

1 Introduced by Committee on Economic Development, Housing and General

2 Affairs

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; economic development

6 Statement of purpose of bill as introduced: This bill proposes to adopt

7 miscellaneous proposals to promote economic development, including

8 proposals concerning workforce recruitment, the Vermont Employment

9 Growth Incentive Program, and affordable housing.

10 An act relating to promoting economic development

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

12 \* \* \* Recruitment and Relocation \* \* \*

13 Sec. 1. 3 V.S.A. § 2476 is amended to read:

14 § 2476. DEPARTMENT OF TOURISM AND MARKETING

15 \* \* \*

16 (c) Economic development marketing. The Department shall be responsible

17 for the promotion of Vermont as great place to live, work, and do business in

18 order to increase the benefits of economic development marketing, including:

19 (1) attracting additional private investment in Vermont businesses;

1 (2) recruiting new businesses;

2 (3) attracting more innovators and entrepreneurs to locate in Vermont;

3 (4) attracting, recruiting, and growing the workforce to fill existing

4 vacancies in growing businesses and to retain workers and their families; and

5 (5) promoting and supporting Vermont businesses, goods, and services.

6 \* \* \*

7 (e) The Department may conduct direct marketing activities pursuant to this  
8 chapter or 10 V.S.A. chapter 27, and shall work to increase marketing  
9 activities conducted in partnership with one or more private sector partners to  
10 maximize State marketing resources and to enable Vermont businesses to align  
11 their own brand identities with the Vermont brand, enhancing the reputations  
12 of both the business and the State.

13 (f) Building on established, successful collaboration with private partners in  
14 travel and tourism, agriculture, and other industry sectors, the Department shall  
15 have the authority to extend its marketing and promotional resources to include  
16 partners in the arts and humanities, as well as other partners that depend on  
17 tourism for a significant part of their annual revenue.

18 (g) The Department shall expand its outreach and information-gathering  
19 procedures to allow Vermont businesses and other interested stakeholders to  
20 comment on the design and implementation of its tourism marketing and

1 economic development marketing initiatives and also to provide ongoing  
2 feedback to the Department on the effectiveness of its initiatives.

3 Sec. 2. NEW WORKER RELOCATION INCENTIVE PROGRAM

4 (a) The Agency of Commerce and Community Development shall design  
5 and implement the New Worker Relocation Incentive Program, which shall  
6 include a simple certification process to certify new workers and certify  
7 qualifying expenses for a grant under this section.

8 (b) A new worker may be eligible for a grant under the Program for  
9 qualifying new worker expenses in the amount of not more than \$5,000.00,  
10 consistent with the following limitations, and subject to available funding and  
11 procedures the Agency adopts to implement the program:

12 (1) A base award for relocation to any area in Vermont shall be  
13 \$2,500.00.

14 (2) An award for relocation to a designated labor market area may be  
15 enhanced, not to exceed \$5,000.00.

16 (3) The Agency shall assess applications on a rolling basis and give first  
17 priority, at any point in the application process, to workers in identified priority  
18 sectors, which may include healthcare, early child care and learning, lodging  
19 and restaurant industry, manufacturing, technology, and construction trades.

1           (4) A new worker may apply for an incentive payment beginning  
2           January 1, 2020, and shall be paid when proof of residency and income tax  
3           liability reaches the equivalent of the amount claimed.

4           (5) A remote worker may apply for an award under the Program when  
5           all funds from the New Remote Worker Grant Program created in 2018 Acts  
6           and Resolves No. 197, Sec. 1, are encumbered.

7           (6) As used in this section, “new worker” means an individual who:

8                   (i)(I) is a full-time employee of a business with its domicile or  
9                   primary place of business outside Vermont and performs the majority of his or  
10                   her employment duties remotely from a home office or a co-working space  
11                   located in this State; or

12                   (II) is a full-time employee of a business located in Vermont,

13           and

14                   (iii) becomes a full-time resident of this State on or after January 1,  
15           2020.

16           (c) The Agency shall:

17                   (1) adopt procedures for implementing the Program;

18                   (2) promote awareness of the Program, including through coordination  
19           with relevant trade groups and by integration into the Agency’s economic  
20           development marketing campaigns; and

1           (3) adopt measurable goals, performance measures, and an audit strategy  
2           to assess the utilization and performance of the Program.

