

1 Introduced by Representative Marcotte of Coventry

2 Referred to Committee on

3 Date:

4 Subject: Housing; Vermont Employment Growth Incentive

5 Statement of purpose of bill as introduced: This bill proposes to adopt
6 miscellaneous housing proposals to make new investments in housing by
7 expanding rehabilitation and weatherization programs, limiting the land gains
8 tax, expanding the first-time homebuyer down payment assistance program,
9 and expanding the downtown tax credit program. This bill also proposes to
10 amend the Vermont Employment Growth Incentive Program.

11

12 An act relating to miscellaneous housing and economic development
13 provisions

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

15 * * * Housing Rehabilitation and Weatherization * * *

16 Sec. 1. 10 V.S.A. chapter 29, subchapter 3 is amended to read:

17 Subchapter 3. ~~Vermont Economic Progress Council~~ Housing Incentive
18 Program

19 § 699. RENTAL HOUSING INCENTIVE PROGRAM

1 (a) Purpose. Recognizing that Vermont’s rental housing stock is some of
2 the oldest in the country, and that much of it needs updating to meet code
3 requirement and other standards, this section is intended to incentivize private
4 apartment owners to make significant improvements to both housing quality
5 and weatherization by providing small grants that would be matched by the
6 private apartment owner.

7 (b) Creation of Program. The Department of Housing and Community
8 Development shall design and implement a Vermont Rental Housing Incentive
9 Program to provide funding to regional nonprofit housing partner organizations
10 to provide incentive grants to private landlords for the rehabilitation and
11 improvement, including weatherization, of existing rental housing stock. Each
12 grant shall be capped at a standard limit set by the Department per rental unit
13 and shall be matched by the private landlord at least two-to-one.

14 * * * Land Gains Tax * * *

15 Sec. 2. 32 V.S.A. § 10001 is amended to read:

16 § 10001. TAX IMPOSED

17 There is imposed, in addition to all other taxes imposed by this title, a tax
18 on the gains from the sale or exchange of land in Vermont occurring before
19 July 1, 2019.

20 Sec. 3. 32 V.S.A. § 9601 is amended to read:

21 § 9601. DEFINITIONS

1 The following definitions shall apply throughout this chapter unless the
2 context requires otherwise:

3 * * *

4 (11)(A) “Principal residence” means ~~principal residence as defined in 32~~
5 ~~V.S.A. § 10002a, together with land that is beneath or directly contiguous to~~
6 ~~the dwelling and that is transferred with the dwelling~~ a dwelling that, within
7 one year prior to sale, was occupied as the domicile of the seller or that, within
8 one year from the date of sale, will be occupied as the domicile of the
9 purchaser, together with land that is beneath or directly contiguous to the
10 dwelling and that is transferred with the dwelling. As used in this section, a
11 domicile is the principal dwelling of a person domiciled in this State.

12 (B) “Principal residence” includes a multi-family dwelling, not
13 exceeding four units, if:

14 (i) at the time of sale the seller occupied at least one unit within
15 the dwelling as his or her principal residence; or

16 (ii) the purchaser will use at least one unit within the dwelling as
17 his or her principal residence under the conditions of subdivision (11)(A) of
18 this subsection.

19 (C) “Principal residence” also means a dwelling used as the seller’s
20 principal residence, or that will be used by the purchaser as his or her principal
21 residence under the conditions of subdivision (11)(A) of this subsection, even

1 though the resident also carries on or will carry on commercial activity in that
2 dwelling. Commercial activity includes an office for the resident’s business or
3 profession or a retail store.

4 Sec. 4. 32 V.S.A. § 435(b) is amended to read:

5 (b) The General Fund shall be composed of revenues from the following
6 sources:

7 (1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

8 * * *

9 (10) 33 percent of the revenue from the property transfer taxes levied
10 pursuant to chapter 231 of this title ~~and the revenue from the gains taxes levied~~
11 ~~each year pursuant to chapter 236 of this title;~~

12 * * *

13 Sec. 5. REPEALS

14 (a) 24 V.S.A. § 2793e(f)(3) (neighborhood development area incentives for
15 developers) is repealed on July 1, 2019.

16 (b) 32 V.S.A. chapter 236 (land gains tax) is repealed on July 1, 2025.

