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H.124

Introduced by Representatives Ancel of Calais, Kornheiser of Brattleboro,  
Anthony of Barre City, Bluemle of Burlington, Brumsted of  
Shelburne, Coffey of Guilford, Colburn of Burlington, Conlon  
of Cornwall, Cordes of Lincoln, Hooper of Burlington, Howard  
of Rutland City, Masland of Thetford, Mrowicki of Putney,  
Mulvaney-Stanak of Burlington, Ode of Burlington, Patt of  
Worcester, Squirrell of Underhill, Stebbins of Burlington,  
Stevens of Waterbury, Surprenant of Barnard, Townsend of  
South Burlington, and White of Bethel

Referred to Committee on

Date:

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to amend the  
Vermont Employment Growth Incentive Program.

An act relating to amending the Vermont Employment Growth Incentive  
Program

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

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

3 CHAPTER 105: VERMONT EMPLOYMENT GROWTH INCENTIVE  
4 PROGRAM

5 Subchapter 1: Vermont Economic Progress Council

6 § 3325. VERMONT ECONOMIC PROGRESS COUNCIL

7 (a) Creation. The Vermont Economic Progress Council is created to  
8 exercise the authority and perform the duties assigned to it, including its  
9 authority and duties relating to:

10 (1) the Vermont Employment Growth Incentive Program pursuant to  
11 subchapter 2 of this chapter; and

12 (2) tax increment financing districts pursuant to 24 V.S.A. chapter 53,  
13 subchapter 5 and section 5404a of this title.

14 (b) Membership.

15 ~~(A)~~ The Council shall have ~~11~~ nine voting members:

16 ~~(A) nine who are~~ residents of the State ~~appointed by the Governor~~  
17 ~~with the advice and consent of the Senate~~ and who are knowledgeable and  
18 experienced in the subjects of community development and planning,  
19 education funding requirements, economic development, State fiscal affairs,  
20 property taxation, or entrepreneurial ventures and represent diverse

1 geographical areas of the State and municipalities of various sizes; appointed  
2 as follows:

3 (1) five members appointed by the Governor with the advice and  
4 consent of the Senate;

5 (2) two members appointed by the Speaker of the House; and

6 (3) two members appointed by the Senate Committee on Committees

7 ~~(B) one member of the Vermont House of Representatives appointed~~  
8 ~~by the Speaker of the House; and~~

9 ~~(C) one member of the Vermont Senate appointed by the Senate~~  
10 ~~Committee on Committees.~~

11 ~~(2)(A) The Council shall have two regional members from each region~~  
12 ~~of the State, one appointed by the regional development corporation of the~~  
13 ~~region and one appointed by the regional planning commission of the region.~~

14 ~~(B) A regional member shall be a nonvoting member and shall serve~~  
15 ~~during consideration by the Council of an application from his or her region.~~

16 \* \* \*

17 (e) Operation.

18 (1) The Governor shall appoint a chair from the Council's members.

19 ~~(2)(A)~~ The Council shall receive administrative support from the  
20 Agency of Commerce and Community Development and the Department of  
21 Taxes.



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

3           (e) Eligible applicant.

4           (1) Only a business may apply for an incentive pursuant to this  
5 subchapter.

6           (2) For purposes of the Program, the Council shall treat a business and  
7 its legal predecessor or successor in interest as the same entity.

8 § 3331. DEFINITIONS

9           As used in this subchapter:

10           (1) “Award period” means the consecutive five years during which a  
11 business may apply for an incentive under this subchapter.

12           (2) “Base employment” means the number of full-time Vermont jobs  
13 held by non-owner employees as of the date a business with an approved  
14 application commences its proposed economic activity.

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

19           (4) “Capital investment performance requirement” means the minimum  
20 value of additional investment in one or more capital improvements.

1           (5) “Jobs performance requirement” means the minimum number of  
2           qualifying jobs a business must add.

3           (6) “Labor market area” means a labor market area as designated by the  
4           Vermont Department of Labor.

5           (7) “Non-owner” means a person with no more than 10 percent  
6           ownership interest, including attribution of ownership interests of the person’s  
7           spouse, parents, spouse’s parents, siblings, and children.

8           (8) “Payroll performance requirement” means the minimum value of  
9           Vermont gross salaries and wages a business must pay as compensation for  
10          one or more qualifying jobs.

11          (9) “Qualifying job” means a new, permanent position in Vermont that  
12          meets each of the following criteria:

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

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

17                 (C) The business provides for the position at least three of the  
18                 following:

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

1                   (ii) ~~dental assistance~~ not fewer than eight weeks of paid family  
2 leave at not less than 70 percent of the employee's regular compensation;

3                   (iii) not fewer than 20 days of paid vacation or sick time, or both;  
4 and

5                   (iv) ~~paid holidays;~~

6                   ~~(v) child care, either provided on-site or for reimbursement of the~~  
7 full cost of care, for one child;

8                   ~~(vi) other extraordinary employee benefits;~~

9                   ~~(vii)~~(v) retirement benefits, under which the business matches  
10 100 percent of the employee's retirement contribution for up to five percent of  
11 the employee's regular compensation

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

13                   (D) The position is not an existing position that the business, or a  
14 parent, subsidiary, or affiliate under common ownership or control, transfers  
15 from another facility within the State.

16                   (E) When the position is added to base employment, the business's  
17 total employment exceeds its ~~average annual~~ highest employment level during  
18 the two preceding years, unless the business proves and the Council determines  
19 verifies that the business is establishing a significantly different, new line of  
20 business and creating new jobs in the new line of business that were not part of  
21 the business prior to filing its application.

1           (10) “Utilization period” means each year of the award period and the  
2 four years immediately following each year of the award period.

3           (11) “Vermont gross wages and salaries” means Medicare wages as  
4 reported on Federal Tax Form W-2 to the extent those wages are Vermont  
5 wages, excluding income from nonstatutory stock options.

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

9                   ~~(A)~~ 60 ~~100~~ percent above the State minimum wage at the time of  
10 application; ~~or~~

11                   ~~(B) for a business located in a labor market area in which the average~~  
12 ~~annual unemployment rate is higher than the average annual unemployment~~  
13 ~~rate for the State, 40 percent above the State minimum wage at the time of~~  
14 ~~application.~~

15       § 3332. APPLICATION; APPROVAL CRITERIA

16       (a) Application.

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

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



1 (A) specify a payroll performance requirement;

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

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

6 (b) Mandatory criteria. The Council shall not approve an application  
7 unless it finds:

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

12 \* \* \*

13 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

14 ~~Except as otherwise provided for an enhanced incentive for a business in a~~  
15 ~~qualifying labor market area under section 3334 of this title, an enhanced~~  
16 ~~incentive for an environmental technology business under section 3335 of this~~  
17 ~~title, or an enhanced incentive for workforce training under section 3336 of this~~  
18 ~~title, the~~

19 (a) The Council shall calculate the value of an incentive for an award year  
20 as follows:

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

6           (2) Calculate the business's potential share of new revenue growth.  
7 ~~Except as otherwise provided for an environmental technology business in~~  
8 ~~section 3335 of this title, to~~ To calculate the business's potential share of new  
9 revenue growth, the Council shall multiply the new revenue growth determined  
10 under subdivision (1) of this subsection by 80 percent.

11                                 \* \* \*

12           (b) Notwithstanding subsection (a) of this section, the amount of an  
13 incentive shall not exceed 10 percent of the new revenue growth calculated  
14 pursuant to subdivision (a)(1) of this section.

15 § 3334. ~~ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING~~  
16 ~~LABOR MARKET AREA~~

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

19           ~~(1) the average annual unemployment rate is greater than the average~~  
20 ~~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. [Repealed.]~~

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.~~

17           ~~(b) The Council shall consider and administer an application from an~~  
18           ~~environmental technology business pursuant to the provisions of this~~  
19           ~~subchapter, except that:~~

20                            ~~(1) the business’s potential share of new revenue growth shall be 90~~  
21           ~~percent; and~~

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

2                   ~~(A) determine the background growth rate in payroll for the~~  
3           ~~applicable business sector in the award year;~~

4                   ~~(B) multiply the business's full-time payroll for the award year by 20~~  
5           ~~percent of the background growth rate; and~~

6                   ~~(C) subtract the product from the payroll performance requirement for~~  
7           ~~the award year.~~

8           ~~(c) The purpose of the enhanced incentive for an environmental technology~~  
9           ~~business is to promote the growth of businesses in Vermont that both create~~  
10           ~~and sustain high quality jobs and improve the natural environment. [Repealed.]~~

11   \* \* \*

12       § 3340. REPORTING

13           (a) On or before September 1 of each year, the Vermont Economic  
14           Progress Council and the Department of Taxes shall submit a joint report on  
15           the incentives authorized in this subchapter to the House Committees on Ways  
16           and Means, on Commerce and Economic Development, and on  
17           Appropriations, to the Senate Committees on Finance, on Economic  
18           Development, Housing and General Affairs, and on Appropriations, and to the  
19           Joint Fiscal Committee.