3           (b) On or before October 1, 2020, the Agency shall submit a report to the  
4           House Committee on Commerce and Economic Development and the Senate  
5           Committee on Economic Development, Housing and General Affairs  
6           concerning the implementation of this section, including:

7                   (1) a description of the procedures adopted to implement the Program;

8                   (2) the promotion and marketing of the Program;

9                   (3) any additional recommendations for qualifying new worker expenses  
10           or qualifying workers that should be eligible under the Program, and

11                   (4) any recommendations for the maximum amount of the grant.

12           Sec. 3. APPROPRIATIONS; WORKFORCE RECRUITMENT

13           In fiscal year 2020 the amount of \$2,000,000.00 is appropriated from the  
14           General Fund to the Agency of Commerce and Community Development to  
15           design and implement a New Worker Relocation Incentive Program as  
16           follows:

17                   (1) The Agency shall use not more than \$1,000,000.00 to identify,  
18           recruit, and provide relocation assistance to workers, including:

19                           (A) identifying target audiences,

20                           (B) targeting through digital and social media;

1           (C) executing the State’s core Economic Development Marketing  
2           Plan through paid, owned, and earned media, utilizing technology, data, and  
3           analysis tools; and

4           (D) implementing strategies that convert visitors to residents and  
5           awarding grants for regional partnerships to help recruitment efforts at the  
6           local and regional levels.

7           (2) The Agency shall use not more than \$1,000,000.00 to provide  
8           incentives that assist workers and families relocating to Vermont under the  
9           New Worker Relocation Incentive Program created in Sec. 2 of this act.

10          Sec. 4. 10 V.S.A. § 542 is amended to read:

11          § 542. REGIONAL WORKFORCE EDUCATION AND TRAINING

12           (a) Relocation Support System. The Department of Labor shall launch and  
13           lead a coordinated information and support system to facilitate the successful  
14           relocation of individuals to and within Vermont. Services provided under this  
15           system shall facilitate and expedite the physical transition of any person into a  
16           Vermont community by providing quick, customized information, resources,  
17           referrals, and support.

18           (1) Partnerships. All State agencies and State-funded programs shall  
19           coordinate with the Department to ensure that services and information that  
20           could assist a person in relocating to Vermont are made available through an  
21           integrated, custom-centered system. The Department shall pursue working

1 agreements with key non-government organizations to ensure that subject area  
2 expertise is available to program staff and individuals looking to move to  
3 Vermont, through referrals or other information sharing mechanisms.

4 (2) Basic Community Profile. The Department shall create customized  
5 pamphlets of information for each region that include labor market  
6 information, housing and education information, recreation information, and  
7 other relevant resources. The Department shall make the pamphlets available  
8 for interested individuals to assist in aspects of preliminary decision-making.

9 (3) Partners. The Department shall convene regional, multi-disciplinary  
10 teams to provide community-level knowledge, support, and services. Partners  
11 shall represent expertise from a variety of sectors, including housing,  
12 transportation, education, health, childcare, recreation, and economic  
13 development.

14 (4) In response to the unique employment needs that exist in the different  
15 federal Opportunity Zones, the Department shall competitively grant awards to  
16 organizations with local expertise and the ability to directly support the  
17 concierge approach to relocating individuals and families, working with  
18 employers and service organizations in and around the Opportunity Zone  
19 communities.

20 (b) Performance grants. The Commissioner of Labor, in coordination with  
21 the Secretary of Commerce and Community Development, and in consultation

1 with the State Workforce Development Board, is authorized to issue  
2 performance grants to one or more persons to perform workforce education  
3 and training activities in a region.

4 ~~(b)~~(c) Scope of grants. Each grant shall specify the scope of the workforce  
5 education and training activities to be performed and the geographic region to  
6 be served, and shall include performance measures and results to evaluate the  
7 grantee's performance.

8 ~~(e)~~(d) Grant process. The Commissioner of Labor and the Secretary of  
9 Commerce and Community Development shall jointly develop a grant process  
10 and eligibility criteria, as well as an outreach process for notifying potential  
11 participants of the grant program. The Commissioner of Labor shall have final  
12 authority to approve each grant.

