculating the value of an incentive

20 (a) Except as otherwise provided for an enhanced incentive for a business in
21 a qualifying labor market area under section 3334 of this title, an enhanced

1 incentive for an environmental technology business under section 3335 of this
2 title, ~~or~~ an enhanced incentive for workforce training under section 3336 of this
3 title, or a loan for capital investment under section 3332 of this title and
4 subsection (b) of this section, the Council shall calculate the value of an
5 incentive for an award year as follows:

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

11 (2) *Calculate the business's potential share of ~~new~~ revenue ~~growth~~*
12 *benefit*. Except as otherwise provided for an environmental technology
13 business in section 3335 of this title, to calculate the business's potential share
14 of ~~new~~ revenue ~~growth~~ benefit, the Council shall multiply the ~~new~~ revenue
15 ~~growth~~ benefit determined under subdivision (1) of this subsection by 80
16 percent.

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

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

4 (B) To calculate qualifying payroll for the capital investment
5 incentives, the Council shall use the payroll performance requirements
6 established in subsection (8) of section 3331 of this title.

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

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

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

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

16 (b) Capital investment loan pilot program; loan amount and terms. To
17 determine the amount of a capital investment loan, the Council shall use a cost-
18 benefit model established under section 3326 of this title with the following
19 exceptions:

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

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

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

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

12 (c) Capital investment loan conversion to a grant. The Tax Department shall
13 not approve the conversion of a capital investment loan to a grant to a business
14 unless it finds:

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

18 (2) At the end of the initial three years of the loan term, the Department
19 of Taxes has verified that the business has satisfied the payroll performance
20 requirement in the loan agreement.

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

4 * * *

5 § 3339. Recapture; reduction; repayment

6 (a) Recapture.

7 (1) The Department of Taxes may recapture the value of one or more
8 installment payments a business has claimed, with interest, if:

9 (A) the business fails to file a claim as required in section 3338 of this
10 title;

11 (B) during the utilization period, the business experiences:

12 (i) a 90 percent or greater reduction from base employment; or

13 (ii) if it had no jobs at the time of application, a 90 percent or
14 greater reduction from the sum of its job performance requirements; or

15 (C) the Department determines that during the application or claims
16 process the business knowingly made a false attestation that the business:

17 (i) was not a named party to, or was in compliance with, an
18 administrative order, consent decree, or judicial order issued by the State or a
19 subdivision of the State; or

20 (ii) was in compliance with State laws and regulations.

1 (2) If the Department determines that a business is subject to recapture
2 under subdivision (1) of this subsection, the business becomes ineligible to
3 earn or claim an additional incentive or installment payment for the remainder
4 of the utilization period.

5 (3) Notwithstanding any other statute of limitations, the Department may
6 commence a proceeding to recapture amounts under subdivision (1) of this
7 subsection as follows:

8 (A) under subdivision (1)(A) of this subsection, no later than three
9 years from the last day of the utilization period; and

10 (B) under subdivision (1)(B) of this subsection, no later than three
11 years from date the business experiences the reduction from base employment,
12 or three years from the last day of the utilization period, whichever occurs first.

13 (b) Reduction; recapture. If a business fails to make capital investments that
14 equal or exceed the sum of its capital investment performance requirements by
15 the end of the award period:

16 (1) The Department shall:

17 (A) calculate a reduced incentive by multiplying the combined value
18 of the business's award period incentives by the same proportion that the
19 business's total actual capital investments bear to the sum of its capital
20 investment performance requirements; and

1 (B) reduce the value of any remaining installment payments for which
2 the business is eligible by the same proportion.

3 (2) If the value of the installment payments the business has already
4 received exceeds the value of the reduced incentive, then:

5 (A) the business becomes ineligible to claim any additional
6 installment payments for the award period; and

7 (B) the Department shall recapture the amount by which the value of
8 the installment payments the business has already received exceeds the value
9 of the reduced incentive.

10 (c) Repayment of capital investment loans.

11 (1) At the end of the initial three years of the loan term, upon verification
12 by the Department of Taxes that the business failed to meet the payroll
13 performance requirement, the business shall become obligated to repay the
14 Vermont Economic Development Authority in an amount and manner
15 established in the loan agreement.

16 (2) At the end of the initial three years of the loan term, upon verification
17 by the Vermont Economic Development Authority that the business failed to
18 make the required amount of capital investment, the loan will be forgiven in
19 proportion to the percent of the capital investment targets made. The
20 Department of Taxes shall reimburse the Vermont Economic Development
21 Authority the proportion of the determined forgiven amount. For any

1 remaining loan amount, the business will be obligated to repay the determined
2 remainder.

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

6 (d) Tax liability.