17 * * * First Time Homebuyer Down Payment Assistance Program * * *

18 Sec. 6. 32 V.S.A. § 5930u is amended to read:

19 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

20 (a) As used in this section:

21 (1) “Affordable housing project” or “project” means:

1 (A) a rental housing project identified in 26 U.S.C. § 42(g); or

2 (B) owner-occupied housing identified in 26 U.S.C. § 143 (c)(1) or
3 that qualifies under Vermont Housing Finance Agency criteria governing
4 owner-occupied housing.

5 (2) “Affordable housing tax credits” means the tax credit provided by
6 this subchapter.

7 (3) “Allocating agency” or “Agency” means the Vermont Housing
8 Finance Agency.

9 (4) “Committee” means the Joint Committee on Tax Credits consisting
10 of five members: a representative from the Department of Housing and
11 Community ~~Affairs~~ Development, the Vermont Housing and Conservation
12 Board, the Vermont Housing Finance Agency, the Vermont State Housing
13 Authority, and the Office of the Governor.

14 (5) “Credit certificate” means a certificate issued by the allocating
15 agency to a taxpayer that specifies the amount of affordable housing tax credits
16 that can be applied against the taxpayer’s individual or corporate income tax,
17 or franchise, captive insurance premium, or insurance premium tax liability as
18 provided in this subchapter.

19 (6) “Eligible applicant” means any municipality, ~~private sector~~
20 ~~developer~~, State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing
21 Finance Agency, a for-profit organization, or a nonprofit organization

1 qualifying under 26 U.S.C. § 501(c)(3) or cooperative housing organization,
2 the purpose of which is to create and retain affordable housing for Vermonters
3 with lower income and which has in its bylaws a requirement that the housing
4 the organization creates be maintained as affordable housing for Vermonters
5 with lower income on a perpetual basis meeting the application requirements
6 of the allocation plan.

7 (7) “Eligible cash contribution” means an amount of cash:

8 (A) contributed to the owner, developer, or sponsor of an affordable
9 housing project and determined by the allocating agency as eligible for
10 affordable housing tax credits; or

11 (B) paid to the Agency in connection with the purchase of affordable
12 housing tax credits.

13 (8) “Section 42 credits” means tax credit provided by 26 U.S.C.
14 §§ 38 and 42.

15 (9) “Allocation plan” means the plan recommended by the Committee
16 and approved by the Vermont Housing Finance Agency, which sets forth the
17 eligibility requirements and process for selection of eligible rental housing
18 projects to receive affordable housing tax credits and eligible owner-occupied
19 housing projects to receive loans or grants under this section. The allocation
20 plan shall include:

1 (A) requirements for creation and retention of affordable housing for
2 persons with low income; and

3 (B) requirements to ensure that eligible rental housing is maintained
4 as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a
5 perpetual basis and that eligible owner-occupied housing or program funds for
6 owner-occupied housing remain as an affordable housing source for future
7 owners or buyers, and meets all other requirements of the Vermont Housing
8 Finance Agency related to affordable housing.

9 (10) “Taxpayer” means a taxpayer who makes an eligible cash
10 contribution or the assignee or transferee of or successor to such taxpayer as
11 determined by the Department of Taxes.

12 (b) Eligible tax credit allocations.

13 (1) Affordable housing credit allocation for rental housing.

14 (A) An eligible applicant may apply to the allocating agency for an
15 allocation of affordable rental housing tax credits under this section related to
16 an affordable housing project authorized by the allocating agency under the
17 allocation plan. In the case of a specific affordable rental housing project,
18 the eligible applicant shall also be the owner or a person having the right to
19 acquire ownership of the building and shall apply prior to placement of the
20 affordable housing project in service. ~~In the case of owner-occupied housing~~
21 ~~units, the applicant shall ensure that the allocated housing or program funds~~

1 ~~remain as an affordable housing resource for future owners.~~ The allocating
2 agency shall issue a letter of approval if it finds that the applicant meets the
3 priorities, criteria, and other provisions of subdivision (B) of this
4 subdivision (b)(1) The burden of proof shall be on the applicant.

5 (B) Upon receipt of a completed application, the allocating agency
6 shall award an allocation of affordable housing tax credits with respect to a
7 project to an applicant, provided the applicant demonstrates to the satisfaction
8 of the allocating agency all of the following:

9 (i) The owner of the project has received from the allocating
10 agency a binding commitment for, a reservation or allocation of, or an out-of-
11 cap determination letter for, Section 42 credits, or meets the requirements of
12 the allocation plan for development or financing of units to be owner-occupied.

13 (ii) The project has received community support.

14 (2) Affordable housing credit allocation for loans or grants for owner-
15 occupied housing.

16 (A) The Vermont Housing Finance Agency shall have the authority
17 to allocate affordable housing tax credits to provide funds to make loans or
18 grants to eligible applicants for affordable owner-occupied housing. An
19 eligible applicant may apply to the allocating agency for a loan or grant under
20 this section related to an affordable owner-occupied housing project authorized
21 by the allocating agency under the allocation plan. In the case of a specific

1 affordable owner-occupied housing project, the eligible applicants shall also be
2 the owner or a person having the right to acquire ownership of the unit and
3 shall apply prior to sale of the unit to the homeowner.

4 (B) The Agency shall require that the loan or grant recipient use such
5 funds to maintain the unit as an affordable owner-occupied unit or as an
6 affordable housing source for future owners or buyers.

7 (C) The Agency shall use the proceeds of loans or grants made under
8 subdivision (b)(2)(A) of this section for future loans or grants to eligible
9 applicants for affordable owner-occupied housing projects.

10 (D) The Agency may assign its rights under any loan or grant made
11 under subdivision (b)(2)(A) of this section to any State agency or nonprofit
12 organization qualifying under 26 U.S.C. § 501(c)(3) so long as such assignee
13 acknowledges and agrees to comply with the provisions of subdivision (b)(2)
14 of this section.

15 (3) Down Payment Assistance Program.

16 (A) The Vermont Housing Finance Agency shall have the authority
17 to allocate affordable housing tax credits to finance down payment assistance
18 loans that meet the following requirements:

19 (i) the loan is made in connection with a mortgage through an
20 Agency program;

1 (ii) the borrower is a first-time ~~homebuyer~~ home buyer of an
2 owner-occupied primary residence; and

3 (iii) the borrower uses the loan for the borrower’s down payment
4 or closing costs, or both.

5 (B) The Agency shall require the borrower to repay the loan upon the
6 transfer or refinance of the residence.

7 (C) The Agency shall use the proceeds of loans made under the
8 Program for future down payment assistance.

9 (c) Amount of credit. A taxpayer ~~who makes an eligible cash contribution~~
10 shall be entitled to claim against the taxpayer’s individual income, corporate,
11 franchise, captive insurance premium, or insurance premium tax liability a
12 credit in an amount specified on the taxpayer’s credit certificate. The first-year
13 allocation of a credit amount to a taxpayer shall also be deemed an allocation
14 of the same amount in each of the following four years.

15 (d) Availability of credit. The amount of affordable housing tax credit
16 ~~allocated with respect to a project~~ set forth on the taxpayer’s credit certificate
17 shall be available to the taxpayer every year for five consecutive tax years,
18 beginning with the tax year in which the eligible cash contribution is made.
19 Total tax credits available to the taxpayer shall be the amount of the first-year
20 allocation plus the succeeding four years’ deemed allocations.

1 (e) Claim for credit. A taxpayer claiming affordable housing tax credits
2 shall submit with each return on which such credit is claimed ~~a copy of the~~
3 ~~allocating agency's credit allocation to the affordable housing project and the~~
4 taxpayer's credit certificate and with respect to credits issued under
5 subdivision (b)(1), a copy of the allocating agency's credit allocation to the
6 affordable housing project. Any unused affordable housing tax credit may be
7 carried forward to reduce the taxpayer's tax liability for no more than
8 14 succeeding tax years, following the first year the affordable housing tax
9 credit is allowed.

10 (f) [Repealed.]

11 (g)(1) In any fiscal year, the allocating agency may award up to:

12 (A) \$400,000.00 in total first-year credit allocations to all applicants
13 for rental housing projects, for an aggregate limit of \$2,000,000.00 over any
14 given five-year period that credits are available under this subdivision (A);

15 (B) ~~\$300,000.00~~ \$425,000.00 in total first-year credit allocations for
16 loans or grants for owner-occupied unit financing or down payment loans as
17 provided in subdivision (b)(2) consistent with the allocation plan, including for
18 new construction and manufactured housing, for an aggregate limit of
19 ~~\$1,500,000.00~~ \$2,125,000.00 over any given five-year period that credits are
20 available under this subdivision (B).

1 (2) ~~In any fiscal year, total first-year credit allocations under subdivision~~
2 ~~(1) of this subsection plus succeeding-year deemed allocations shall not exceed~~
3 ~~\$3,500,000.00~~ If the full amount of first-year credits authorized by an award
4 are not allocated to a taxpayer, the Agency may reclaim the amount not
5 allocated and re-award such allocations to other applicants, and such re-awards
6 shall not be subject to the limits set forth in subdivision (1) of this subsection.

7 (h)(1) In fiscal year 2016 through fiscal year ~~2022~~ 2019, the allocating
8 agency may award up to \$125,000.00 in total first-year credit allocations for
9 loans through the Down Payment Assistance Program created in
10 subdivision (b)(2) of this section.

11 (2) ~~In any fiscal year, total first-year credit allocations under~~
12 ~~subdivision (1) of this subsection plus succeeding-year deemed allocations~~
13 ~~shall not exceed \$625,000.00~~ 2020 through fiscal year 2026, the allocating
14 agency may award up to \$250,000.00 in total first-year credit allocations for
15 loans through the Down Payment Assistance Program created in subdivision
16 (b)(3) of this section.

17 * * * Downtown Tax Credit Program * * *

18 Sec. 7. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

19 Subchapter 11J: Vermont Downtown and Village Center Tax Credit Program

20 § 5930AA. DEFINITIONS

21 As used in this subchapter:

1 (1) “Qualified applicant” means an owner or lessee of a qualified
2 building involving a qualified project, but does not include ~~a religious entity~~
3 ~~operating with a primarily religious purpose~~; a State or federal agency or a
4 political subdivision of either; or an instrumentality of the United States.

5 (2) “Qualified building” means a building built ~~prior to 1983~~ at least 30
6 years before the date of application, located within a designated downtown or
7 village center, which upon completion of the project supported by the tax
8 credit will be an income-producing building not used solely as a single-family
9 residence. Churches and other buildings owned by religious organization may
10 be Qualified Buildings, but in no event shall tax credits be used for religious
11 worship.

12 (3) “Qualified code ~~or technology~~ improvement project” means a
13 project:

14 (A)(~~i~~) to install or improve platform lifts suitable for transporting
15 personal mobility devices, limited use ~~or~~ or limited application elevators,
16 elevators, sprinkler systems, and capital improvements in a qualified building,
17 and the installations or improvements are required to bring the building into
18 compliance with the statutory requirements and rules regarding fire prevention,
19 life safety, and electrical, plumbing, and accessibility codes as determined by
20 the Department of Public Safety; ~~or~~

1 ~~(ii) to install or improve data or network wiring, or heating,~~
2 ~~ventilating, or cooling systems reasonably related to data or network~~
3 ~~installations or improvements, in a qualified building, provided that a~~
4 ~~professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the~~
5 ~~fact and cost of the installation or improvement;~~

6 * * *

7 (7) “Qualified project” means a qualified code ~~or technology~~
8 improvement, qualified façade improvement, ~~qualified technology~~
9 ~~infrastructure project,~~ or qualified historic rehabilitation project as defined by
10 this subchapter.

11 (8) “State Board” means the Vermont Downtown Development Board
12 established pursuant to 24 V.S.A. chapter 76A.

13 * * *

14 § 5930CC. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX
15 CREDITS

16 (a) Historic rehabilitation tax credit. The qualified applicant of a qualified
17 historic rehabilitation project shall be entitled, upon the approval of the State
18 Board, to claim against the taxpayer’s State individual income tax, corporate
19 income tax, or bank franchise or insurance premiums tax liability a credit of 10
20 percent of qualified rehabilitation expenditures as defined in the Internal

1 Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified
2 rehabilitation.

3 (b) façade improvement tax credit. The qualified applicant of a qualified
4 façade improvement project shall be entitled, upon the approval of the State
5 Board, to claim against the taxpayer’s State individual income tax, State
6 corporate income tax, or bank franchise or insurance premiums tax liability a
7 credit of 25 percent of qualified expenditures up to a maximum tax credit of
8 \$25,000.00.

9 (c) Code ~~or technology~~ improvement tax credit. The qualified applicant of a
10 qualified code ~~or technology~~ improvement project shall be entitled, upon the
11 approval of the State Board, to claim against the taxpayer’s State individual
12 income tax, State corporate income tax, or bank franchise or insurance
13 premiums tax liability a credit of 50 percent of qualified expenditures up to a
14 maximum tax credit of \$12,000.00 for installation or improvement of a
15 platform lift, a maximum credit of ~~\$40,000.00~~ \$60,000.00 for the installation
16 or improvement of a limited use/limited application elevator, a maximum tax
17 credit of ~~\$50,000.00~~ \$75,000.00 for installation or improvement of an elevator,
18 a maximum tax credit of \$50,000.00 for installation or improvement of a
19 sprinkler system, ~~a maximum tax credit of \$30,000.00 for the combined costs~~
20 ~~of installation or improvement of data or network wiring or a heating,~~

1 ~~ventilating, or cooling system,~~ and a maximum tax credit of \$50,000.00 for the
2 combined costs of all other qualified code improvements.

3 § 5930DD. CLAIMS; AVAILABILITY

4 (a) A taxpayer claiming credit under this subchapter shall submit to the
5 Department of Taxes with the first return on which a credit is claimed a copy
6 of the State Board's tax credit allocation.

7 (b) A credit under this subchapter shall be available for the first tax year in
8 which the qualified project is complete. In the alternative, the State Board may
9 allocate the credit available under this subchapter and make an allocation
10 available upon completion of any distinct phase of a qualified project. The
11 allocation and distinct phases of the qualified project shall be identified in the
12 application package approved by the State Board.

13 (c) If within ~~five~~ two years after the date of the credit allocation to the
14 applicant no claim for tax credit has been filed, the tax credit allocation shall
15 be rescinded, unless the project has an approved federal application for a
16 phased (60 month) project pursuant to Treasury Regulation 1.48-12(b)(2)(v), in
17 which case the credit will not be rescinded until five years from the date of the
18 credit allocation.

19 * * *

20 § 5930EE. LIMITATIONS

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~~ a small business, startup business, or mission-
8 based business pursuant to section 3336 of this title.

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

11 § 3331. DEFINITIONS

12 As used in this subchapter:

13 * * *

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

17 (A) ~~60 percent above the State minimum wage at the time of~~
18 ~~application~~ an annualized wage or salary at the time of application that equals
19 or exceeds \$17.25 per hour, or the livable wage as defined in 2 V.S.A. § 505,
20 whichever is greater; or

1 (B) for a business located in a labor market area in which the average
2 annual unemployment rate is higher than the average annual unemployment
3 rate for the State, ~~40 percent above the State minimum wage at the time of~~
4 ~~application~~ an annualized wage or salary at the time of application that equals
5 or exceeds \$15.09 per hour, or the livable wage as defined in 2 V.S.A. § 505,
6 whichever is greater.

7 * * *

8 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

9 Except as otherwise provided for an enhanced incentive for a business in a
10 qualifying labor market area under section 3334 of this title, an enhanced
11 incentive for an environmental technology business under section 3335 of this
12 title, or an enhanced incentive for ~~workforce training~~ a small business, startup
13 business, or mission-based business under section 3336 of this title, the
14 Council shall calculate the value of an incentive for an award year as follows:

15 * * *

16 § 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING
17 LABOR MARKET AREA

18 (a) The Council may increase the value of an incentive for a business that is
19 located in a labor market area in which:

20 (1) the average annual unemployment rate is greater than the average
21 annual unemployment rate for the State; or

1 (2) the average annual wage is less than the average annual wage for the
2 State.

3 ~~(b) In each calendar year, the amount by which the Council may increase~~
4 ~~the value of all incentives pursuant to this section is:~~

5 ~~(1) \$1,500,000.00 for one or more initial approvals; and~~

6 ~~(2) \$1,000,000.00 for one or more final approvals.~~

7 ~~(c) The Council may increase the cap imposed in subdivision (b)(2) of this~~
8 ~~section by not more than \$500,000.00 upon application by the Governor to,~~
9 ~~and approval of, the Joint Fiscal Committee.~~

10 ~~(d) In evaluating the Governor's request, the Committee shall consider the~~
11 ~~economic and fiscal condition of the State, including recent revenue forecasts~~
12 ~~and budget projections.~~

13 ~~(e) The Council shall provide the Committee with testimony,~~
14 ~~documentation, company-specific data, and any other information the~~
15 ~~Committee requests to demonstrate that increasing the cap will create an~~
16 ~~opportunity for return on investment to the State.~~

17 (f) The purpose of the enhanced incentive for a business in a qualifying
18 labor market area is to increase job growth in economically disadvantaged
19 regions of the State, as provided in subsection (a) of this section.

20 § 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL
21 TECHNOLOGY BUSINESS

1 (a) As used in this section, an “environmental technology business” means a
2 business that:

3 (1) is subject to income taxation in Vermont; and

4 (2) seeks an incentive for economic activity in Vermont that the
5 Secretary of Commerce and Community Development certifies is primarily
6 research, design, engineering, development, or manufacturing related to one or
7 more of the following:

8 (A) waste management, including waste collection, treatment,
9 disposal, reduction, recycling, and remediation;

10 (B) natural resource protection and management, including water and
11 wastewater purification and treatment, air pollution control and prevention or
12 remediation, soil and groundwater protection or remediation, and hazardous
13 waste control or remediation;

14 (C) energy efficiency or conservation;

15 (D) clean energy, including solar, wind, wave, hydro, geothermal,
16 hydrogen, fuel cells, waste-to-energy, or biomass; and

17 (E) the reduction of water pollution, including the reduction of
18 sediment and harmful nutrient pollution such as phosphorus and nitrogen, and
19 other activities supporting the goals of the Vermont Clean Water Act, 2015
20 Acts and Resolves No. 64.

21 * * *

1 § 3336. ENHANCED INCENTIVE FOR ~~WORKFORCE TRAINING~~ SMALL
2 BUSINESS, STARTUP BUSINESS, AND MISSION-BASED BUSINESS

3 ~~(a) A business whose application is approved may elect to claim the~~
4 ~~incentive specified for an award year as an enhanced training incentive by:~~

5 ~~(1) notifying the Council of its intent to pursue an enhanced training~~
6 ~~incentive and dedicate its incentive funds to training through the Vermont~~
7 ~~Training Program; and~~

8 ~~(2) applying for a grant from the Vermont Training Program to perform~~
9 ~~training for one or more new employees who hold qualifying jobs.~~

10 ~~(b) If a business is awarded a grant for training under this section, the~~
11 ~~Agency of Commerce and Community Development shall disburse grant funds~~
12 ~~for on-the-job training of 75 percent of wages for each employee in training or~~
13 ~~75 percent of trainer expense, and the business shall be responsible for the~~
14 ~~remaining 25 percent of the applicable training costs.~~

15 ~~(c) A business that successfully completes its training shall submit a written~~
16 ~~certificate of completion to the Agency of Commerce and Community~~
17 ~~Development which shall notify the Department of Taxes.~~

18 ~~(d) Upon notification by the Agency, and if the Department determines that~~
19 ~~the business has earned the incentive for the award year, it shall:~~

20 ~~(1) disburse to the business a payment in an amount equal to 25 percent~~
21 ~~of the cost for training expenses pursuant to subsection (b) of this section;~~

1 ~~(2) disburse to the Agency of Commerce and Community Development a~~
2 ~~payment in an amount equal to 25 percent of the cost for training expenses~~
3 ~~pursuant to subsection (b) of this section; and~~

4 ~~(3) disburse the remaining value of the incentive in annual installments~~
5 ~~pursuant to section 3337 of this title.~~

6 (a) As used in this section:

7 (1) “Mission-based business” means a business that at the time of
8 application is one of the following:

9 (A) a domestic limited liability company that has elected to be a low-
10 profit limited liability company and meets the requirements specified in 11
11 V.S.A. § 4162;

12 (B) a domestic business corporation that has elected to be a benefit
13 corporation and meets the requirements of 11A V.S.A. chapter 21; or

14 (C) a foreign business organization that has elected a form, and meets
15 the applicable statutory requirements of the foreign jurisdiction, which the
16 Secretary determines are substantially similar to the form and requirements for
17 a domestic low-profit limited liability company or benefit corporation.