20           (b) The Council and the Department shall include in the joint report:

1 (1) the total amount of incentives authorized during the preceding year  
2 and the amount per business;

3 (2) with respect to each business with an approved application:

4 (A) the date and amount of authorization;

5 (B) the calendar year or years in which the authorization is expected  
6 to be exercised;

7 (C) whether the authorization is active; and

8 (D) the date the authorization will expire; and

9 (3) the following ~~aggregate~~ information specific to each business that  
10 earns an incentive:

11 (A) the number of claims and incentive payments made in the current  
12 and prior claim years;

13 (B) the payroll performance requirement, the jobs performance  
14 requirement, and the capital investment performance requirement for each  
15 award year;

16 ~~(B)~~(C) the number, NAICS code, median wage, and average wage of  
17 qualifying jobs; and

18 (D) the number of jobs by wage range; and

19 ~~(C)~~(E) the amount of new payroll and capital investment.

20 (c) The Council and the Department shall present data and information in  
21 the joint report in a searchable format.

1 (d) Notwithstanding any provision of law to the contrary, an incentive  
2 awarded pursuant to this subchapter shall be treated as a tax expenditure for  
3 purposes of chapter 5 of this title.

4 § 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS

5 INFORMATION; ACCESS TO INFORMATION

6 (a) The Vermont Economic Progress Council and the Department of Taxes  
7 shall use measures to protect ~~proprietary~~ confidential financial information,  
8 ~~including reporting information in an aggregate form.~~

9 (b)(1) Information and materials submitted by a business concerning its  
10 income taxes and other confidential financial information ~~shall not be~~ is not  
11 subject to public disclosure under the State's public records law in 1 V.S.A.  
12 chapter 5, ~~but shall be available.~~

13 (2) The Council shall make available all the information that a business  
14 submits to the Council in the course of its application to and participation in  
15 the Program, including tax and other confidential information that is subject to  
16 subdivision (1) of this subsection:

17 (A) to the Joint Fiscal Office, or to its agent, upon authorization of  
18 the Joint Fiscal Committee or a standing committee of the General Assembly;  
19 ~~and shall also be available~~

20 (B) to the Auditor of Accounts in connection with the performance of  
21 duties under section 163 of this title; provided, however, that the

1           (3) The Joint Fiscal Office or its agent and the Auditor of Accounts shall  
2 not disclose, ~~directly or indirectly, to any person any proprietary confidential~~  
3 business information ~~or any information that would identify a business~~ except  
4 in accordance with a judicial order or as otherwise specifically provided by  
5 law.

6           (c) ~~Nothing in this section shall be construed to prohibit the publication of~~  
7 ~~statistical information, rulings, determinations, reports, opinions, policies, or~~  
8 ~~other information so long as the data are disclosed in a form that cannot~~  
9 ~~identify or be associated with a particular business. [Repealed.]~~

10           § 3342. ANNUAL PROGRAM CAP; LIMITATION ON AWARDS IN  
11   PERIODS OF LOW UNEMPLOYMENT

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

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

16                   (2) \$10,000,000.00 for one or more final approvals.

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



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

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

8 (e) Notwithstanding any provision of this subchapter to the contrary, the  
9 Council shall not award any incentives during the six-month period following a  
10 January or July consensus revenue forecast if the State unemployment rate at  
11 the time of the forecast is 2.5 percent or lower.

12 Sec. 2. IMPLEMENTATION

13 (a) Subject to subsections (b) and (c) of this section, 32 V.S.A. §§ 3341 and  
14 3342, as amended in Sec. 1 of this act, apply to current and future participants  
15 in the Vermont Employment Growth Incentive Program.

16 (b) A business with an approved application may opt out of the amended  
17 reporting requirements in 32 V.S.A. §§ 3341 and 3342 and withdraw from  
18 future participation in the Program, except as otherwise provided in subsection

19 (c) of this section, by providing written notice of its intent to the Vermont  
20 Economic Progress Council on or before December 31, 2021.

1        (c) A business that provides notice pursuant to subsection (b) of this  
2        section:

3            (1) is subject to and shall comply with the reporting requirements in  
4        32 V.S.A. §§ 3341 and 3342, as those sections of law appeared prior to the  
5        effective date of this act, for the remainder of its participation in the Program;

6            (2) may earn an incentive and the installment payments for award year  
7        2020 if the business otherwise meets the requirements of the Program;

8            (3) may earn the remaining installment payments for one or more  
9        incentives the business earned in award years prior to 2021 if the business  
10       otherwise meets the requirements of the Program; and

11           (4) is ineligible to earn an incentive for any award year after 2021.

12        Sec. 3. EFFECTIVE DATE

13           This act shall take effect on July 1, 2021.