13 Sec. 5. APPROPRIATION

14 In fiscal year 2020 the amount of \$500,000 is appropriated from the General  
15 Fund to the Department of Labor to design and implement a relocation support  
16 system pursuant to 10 V.S.A. § 542.

17 \* \* \* Vermont Employment Growth Incentive Program \* \* \*

18 Sec. 6. 32 V.S.A. chapter 105, subchapter 2 is amended to read:

19 Subchapter 2: Vermont Employment Growth Incentive Program

20 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

21 ELIGIBLE APPLICANT



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

5 (b) Form of incentives; enhanced incentives.

6 (1) The Vermont Economic Progress Council may approve an incentive  
7 under this subchapter in the form of a direct cash payment, which may be paid  
8 in annual installments or in a lump-sum payment as provided in section 3337  
9 of this title.

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

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

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

16 (C) an enhanced incentive for ~~a business that participates in a State~~  
17 ~~workforce training program~~ a small business, startup business, or mission-  
18 based business pursuant to section 3336 of this title.

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

21 § 3331. DEFINITIONS

1 As used in this subchapter:

2 \* \* \*

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

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

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

16 \* \* \*

17 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

18 Except as otherwise provided for an enhanced incentive for a business in a  
19 qualifying labor market area under section 3334 of this title, an enhanced  
20 incentive for an environmental technology business under section 3335 of this  
21 title, or an enhanced incentive for ~~workforce training~~ a small business, startup

1 business, or mission-based business under section 3336 of this title, the

2 Council shall calculate the value of an incentive for an award year as follows:

3 \* \* \*

4 § 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING  
5 LABOR MARKET AREA

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

8 (1) the average annual unemployment rate is greater than the average  
9 annual unemployment rate for the State; or

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

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

14 ~~(1) \$1,500,000.00 for one or more initial approvals; and~~

15 ~~(2) \$1,000,000.00 for one or more final approvals.~~

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

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

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

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

8       § 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL  
9       TECHNOLOGY BUSINESS

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

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

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

17                       (A) waste management, including waste collection, treatment,  
18       disposal, reduction, recycling, and remediation;

19                       (B) natural resource protection and management, including water and  
20       wastewater purification and treatment, air pollution control and prevention or

1 remediation, soil and groundwater protection or remediation, and hazardous  
2 waste control or remediation;

3 (C) energy efficiency or conservation;

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

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

10 \* \* \*

11 § 3336. ENHANCED INCENTIVE FOR ~~WORKFORCE TRAINING~~ SMALL  
12 BUSINESS, STARTUP BUSINESS, AND MISSION-BASED BUSINESS

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

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

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

20 ~~(b) If a business is awarded a grant for training under this section, the~~  
21 ~~Agency of Commerce and Community Development shall disburse grant funds~~

1 ~~for on-the-job training of 75 percent of wages for each employee in training or~~  
2 ~~75 percent of trainer expense, and the business shall be responsible for the~~  
3 ~~remaining 25 percent of the applicable training costs.~~

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

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

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

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

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

16 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

1            (C) subtract the product from the payroll performance requirement  
2            for the award year.

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

6            § 3337. EARNING AN INCENTIVE

7            (a) Earning an incentive; installment payments.

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

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

12                    (B) meets or exceeds the payroll performance requirement specified  
13            for the award year; and

14                    (C) meets or exceeds the jobs performance requirement specified for  
15            the award year, or the capital investment performance requirement specified  
16            for the award year, or both.

17            (2) ~~A~~ Subject to subdivision (3) of this subsection, a business that earns  
18            an incentive specified for an award year is eligible to receive an installment  
19            payment for the year in which it earns the incentive and for each of the next  
20            four years in which the business:

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



1 (B) maintains or exceeds the payroll performance requirement  
2 specified for the award year; and

3 (C) if the business earns an incentive by meeting or exceeding the  
4 jobs performance target specified for the award year, maintains or exceeds the  
5 jobs performance requirement specified for the award year.

6 (3) A business that earns an incentive specified for an award year may  
7 elect to receive a lump-sum payment for the full value of the incentive by  
8 submitting to the Council in writing:

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

10 (B) a certification that a lump-sum payment is subject to recapture if,  
11 during the four years following the year in which it earns the incentive, the  
12 business fails to:

13 (A) maintain its base payroll or base employment;

14 (B) maintain the payroll performance requirement specified for the  
15 award year; or

16 (C) if the business earns an incentive by meeting or exceeding the  
17 jobs performance target specified for the award year, maintain the jobs  
18 performance requirement specified for the award year.

19 \* \* \*

20 § 3339. RECAPTURE; REDUCTION; REPAYMENT

21 (a) Recapture.

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

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

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

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

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

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

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

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

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

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

20 (ii) maintain the payroll performance requirement specified for the  
21 award year; or

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

4   \* \* \*

5   \* \* \* Coworking Spaces \* \* \*

6                   Sec. 7. COWORKING SPACES

7  
8   \* \* \* Act 250; Industrial Parks \* \* \*

9                   Sec. 10 V.S.A. § 6083a. Act 250 fees is hereby amended to read.

10                   (a) All applicants for a land use permit under section 6086 of this title shall be  
11                   directly responsible for the costs involved in the publication of notice in a  
12                   newspaper of general circulation in the area of the proposed development or  
13                   subdivision and the costs incurred in recording any permit or permit  
14                   amendment in the land records. In addition, applicants shall be subject to the  
15                   following fees for the purpose of compensating the State of Vermont for the  
16                   direct and indirect costs incurred with respect to the administration of the Act  
17                   250 program:

- 18                   (1) For projects involving construction, \$6.65 for each \$1,000.00 of the  
19                   first \$15,000,000.00 of construction costs, and \$3.12 for each  
20                   \$1,000.00 of construction costs above \$15,000,000.00. An additional  
21                   \$0.75 for each \$1,000.00 of the first \$15,000,000.00 of construction

1 costs shall be paid to the Agency of National Resources to account for  
2 the Agency of Natural Resources' review of Act 250 applications.

3 (2) For projects involving the creation of lots, \$125.00 for each lot.

4 (3) For projects involving exploration for or removal of oil, gas, and  
5 fissionable source materials, a fee as determined under subdivision (1)  
6 of this subsection or \$1,000.00 for each day of Commission hearings  
7 required for such projects, whichever is greater.

8 (4) For projects involving the extraction of earth resources, including  
9 sand, gravel, peat, topsoil, crushed stone, or quarried material, the  
10 greater of: a fee as determined under subdivision (1) of this subsection;  
11 or a fee equivalent to the rate of \$0.02 per cubic yard of the first million  
12 cubic yards of the total volume of earth resources to be extracted over  
13 the life of the permit, and \$.01 per cubic yard of any such earth  
14 resource extraction above one million cubic yards. Extracted material  
15 that is not sold or does not otherwise enter the commercial marketplace  
16 shall not be subject to the fee. The fee assessed under this subdivision  
17 for an amendment to a permit shall be based solely upon any additional  
18 volume of earth resources to be extracted under the amendment.

19 (5) For projects involving the review of a master plan, the fee  
20 established in subdivision (1) shall be due for any portion of the  
21 proposed project for which construction approval is sought and a fee

1 equivalent to \$0.10 per \$1,000.00 of total estimated construction costs  
2 in current dollars shall be due for all other portions of the proposed  
3 project. If construction approval is sought in future permit  
4 applications, the fee established in subdivision (1) shall be due, except  
5 to the extent that it is waived in accord with subparagraph (f), below.~~in~~  
6 ~~addition to the fee established in subdivision (1) of this subsection for~~  
7 ~~any portion of the project seeking construction approval.~~

8 (6) In no event shall a permit application fee exceed \$165,000.00.

9 (b) Notwithstanding the provisions of subsection (a) of this section, there shall  
10 be a minimum fee of \$187.50 for original applications and \$62.50 for  
11 amendment applications, in addition to publication and recording costs. These  
12 costs shall be in addition to any other fee established by statute, unless  
13 otherwise expressly stated.

14 (c) Fees shall not be required for projects undertaken by municipal agencies or  
15 by State governmental agencies, except for publication and recording costs.

16 (d) Neighborhood development area fees. Fees for residential development in a  
17 Vermont neighborhood or neighborhood development area designated  
18 according to [24 V.S.A. § 2793e](#) shall be no more than 50 percent of the fee  
19 otherwise charged under this section. The fee shall be paid within 30 days after  
20 the permit is issued or denied.

1 (e) A written request for an application fee refund shall be submitted to the  
2 District Commission to which the fee was paid within 90 days of the  
3 withdrawal of the application.

4 (1) In the event that an application is withdrawn prior to the convening  
5 of a hearing, the District Commission shall, upon request of the  
6 applicant, refund 50 percent of the fee paid between \$100.00 and  
7 \$5,000.00, and all of that portion of the fee paid in excess of \$5,000.00  
8 except that the District Commission may decrease the amount of the  
9 refund if the direct and indirect costs incurred by the State of Vermont  
10 with respect to the administration of the Act 250 program clearly and  
11 unreasonably exceed the fee that would otherwise be retained by the  
12 District Commission.

13 (2) In the event that an application is withdrawn after a hearing, the  
14 District Commission shall, upon request of the applicant, refund 25  
15 percent of the fee paid between \$100.00 and \$10,000.00 and all of that  
16 portion of the fee paid in excess of \$10,000.00 except that the District  
17 Commission may decrease the amount of the refund if the direct and  
18 indirect costs incurred by the State of Vermont with respect to the  
19 administration of the Act 250 program clearly and unreasonably exceed  
20 the fee that would otherwise be retained by the District Commission.

1 (3) The District Commission shall, upon request of the applicant,  
2 increase the amount of the refund if the application of subdivisions (1)  
3 and (2) of this subsection clearly would result in a fee that  
4 unreasonably exceeds the direct and indirect costs incurred by the State  
5 of Vermont with respect to the administration of the Act 250 program.

6 (4) District Commission decisions regarding application fee refunds  
7 may be appealed to the Natural Resources Board in accordance with  
8 Board rules.

9 (5) For the purposes of this section, a “hearing” is a duly warned  
10 meeting concerning an application convened by a quorum of the  
11 District Commission, at which parties may be present. However, a  
12 hearing does not include a prehearing conference.

13 (6) In no event may an application fee or a portion thereof be refunded  
14 after a District Commission has issued a final decision on the merits of  
15 an application.

16 (7) In no event may an application fee refund include the payment of  
17 interest on the application fee.

18 (f) ~~In the event that an application involves a project or project impacts that~~  
19 ~~previously have been reviewed, the~~ An applicant may request in writing that a  
20 District Commission ~~petition the Chair of the District Commission to~~ waive all  
21 or part of ~~the~~ an application fee.

- 1           (1) In reviewing a request for a permit fee waiver, the District  
2           Commission shall consider the following factors:
- 3                   (i) Whether a portion of the project’s impacts have been  
4                   reviewed by it, the Natural Resources Board, or the District  
5                   Coordinator in a previous permit.
- 6                   (ii) Whether the project is being reviewed as a major  
7                   application, minor, application, or administrative amendment.  
8                   Should the review of an application be changed from an  
9                   administrative amendment or minor application to a major  
10                  application, the Commission may require the applicant to pay  
11                  the previously waived fee.
- 12                  (iii) Whether the applicant intends on relying on any  
13                  presumptions permitted under Section 6086(d) of this title and  
14                  has, at the time of the permit application, already obtained the  
15                  permits necessary to trigger such presumptions. Should a  
16                  presumption be rebutted, the Commission may require the  
17                  applicant to pay the previously waived fee.
- 18                  (iv) Whether the applicant has engaged in any pre-application  
19                  planning with the district coordinator that will result in a  
20                  decrease in the amount of time the District Commission will  
21                  have to consider the actual application.



1           (2) The District Commission shall issue a written decision in response  
2           to any application for a fee waiver. The written decision shall address  
3           each of the factors in subsection (f)(1).

4           (3) District Commission decisions regarding application fee waivers  
5           may be appealed to the Natural Resources Board in accordance with  
6           Board rules.

7           ~~If an application fee was paid previously in accordance with subdivisions~~  
8           ~~(a)(1) through (4) of this section, the Chair may waive all or part of the fee for~~  
9           ~~a new or revised project if the Chair finds that the impacts of the project have~~  
10           ~~been reviewed in an applicable master permit application, or that the project is~~  
11           ~~not significantly altered from a project previously reviewed, or that there will~~  
12           ~~be substantial savings in the review process due to the scope of review of the~~  
13           ~~previous applications.~~

14           (g) A Commission or the Natural Resources Board may require any permittee  
15           to file a certification of actual construction costs and may direct the payment of  
16           a supplemental fee in the event that an application understated a project's  
17           construction costs. Failure to file a certification or to pay a supplemental fee  
18           shall be grounds for permit revocation. A written request for an application fee  
19           partial refund may be submitted to the District Commission to which the fee  
20           was paid within 90 days of the date an applicant files a certification pursuant to

1 this section showing that the actual construction costs are less than the  
2 estimated construction costs upon which the original permit fee was calculated.

3 (h) The costs of republishing a notice due to a scheduling change requested by  
4 a party shall be borne by the party requesting the change.

5 Sec. \_\_. 10 V.S.A. § 8503(b)(1) is hereby amended to read.

6 (b) This chapter shall govern:

7 (1) all appeals from an act or decision of a District Commission under  
8 chapter 151 of this title, excluding appeals of application fee refund and waiver  
9 requests.

10 Sec. \_\_. Effective Date

11 This act shall take effect on passage.

12

1 ACT 250 RULE 21. Master Plan and Partial Review.

2 *Purpose.* This rule creates greater efficiency in the application review process,  
3 avoids unnecessary and unreasonable costs, and provides guidance and greater  
4 predictability to the applicant and all parties by providing for master plan  
5 decisions. Master plan decisions include partial findings of fact and  
6 conclusions of law for a phased development or subdivision and may also  
7 include a permit for the initial construction phase.

8 The comprehensive planning and specificity on which a master plan decision is  
9 based allows for greater certainty and expeditious processing of permit  
10 amendments for subsequent phases, with as many criteria as practicable having  
11 already been addressed by the master plan decision.

12 Master plan decisions expedite permitting of subsequent phases by addressing  
13 some criteria for the fully developed project. For example, a master plan  
14 decision for an industrial park could address the park's general impacts and  
15 these impacts would already be addressed for a manufacturer subsequently  
16 seeking to develop a lot in the park, thus saving time and money.

17 Additionally, partial review can continue independently of master plan review  
18 to determine whether a project complies with one or more Act 250 criteria.

19 This allows cost-effective preliminary review that may determine whether a  
20 project is feasible in a particular location.

21 I. Master Plans

1 (A) *Applicability and effect.*

2 1) An applicant may seek review of a phased development or lot-by-lot  
3 build-out of a subdivision as a master plan decision.

4 2) Master plan applications shall be reviewed as a request for partial  
5 review under subdivision II of this rule.

6 3) An applicant may seek a master plan decision regarding future  
7 phases of a phased development even if some portion of the  
8 development has already been built, provided that the existing  
9 development complies with Act 250.

10 ~~34~~) The District Commission may require a master plan application that  
11 contains such information as the Commission requires for review if:

12 a) the applicant's proposed development or subdivision involves  
13 multiple phases; or

14 b) the master plan process would avoid or limit piecemeal  
15 review of development or subdivision planned by the applicant  
16 for the reasonably foreseeable future.

17 ~~45~~) Scope and Duration.

18 a) Master plan findings and conclusions may be sought on any  
19 issue under the criterion or criteria for which there is sufficient,  
20 reliable information to base findings and conclusions.

1                   b) Master plan findings and conclusions shall be binding upon  
2                   all parties pursuant to subdivision II (E) of this rule.

3                   c) Master plan findings of fact and conclusions may be issued  
4                   for a period of time that allows for reasonable investment  
5                   certainty for a reasonable planning period for which potential  
6                   impacts under a criterion can be ascertained. The District  
7                   Commission shall consider the following factors in determining  
8                   the period of time for which findings and conclusions shall be  
9                   valid:

10                   i. the quality and sufficiency of information provided to  
11                   the Commission under each criterion for which the  
12                   applicant has requested findings and conclusions; and

13                   ii. the nature and context of the project.

14                   d) Prior to expiration a master plan decision may be renewed and  
15                   conditions updated, as appropriate. The District Commission may  
16                   require information on which a master plan decision is based to be  
17                   updated prior to granting any extension or renewal.

18                   (B) *Applications.*

19                   An applicant seeking a master plan decision shall, in addition to filing an  
20                   application in accordance with all other applicable requirements, detail, to the  
21                   extent known with reasonable certainty, all project phases for which the

1 applicant is seeking a master plan decision, the fully completed project, and the  
2 project timeline, and the criteria under which the applicant seeks review.

3 Subsequent phases or the development of individual lots of a subdivision may  
4 be approved as amendments. The amendment process shall be conducted in  
5 conformance with the terms of Rule 34, all statutory requirements, and the  
6 following:

7 1) The District Commission may require persons other than the  
8 applicant to be co-applicants in pursuant to Board Rule 10; and

9 2) Amendments of master plan decisions shall detail the effect on all  
10 overall limits or any impact budget set by the master plan decision.

11 *(C) Master plan decisions.*

12 1) Development or subdivision associated with any aspect of a master  
13 plan project shall not commence until a permit specifically authorizing  
14 the development or subdivision has issued.

15 2) The District Commission may issue a master plan decision with  
16 partial findings of fact and conclusions addressing one or more criteria  
17 for subsequent phases of a project. Master plan decisions shall, to the  
18 greatest extent possible:

- 19 i. establish an impact budget addressing overall limits for the  
20 full project build-out (including but not limited to wastewater,

- 1 water supply, vehicle trips, etc.) based upon findings of fact  
2 under the relevant criteria;  
3 ii. establish a procedure for evaluating subsequent phases of the  
4 project against the impact budget;  
5 iii. provide guidance to the applicant and identify information  
6 that may be required by the District Commission to issue  
7 affirmative findings and conclusions for subsequent phases.

8 3) If the District Commission has issued affirmative findings on all  
9 criteria set forth in 10 V.S.A. § 6086(a) and a permit amendment  
10 application is filed, the application shall be filed as an administrative  
11 amendment pursuant to Board Rule 34(D) provided:

- 12 i. the amendment application is filed within the period of time  
13 set by the Commission per Board Rule 21(1)(A)(5)(c);  
14 ii. that the application only seeks construction approval for  
15 portions of the project that were already reviewed and approved  
16 as part of the master plan application; and  
17 iii. all aspects of the construction will remain within the impact  
18 budget in the master plan approval.

19 The District Commission may review the application as a minor  
20 amendment under Board Rule 51 only if it determines that the project  
21 proposed in the application is reasonably likely to have an impact, but

1           not a significant adverse impact, under the criteria of the Act or any  
2           finding, term, conclusion or condition of prior permits. Prior to  
3           reviewing the application as a minor amendment, the District  
4           Commission shall allow the applicant to present information in support  
5           of its request to process the application as an administrative  
6           amendment. If the District Commission decides to process the  
7           application as a minor application, it shall issue a written decision  
8           detailing the potential impacts of the project and responding to the  
9           information presented by the applicant.

10       II. Partial Review

11       [no changes to this section]

12



1 Bill AS INTRODUCED

2 H/S.

3 2018

4 Introduced by [name]

5 Referred to Committee on [date]

6 Date: [date]

7 Subject: Proposed new Title 10, Chapter 151, Subchapter 6: Permit Fee

8 Rebates from Other Agencies

9 Upon completion of construction of any phase of a rural industrial park project  
10 that received a master plan permit under NRB Rule 21 and a fee reduction  
11 from the Natural Resources Board District Commission under 6083a(f), the  
12 permittee may request in writing that the respective Commissioner or Secretary  
13 authorize a rebate of permit fees paid to the Department of Public Safety and  
14 the Agency of Natural Resources for Department of Public Safety or Agency  
15 of Natural Resources permits associated with the master plan permitted project.  
16 The Agency of Natural Resources may only rebate fees for construction-  
17 related agency permits that have received affirmative findings under the Act  
18 250 criteria as part of the initial approval of the master plan and have been  
19 constructed in accordance with the Act 250 master plan permit. The Agency  
20 of Natural Resources shall not rebate operational permits that require ongoing  
21 oversight.

- 1 As used in this section, “rural” means a county of the State designated as
- 2 “rural” or “mostly rural” by the U.S. Census Bureau in its most recent
- 3 decennial census.