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

10 (2) For purposes of this section, the Department of Taxes may use any
11 enforcement or collection action available for taxes owed pursuant to chapter
12 151 of this title.

13 * * *

14 § 3342. Annual program cap

15 (a) In each calendar year the Vermont Economic Progress Council may
16 approve one or more incentives under this subchapter, the total value of which
17 shall not exceed:

18 ~~(1) \$15,000,000.00 for one or more initial approvals; and~~

19 ~~(2) \$10,000,000.00~~ \$25,000,000.00 for one or more final approvals.

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

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

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

11 Sec. 3. REPEAL

12 2018 Acts and Resolves No. 197, Sec. 2 (ThinkVermont Innovation
13 Initiative) is repealed.

14 Sec. 4. THINKVERMONT INNOVATION INITIATIVE

15 (a) Purpose. The U.S. economy is undergoing a fundamental shift toward a
16 technology and innovation-driven economy, with new technological
17 applications changing how existing industries operate as well as spawning new
18 industries of their own. Amid these rapid and transformative changes,
19 Vermont increasingly competes nationally and globally for market share. To
20 ensure Vermont remains relevant and competitive in the global economy over
21 the next 20 years, the ThinkVermont Innovation Initiative is designed to

1 strengthen our State’s economic base by providing the essential tools and
2 resources necessary to foster a climate where technology-based businesses can
3 be created and thrive. The Initiative shall enable the State to contract with
4 technical service providers and provide grants that can be accessed more
5 quickly and with fewer restrictions than traditional federal initiatives.

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

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

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

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

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

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

10 Sec. 5. 32 V.S.A. § 5930ee is amended to read:

11 § 5930ee. LIMITATIONS

12 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
13 credits to all qualified applicants under this subchapter, provided that:

14 (1) the total amount of tax credits awarded annually, together with sales
15 tax reallocated under section 9819 of this title, does not exceed ~~\$2,600,000.00~~
16 \$5,200,000.00;

17 * * *

18 Sec. 6. 24 V.S.A. § 2797a is added to read:

19 § 2797A. BETTER PLACES FUND.

20 (a) There is created a Better Places Fund, which shall be a special fund
21 created under 32 V.S.A. chapter 7, subchapter 5. The fund shall be

1 administered by the Department of Housing and Community Development, in
2 coordination with and support from other state agencies, nonprofit, and
3 philanthropic partners, for the purpose of utilizing crowdfunding to spark
4 community revitalization through collaborative grantmaking for projects that
5 create, activate, or revitalize public spaces.

6 (b) The Fund shall be comprised of the following:

7 (1) such State or federal funds as may be appropriated by the General
8 Assembly;

9 (2) any gifts, grants, or other contributions to the Fund;

10 (3) proceeds from the issuance of general obligation bonds.

11 (c) For purposes of this section, “public space” is defined as an area or place
12 that is open and accessible to all people, generally with no charge for
13 admission. These are public gathering spaces such as village greens, squares,
14 and parks. Connecting spaces, such as sidewalks, streets, alleys, and trails, are
15 also public spaces. In addition, community centers, towns halls, libraries, and
16 other public-accessibly buildings shall be considered public spaces.

17 (d) A municipality or nonprofit organization may apply to the fund for
18 matching funds for a project located in a designated downtown, village center,
19 new town center, or neighborhood development area that will create a new
20 public space or revitalize or activate an existing public space. Matching funds
21 shall be raised through a crowdfunding approach that includes multiple donors

1 and other appropriate requirements to ensure a broad base of community and
2 financial support for the project.

3 (e) The Department of Housing and Community Development shall
4 distribute funds under this section in a manner that provides funding for
5 projects of various sizes in as many geographical areas of the State as possible.

6 (f) The Department of Housing and Community Development is authorized
7 to utilize up to 15% of any appropriation from the General Fund to assist with
8 crowdfunding, administration, and technological needs of the Better Places
9 Program.

10 (g) Beginning on January 15, 2022, and annually thereafter, the Department
11 of Housing and Community Development shall submit to the Senate
12 Committee on Economic Development, Housing and General Affairs and the
13 House Committee on Commerce and Economic Development an annual report
14 regarding the activities and progress of the Better Places program. The report
15 shall:

16 (1) summarize the program activities in the preceding year

17 (2) report on the number of awarded grants, the total grant funds
18 allocated, the grant dollars leveraged, the success rate of local crowdfunding
19 campaigns, and the average number of donors per project.

20 (3) report on partner resources and contributions to the program.

1 (4) report on any measurable economic activity that may include
2 number of jobs created, number of visitors, the approximate number of square
3 feet to be activated or redeveloped, and the number of volunteers engaged in
4 the project.

5 Sec. 7. EFFECTIVE DATE

6 This act shall take effect on July 1, 2020.

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13 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE