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H.10

Introduced by Representatives Kornheiser of Brattleboro and Marcotte of
Coventry

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

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

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

~~CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE
PROGRAM~~

~~Subchapter 1. Vermont Economic Progress Council~~

~~§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL~~

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

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

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

5 (b) Membership.

6 (1) The Council shall have ~~11~~ nine voting members:

7 ~~(A) nine who are residents of the State appointed by the Governor~~
8 ~~with the advice and consent of the Senate and who are knowledgeable and~~
9 ~~experienced in the subjects of community development and planning,~~
10 ~~education funding requirements, economic development, State fiscal affairs,~~
11 ~~property taxation, or entrepreneurial ventures and represent diverse~~
12 ~~geographical areas of the State and municipalities of various sizes; appointed~~
13 ~~as follows:~~

14 ~~(A) five members appointed by the Governor with the advice and~~
15 ~~consent of the Senate;~~

16 ~~(B) two members appointed by the Speaker of the House; and~~

17 ~~(C) two members appointed by the Senate Committee on Committees~~

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

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

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

4 (B) A regional member shall be a nonvoting member and shall serve
5 during consideration by the Council of an application from ~~his or her~~ the
6 member's region.

7 * * *

8 (e) Operation.

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

10 (2)(A) The Council shall receive administrative support from the
11 ~~Agency of Commerce and Community Development~~ Department of Financial
12 Regulation and the Department of Taxes.

13 (B) The Council shall receive legal counsel exclusively from the
14 Office of the Attorney General.

15 * * *

16 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

17 ELIGIBLE APPLICANT

18 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
19 Program is to generate net new revenue to the State by ~~encouraging~~ rewarding
20 ~~a business to add~~ for adding new payroll, create new jobs, and make new

1 ~~capital investments it otherwise would not have undertaken without the~~
2 incentive and sharing a portion of the revenue with the business.

3 (b) ~~Form of incentives; enhanced incentives.~~

4 (1) ~~The Vermont Economic Progress Council may approve an incentive~~
5 ~~under this subchapter in the form of a direct cash payment in annual~~
6 ~~installments.~~

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

8 (A) ~~an enhanced incentive for a business in a labor market area with~~
9 ~~higher than average unemployment or lower than average wages pursuant to~~
10 ~~section 3334 of this title; and~~

11 (B) ~~an enhanced incentive for an environmental technology business~~
12 ~~pursuant to section 3335 of this title.~~

13 (C) ~~[Repealed.]~~

14 (e) Eligible applicant.

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

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

19 * * *

20 § 3332. APPLICATION; APPROVAL CRITERIA

21 (a) Application.

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

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

6 (A) specify a payroll performance requirement;

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

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

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

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

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

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

20 (A) the business is not a named party to an administrative order,
21 ~~consent decree, or judicial order issued by the State or a subdivision of the~~

1 ~~State, or if a named party, that the business is in compliance with the terms of~~

2 such an order or decree;

3 (B) the business complies with applicable State laws and rules; and

4 (C) the proposed economic activity would conform to applicable

5 town and regional plans and with applicable State laws and rules.

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

10 (5) ~~But~~ The business attests that, but for the incentive, the proposed
11 economic activity:

12 (A) would not occur; or

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

15 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

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

20 The Council shall calculate the value of an incentive for an award year as

21 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
10 determined under subdivision (1) of this subsection by 80 percent.

11 * * *

12 § 3334. ~~ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING~~
13 ~~LABOR MARKET AREA~~

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

16 (1) ~~the average annual unemployment rate is greater than the average~~
17 ~~annual unemployment rate for the State; or~~

18 (2) ~~the average annual wage is less than the average annual wage for the~~
19 ~~State.~~

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

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

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

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

6 ~~(d) 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 ~~(e) 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 ~~(f) The purpose of the enhanced incentive for a business in a qualifying~~
14 ~~labor market area is to increase job growth in economically disadvantaged~~
15 ~~regions of the State, as provided in subsection (a) of this section. [Repealed.]~~

16 ~~§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL~~

17 ~~TECHNOLOGY BUSINESS~~

18 ~~(a) As used in this section, an "environmental technology business" means a~~
19 ~~business that:~~