1 Bill AS INTRODUCED

2 H/S.

3 018

4 Introduced by [name]

5 Referred to Committee on [date]

6 Date: [date]

7 Subject: Proposed changes to VEDA authorizing statute allowing developers  
8 and regional development corporations access to existing favorable financing  
9 programs to finance predevelopment costs of master permitted industrial parks

10 Sec. \_\_. 10 V.S.A. § 212 is amended to read:

11 §212. Definition

12 (8) "Industrial Park Planning and Development" means the basic architectural  
13 and engineering services needed to determine site and land use feasibility, and  
14 the planning and carrying out of land improvements necessary to make  
15 industrial land usable. When a developer seeking to create or expand an  
16 industrial park, as defined in 10 V.S.A. §6001, applies for a state land use  
17 permit through the master permitting process established by the Natural  
18 Resources Board under chapter 151 of Title 10, additional predevelopment  
19 services may also be included.

20 (29) "Qualified developer," for the purposes of subchapters 3, 5 and 10 of this  
21 chapter, means a private corporation, partnership or person seeking to develop

1 an industrial park, eligible facility or eligible project by applying for a state  
2 land use permit through the master permitting process established by the  
3 Natural Resources Board under chapter 151 of Title 10.

4 (30) “Predevelopment Services” means [to be defined but may include such  
5 things as design, engineering, legal, and permitting expenses].

6 Sec. \_\_. 10 V.S.A. § 231 is amended to read:

7 §231. Assistance to local development corporations

8 Upon application of a local development corporation or qualified developer,

9 the Authority may loan money to that local development corporation or

10 qualified developer, upon such terms and conditions as it may prescribe, for

11 the purpose of industrial park planning and development, for constructing or

12 improving a speculative building or small business incubator facility on land

13 owned or held under lease by the local development corporation, for purchase

14 or improvement of existing buildings suitable for or which can be made

15 suitable for industrial or small business incubation facility purposes and for the

16 purchase of land in connection with any of the foregoing. Before the local

17 development corporation or qualified developer receives from the Authority

18 such funds for such purposes ~~from the Authority,~~ it shall give to the Authority

19 security for the repayment of the funds. The security shall be in such form and

20 amounts as the Authority may determine and shall, in each instance, include a

21 first mortgage on the land, or the leasehold, building, and appurtenances

1 financed by such funds, unless the loan is for predevelopment costs of not  
2 more than \$200,000, in which case a first mortgage is not required. Loans by  
3 the Authority to local development corporations or qualified developers for the  
4 construction of speculative buildings or improvements to those buildings shall  
5 be repaid in full, including interest and other charges, within 90 days after the  
6 building is occupied if the building is being sold, or within five years after the  
7 property is occupied if the building is being leased, or within such period of  
8 time deemed reasonable by the Authority. Loans by the Authority to local  
9 development corporations for the construction, purchase, or improvement of  
10 small business incubator facilities shall be repaid in full, including interest and  
11 other charges, within ten years after the property is occupied.

12 Sec. \_\_. 10 V.S.A. § 234 is amended to read:

13 §234. The Vermont Jobs Fund

14 (1) Loans to local development corporations or qualified developers under this  
15 subchapter, provided that if the funds for any such loan are derived from the  
16 issue of notes to the State Treasurer under section 235 of this chapter, the loan  
17 shall bear interest at a rate not less than the rate on the notes.

18 (g) Monies in the Fund may be loaned to a local development corporation or  
19 qualified developer for the costs of industrial park planning and development  
20 with terms and conditions allowing deferral of principal payments for

1 predevelopment costs related to the master permitting process and repayment  
2 of such loans to be made upon sale of all or a portion of the industrial park.

3 Sec. \_\_. 10 V.S.A. § 237 is amended to read:

4 §237. Issuing of loans for industrial park planning and development projects

5 (1) The proposed industrial park is on adequate land owned or to be owned by  
6 the local development corporation or qualified developer or is leased by the  
7 local development corporation or qualified developer on terms satisfactory to  
8 the Authority.

9 (7) The local development corporation or qualified developer is responsible  
10 and has presented evidence to demonstrate its ability to carry out the park  
11 project as planned.

12 (9) The park project will be without unreasonable risk of loss to the Authority,  
13 and the local development corporation or qualified developer is unable to  
14 secure on reasonable terms the funds required for the project without the  
15 assistance of the Authority. Such findings when adopted by the Authority shall  
16 be conclusive.

17 Sec. \_\_. 10 V.S.A. § 237 is amended to read:

18 §280a. Eligible projects; authorized financing programs

19 (12) the loans to local development corporations or qualified developers for  
20 industrial park planning and development costs, administered under chapter 12,  
21 subchapter 3 of this title.