18 (2) “Small business” means a business that at the time of application has
19 nineteen or fewer full-time employees in Vermont.

20 (3) “Startup business” means a business:

21 (A) established within one year of the date of application; or

1 (B) that had no full-time employees at the time of application.

2 (b) The Council shall consider and administer an application from a small
3 business, startup business, or mission-based business pursuant to the
4 provisions of this subchapter, except that:

5 (1) the business’s potential share of new revenue growth shall be 90
6 percent; and

7 (2) to calculate qualifying payroll, the Council shall:

8 (A) determine the background growth rate in payroll for the
9 applicable business sector in the award year;

10 (B) multiply the business’s full-time payroll for the award year by 20
11 percent of the background growth rate; and

12 (C) subtract the product from the payroll performance requirement
13 for the award year.

14 (c) The purpose of the enhanced incentive for a small business, startup
15 business, or mission-based business is to promote the growth of these
16 businesses in Vermont that create and sustain high quality jobs.

17 § 3337. EARNING AN INCENTIVE

18 (a) Earning an incentive; installment payments.

19 (1) A business with an approved application earns the incentive specified
20 for an award year if, within the applicable time period provided in this section,
21 the business:

1 (A) maintains or exceeds its base payroll and base employment;

2 (B) meets or exceeds the payroll performance requirement specified

3 for the award year; and

4 (C) meets or exceeds the jobs performance requirement specified for

5 the award year, or the capital investment performance requirement specified

6 for the award year, or both.

7 (2) A Subject to subdivision (3) of this subsection, a business that earns

8 an incentive specified for an award year is eligible to receive an installment

9 payment for the year in which it earns the incentive and for each of the next

10 four years in which the business:

11 (A) maintains or exceeds its base payroll and base employment;

12 (B) maintains or exceeds the payroll performance requirement

13 specified for the award year; and

14 (C) if the business earns an incentive by meeting or exceeding the

15 jobs performance target specified for the award year, maintains or exceeds the

16 jobs performance requirement specified for the award year.

17 (3) A business that earns an incentive specified for an award year may

18 elect to receive a lump-sum payment for the full value of the incentive by

19 submitting to the Council in writing:

20 (A) a request to elect a lump-sum payment; and

- 1 (B) a certification that a lump-sum payment is subject to recapture if,
- 2 during the four years following the year in which it earns the incentive, the
- 3 business fails to:
- 4 (A) maintain its base payroll or base employment;
- 5 (B) maintain the payroll performance requirement specified for the
- 6 award year; or
- 7 (C) if the business earns an incentive by meeting or exceeding the
- 8 jobs performance target specified for the award year, maintain the jobs
- 9 performance requirement specified for the award year.

10 * * *

11 § 3339. RECAPTURE; REDUCTION; REPAYMENT

12 (a) Recapture.

13 (1) The Department of Taxes may recapture the value of one or more
14 installment payments or lump-sum payments a business has claimed, with
15 interest, if:

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

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

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

20 (ii) if it had no jobs at the time of application, a 90 percent or

21 greater reduction from the sum of its job performance requirements; ~~or~~

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

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

6 (ii) was in compliance with State laws and regulations; or

7 (D) the business elects to take a lump-sum payment for an incentive
8 pursuant to subdivision 3337(a)(3) of this title and, during the four years
9 following the year in which it earned the incentive, the business fails to:

10 (i) maintain its base payroll or base employment;

11 (ii) maintain the payroll performance requirement specified for the
12 award year; or

13 (iii) if the business earns an incentive by meeting or exceeding the
14 jobs performance target specified for the award year, maintain the jobs
15 performance requirement specified for the award year.

16 * * *

17 * * * Effective Dates * * *

18 Sec. 9. EFFECTIVE DATE

19 This act shall take effect on July 1, 2019, except Secs. 4 (General Fund) and
20 5(b) (repealing reference to land gains tax) shall take effect on July 1, 2025.

21