20 ~~(1) is subject to income taxation in Vermont, and~~

1 ~~(2) seeks an incentive for economic activity in Vermont that the~~
2 ~~Secretary of Commerce and Community Development certifies is primarily~~
3 ~~research, design, engineering, development, or manufacturing related to one or~~
4 ~~more of the following:~~
5 ~~(A) waste management, including waste collection, treatment,~~
6 ~~disposal, reduction, recycling, and remediation;~~
7 ~~(B) natural resource protection and management, including water and~~
8 ~~wastewater purification and treatment, air pollution control and prevention or~~
9 ~~remediation, soil and groundwater protection or remediation, and hazardous~~
10 ~~waste control or remediation;~~
11 ~~(C) energy efficiency or conservation;~~
12 ~~(D) clean energy, including solar, wind, wave, hydro, geothermal,~~
13 ~~hydrogen, fuel cells, waste-to-energy, or biomass.~~
14 ~~(b) The Council shall consider and administer an application from an~~
15 ~~environmental technology business pursuant to the provisions of this~~
16 ~~subchapter, except that:~~
17 ~~(1) the business's potential share of new revenue growth shall be 90~~
18 ~~percent; and~~
19 ~~(2) to calculate qualifying payroll, the Council shall:~~
20 ~~(A) determine the background growth rate in payroll for the~~
21 ~~applicable business sector in the award year;~~

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

3 ~~(C) subtract the product from the payroll performance requirement~~
4 ~~for the award year.~~

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

8 * * *

9 § 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS
10 INFORMATION; ACCESS TO INFORMATION

11 (a) The Vermont Economic Progress Council and the Department of Taxes
12 shall use measures to protect proprietary financial return information,
13 including reporting information in an aggregate form of a business, as defined
14 in section 3102 of this title, consistent with this section.

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

19 (2) The Council shall make available all the information that a business
20 submits to the Council in the course of its application to and participation in
21 the Program, including return information.

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

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

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

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

14 § 3342. ANNUAL PROGRAM CAP; LIMITATION ON AWARDS IN
15 PERIODS OF LOW UNEMPLOYMENT

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

19 (1) \$15,000,000.00 for one or more initial approvals; and

20 ~~(2) \$10,000,000.00 for one or more final approvals.~~

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

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

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

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

15 Sec. 2. IMPLEMENTATION

16 (a) Subject to subsections (b) and (c) of this section, 32 V.S.A. §§ 3341 and
17 3342, as amended in Sec. 1 of this act, apply to current and future participants
18 in the Vermont Employment Growth Incentive Program.

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

1 ~~(c) of this section, by providing written notice of its intent to the Vermont~~
2 ~~Economic Progress Council on or before December 31, 2023.~~

3 ~~(c) A business that provides notice pursuant to subsection (b) of this~~
4 ~~section is subject to and shall comply with the requirements of 32 V.S.A.~~
5 ~~chapter 105 as it appeared prior to the effective date of this act for the~~
6 ~~remainder of its participation in the Program.~~

7 Sec. 3. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2023.~~

Sec. 1. 32 V.S.A. § 3325 is amended to read:

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

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

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

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

(b) Membership.

(1) The Council shall have 11 voting members:

(A) nine residents of the State appointed by the Governor with the
~~*advice and consent of the Senate who are knowledgeable and experienced in*~~

~~the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;~~

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

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

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

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

~~(3) The Council shall provide not less than 30 days' notice of a vacancy to the relevant appointing authority, which shall appoint a replacement not later than 30 days after receiving notice.~~

~~***~~

~~(e) Operation.~~

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

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

~~(3) The Council shall have:~~

~~(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and~~

~~(B) administrative staff.~~

~~(4) The Council shall adopt and make publicly available a policy governing conflicts of interest that meets or exceeds the requirements of the State Code of Ethics and shall include:~~

~~(A) clear standards for when a member of the Council may participate or must be recused when an actual or perceived conflict of interest exists; and~~

~~(B) a provision that requires a witness who is an officer of the State or its political subdivision or instrumentality to disclose a conflict of interest related to an application.~~

~~(5) The Council shall not enter into executive session to discuss applications or other matters pertaining to the Vermont Employment Growth Incentive Program under subchapter 2 of this chapter unless the Executive Branch State economist is present and has been provided all relevant materials concerning the session.~~

~~***~~

~~Sec. 2. 32 V.S.A. § 3326 is amended to read:~~

~~§ 3326. COST-BENEFIT MODEL~~

~~(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.~~

~~(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.~~

~~(c)(1) The Council shall contract with the Executive Branch State economist to perform the cost-benefit analysis using the cost-benefit model when considering an application for incentives under subchapter 2 of this chapter.~~

~~(2) The Executive Branch State economist shall consult with the Joint Fiscal Office or its agent concerning the performance of the cost-benefit analysis and the operation of the cost-benefit model for each application in which the value of potential incentives an applicant may earn equals or exceeds \$1,000,000.00.~~

~~Sec. 3. 32 V.S.A. § 3340 is amended to read:~~

~~§ 3340. REPORTING~~

~~(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the~~

~~incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.~~

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

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

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

~~(A) the date and amount of authorization;~~

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

~~(C) whether the authorization is active; and~~

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

~~(E) the aggregate number of new qualifying jobs anticipated to be created;~~

~~(F) Vermont gross wages and salaries for new qualifying jobs, sorted by groups in \$25,000.00 increments;~~

~~(G) the aggregate amount of new full-time payroll anticipated to be created; and~~

~~(H) NAICS code; and~~

~~(3) the following aggregate information for claims processed.~~

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

~~(B) the number of qualifying jobs for each approved claim; and~~

~~(C) the amount of new payroll and capital investment for each approved claim.~~

~~(c)(1) The Council and the Department shall present data and information in the joint report in a searchable format.~~

~~(2) Notwithstanding a provision of this section to the contrary, when reporting data and information pursuant to this section, the Council and Department shall take steps necessary to avoid disclosing any information that would enable the identification of an individual employee or the employee's compensation.~~

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

~~Sec. 4. 32 V.S.A. § 3341 is amended to read:~~

~~§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS
INFORMATION~~

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

~~(b) Information and materials submitted by a business concerning its application, income taxes, and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon request of a legislative member of the Council or upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.~~

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

~~Sec. 5. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022 Acts and Resolves No. 164, Sec. 5, is further amended to read:~~

~~Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD~~

~~INCENTIVES~~

~~Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, 2024 2026.~~

~~Sec. 6. ECONOMIC DEVELOPMENT INCENTIVES; STUDY~~

~~(a) Creation. There is created the Task Force on Economic Development Incentives composed of the following five members:~~

~~(1) one member of the House Committee on Commerce and Economic Development and one at-large member with experience in business and economic development appointed by the Speaker of the House of Representatives;~~

~~(2) one member of the Senate Committee on Economic Development, Housing and General Affairs and one at-large member with experience in business and economic development appointed by the Senate Committee on Committees; and~~

~~(3) one at-large member appointed jointly by the Speaker of the House of Representatives and the Senate Committee on Committees.~~

~~(b) Powers and duties. The Task Force shall conduct hearings, receive testimony, and review and consider:~~

~~(1) the purpose and performance of current State-funded economic development incentive programs, and~~

~~(2) models and features of economic development incentive programs from other jurisdictions, including:~~

~~(A) the structure, management, and oversight features of the program;~~

~~(B) the articulated purpose, goals, and benefits of the program, and the basis of measuring success; and~~

~~(C) the mechanism for providing an economic incentive, whether through a loan, grant, equity investment, or other approach.~~

~~(c) Assistance.~~

~~(1) The Task Force shall have the administrative, fiscal, and legal assistance of the Office of Legislative Operations, the Joint Fiscal Office, and the Office of Legislative Counsel.~~

~~(2) The Task Force may direct the Joint Fiscal Office to issue a request for proposals and enter into one or more agreements for consulting services.~~

~~(d) Report. On or before January 15, 2024, the Task Force shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action, including whether and how any proposed program addition, revision, or other legislative action would.~~

~~(1) integrate with and further advance the current workforce development and economic development systems in this State; and~~

~~(2) advance the four principles of economic development articulated in 10 V.S.A. § 3.~~

~~(e) Meetings.~~

~~(1) The member of the House Committee on Commerce and Economic Development shall call the first meeting of the Task Force to occur on or before September 1, 2023.~~

~~(2) The Committee shall select a chair from among its members at the first meeting.~~

~~(3) A majority of the membership shall constitute a quorum.~~

~~(4) The Task Force shall cease to exist on January 15, 2024.~~

~~(f) Compensation and reimbursement.~~

~~(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings.~~

~~(2) Other members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.~~

~~(c) Appropriation. The amount of \$250,000.00 is appropriated from the General Fund in fiscal year 2024 for per diem compensation and reimbursement of expenses for members of the Task Force and for consulting services approved by the Task Force pursuant to this section.~~

Sec. 7. EFFECTIVE DATE

~~This act shall take effect on July 1, 2023.~~

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

*CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE
PROGRAM*

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

** * **

(b) Membership.

(1) The Council shall have ~~H~~ nine voting members:

~~*(A) nine who are residents of the State appointed by the Governor with the advice and consent of the Senate and who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;*~~ appointed as follows:

(A) five members, appointed by the Governor with the advice and consent of the Senate;

(B) two members, appointed by the Speaker of the House; and

(C) two members, appointed by the Senate Committee on Committees

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

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

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

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

(3) The Council shall provide not less than 30 days' notice of a vacancy to the relevant appointing authority, which shall appoint a replacement not later than 30 days after receiving notice.

(c) Terms.

(1) Members of the Council appointed by the Governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms.

(2) After the initial term expires, a member's term is four years and a member may be reappointed.

(3) A term commences on April 1 of each odd-numbered year.

(d) Compensation.

(1) For attendance at a meeting and for other official duties, a member appointed by the Governor shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that a member who is a member of the General Assembly shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 23.

(2) A regional member who does not otherwise receive compensation and reimbursement of expenses from ~~his or her~~ the member's regional development or planning organization shall be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

(e) Operation.

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

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

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(4) The Council shall adopt and make publicly available a policy governing conflicts of interest that meets or exceeds the requirements of the State Code of Ethics and shall include:

(A) clear standards for when a member of the Council may participate or must be recused when an actual or perceived conflict of interest exists; and

(B) a provision that requires a witness who is an officer of the State or its political subdivision or instrumentality to disclose a conflict of interest related to an application.

(5) The Council shall not enter into executive session to discuss applications or other matters pertaining to the Vermont Employment Growth Incentive Program under subchapter 2 of this chapter unless the Executive Branch State economist is present and has been provided all relevant materials concerning the session.

* * *

§ 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

(c)(1) The Council shall contract with the Executive Branch State economist to perform the cost-benefit analysis using the cost-benefit model when considering an application for incentives under subchapter 2 of this chapter.

(2) The Executive Branch State economist shall consult with the Joint Fiscal Office or its agent concerning the performance of the cost-benefit analysis and the operation of the cost-benefit model for each application in which the value of potential incentives an applicant may earn equals or exceeds \$1,000,000.00.

§ 3327. ECONOMIC PROGRESS AND PERFORMANCE REPORTING

(a) Each year, the Council shall engage in a strategic planning process and produce a report on the purposes and performance of current State-funded economic development incentive programs.

(b) In furtherance of producing the report, the Council shall consult with representatives of:

(1) regional development corporations;

(2) regional chambers of commerce; and

(3) business and development organizations identified by the Vermont Sustainable Jobs Fund to be geographically and demographically diverse, in reviewing and considering:

(A) the purpose and performance of current State-funded economic development incentive programs; and

(B) appropriate incentives during low employment and during high employment.

(c) On or before December 15 of each year, the Council shall submit the report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action, including whether and how any proposed program addition, revision, or other legislative action would:

(1) integrate with and further advance the current workforce development and economic development systems in this State; and

(2) advance the four principles of economic development articulated in 10 V.S.A. § 3.

* * *

§ 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the

incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.

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

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

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

(A) the date and amount of authorization;

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

(C) whether the authorization is active; ~~and~~

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

(E) the aggregate number of new qualifying jobs anticipated to be created;

(F) Vermont gross wages and salaries for new qualifying jobs, sorted by groups in \$25,000.00 increments;

(G) the aggregate amount of new full-time payroll anticipated to be created; and

(H) NAICS code; and

(3) the following aggregate information for claims processed:

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

(B) the number of qualifying jobs for each approved claim; and

(C) the amount of new payroll and capital investment for each approved claim.

(c)(1) The Council and the Department shall present data and information in the joint report in a searchable format.

(2) Notwithstanding a provision of this section to the contrary, when reporting data and information pursuant to this section, the Council and Department shall take steps necessary to avoid disclosing any information that would enable the identification of an individual employee or the employee's compensation.

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

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS

INFORMATION

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

(b) Information and materials submitted by a business concerning its application, income taxes, and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon request of a legislative member of the Council or upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

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

* * *

Sec. 2. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72, Sec. 39, is further amended to read:

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD

INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, ~~2025~~ 2026.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2024.