

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. FINDINGS; PURPOSE

8 (a) The General Assembly finds:

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

14 (2) The current Vermont Employment Growth Incentive (VEGI)
15 program is difficult to manage and administer for all parties, including
16 applicants, the Vermont Economic Progress Council, and the Departments of
17 Taxes and of Labor.

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

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

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

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

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

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

13 § 3330. Purpose; form of incentives; enhanced incentives; eligible applicant

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

19 (b) Form of incentives; enhanced incentives.

20 (1) The Vermont Economic Progress Council may approve an incentive
21 under this subchapter in the form of a direct cash payment in annual

1 installments or in the form of a loan from the Vermont Economic Development
2 Authority.

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

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

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

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

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

13 § 3331. Definitions

14 As used in this subchapter:

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

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

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

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

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

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

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

14 (8) "Payroll performance requirement" means:

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

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

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

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

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

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

10 (C) The business provides for the position at least three of the
11 following:

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

14 (ii) dental assistance;

15 (iii) paid vacation;

16 (iv) paid holidays;

17 (v) child care;

18 (vi) other extraordinary employee benefits;

19 (vii) retirement benefits;

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

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

3 (E) When the position is added to base employment, the business's
4 total employment exceeds its average annual employment during the two
5 preceding years, unless the Council determines that the business is establishing
6 a significantly different, new line of business and creating new jobs in the new
7 line of business that were not part of the business prior to filing its application.

8 (10) “Qualifying job” means:

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

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

15 (~~10~~ 11) "Utilization period" means each year of the award period and the
16 ~~four~~ two years immediately following each year of the award period.

17 (~~11~~ 12) "Vermont gross wages and salaries" means Medicare wages as
18 reported on Federal Tax Form W-2 to the extent those wages are Vermont
19 wages, excluding income from nonstatutory stock options.

1 (~~12~~ 13) "Wage threshold" means the minimum amount of annualized
2 Vermont gross wages and salaries a business must pay for a qualifying job, as
3 required by the Council in its discretion, but not less than:

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

6 (B) for a business located in a labor market area in which the average
7 annual unemployment rate is higher than the average annual unemployment
8 rate for the State, 40 percent above the State minimum wage at the time of
9 application.

10 § 3332. Application; approval criteria

11 (a) Application.

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

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

20 (3) A business may apply for an capital investment incentive in the form
21 of a direct cash payment in annual installments in a format the Council

1 specifies where the business has base employment of at least 100 qualifying
2 jobs and proposes to make a capital investment in an amount of
3 \$20,000,000.00 or greater during a five-year award period and to meet the
4 payroll performance requirement for qualified jobs.

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

7 (A) specify a payroll performance requirement;

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

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

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

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

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

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

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

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

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

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

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

14 (A) would not occur; or

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

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

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

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

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

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

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

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

14 (3) The Vermont Economic Development Authority shall receive an
15 annual appropriate for the underwriting and loan administration expenses as
16 well as the cost of the pilot program which includes among other fees, the
17 interest carry cost differential between the 1% due from the applicant/borrower
18 and VEDA's market interest rate until the date on which either the total
19 amount of the loan is converted to a grant pursuant to subsection 3333(c) of
20 this title or the failure of the business to satisfy the payroll performance or

1 capital investment requirements causes the loan to remain a payable obligation
2 pursuant to subsection 3339(c) of this title.

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

5 § 3333. Calculating the value of an incentive

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

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

18 (2) *Calculate the business's potential share of ~~new revenue growth~~*
19 benefit. Except as otherwise provided for an environmental technology
20 business in section 3335 of this title, to calculate the business's potential share
21 of ~~new revenue growth~~ benefit, the Council shall multiply the ~~new revenue~~

1 ~~growth~~ benefit determined under subdivision (1) of this subsection by 80
2 percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (1) The Department shall:

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

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

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

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

11 (B) the Department shall recapture the amount by which the value of
12 the installment payments the business has already received exceeds the value
13 of the reduced incentive.

14 (c) Repayment of capital investment loans.

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

20 (2) At the end of the initial three years of the loan term, upon verification
21 by the Vermont Economic Development Authority that the business failed to

1 make the required amount of capital investment, the loan will be forgiven in
2 proportion to the percent of the capital investment targets made. The
3 Department of Taxes shall reimburse the Vermont Economic Development
4 Authority the proportion of the determined forgiven amount. For any
5 remaining loan amount, the business will be obligated to repay the determined
6 remainder.

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

10 (d) Tax liability.

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

14 (2) For purposes of this section, the Department of Taxes may use any
15 enforcement or collection action available for taxes owed pursuant to chapter
16 151 of this title.

17 * * *

18 § 3342. Annual program cap

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

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

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

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

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

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

13 Sec. 3. REPEAL

14 2018 Acts and Resolves No. 197, Sec. 2 (ThinkVermont Innovation
15 Initiative) is repealed.

16 Sec. 4. THINKVERMONT INNOVATION INITIATIVE

17 (a) Purpose. The U.S. economy is undergoing a fundamental shift toward a
18 technology and innovation-driven economy, with new technological
19 applications changing how existing industries operate as well as spawning new
20 industries of their own. Amid these rapid and transformative changes,
21 Vermont increasingly competes nationally and globally for market share. To

1 ensure Vermont remains relevant and competitive in the global economy over
2 the next 20 years, the ThinkVermont Innovation Initiative is designed to
3 strengthen our State’s economic base by providing the essential tools and
4 resources necessary to foster a climate where technology-based businesses can
5 be created and thrive. The Initiative shall enable the State to contract with
6 technical service providers and provide grants that can be accessed more
7 quickly and with fewer restrictions than traditional federal initiatives.

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

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

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

1 (e) EPSCOR pass-through grant. The Department of Economic
2 Development shall administer a pass-through grant to the Vermont Established
3 Program to Stimulate Competitive Research (EPSCOR). Vermont EPSCOR
4 shall administer grants to support the research and development of
5 technologies with commercial potential and help them prepare to advance from
6 the university toward eligibility for federal small business innovation research
7 funding.

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

12 Sec. 5. EFFECTIVE DATE

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

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20 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE