

1 H.708

2 Introduced by Representatives Marcotte of Coventry and Jerome of Brandon

3 Referred to Committee on

4 Date:

5 Subject: Economic development; employment growth incentives; Vermont

6 Employment Growth Incentive (VEGI); Vermont Economic Progress

7 Council (VEPC); forgivable loans

8 Statement of purpose of bill as introduced: This bill proposes to create a
9 forgivable loan track within the Vermont Economic Growth Incentive (VEGI)
10 program for businesses with 50 or fewer full-time employees and to repeal the
11 prohibition on the Vermont Economic Progress Council accepting and
12 approving an application for the VEGI program after a certain date.

13 An act relating to the creation of a forgivable loan track within VEGI
14 program and repealing the VEGI sunset

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

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

17 Subchapter 2. Vermont Employment Growth Incentive Program

18 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

19 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~~ providing
3 incentives to a business to add for adding new payroll, ~~create~~ new jobs, or
4 ~~make~~ new capital investments ~~and sharing a portion of the revenue with the~~
5 business it otherwise would not have without the incentive.

6 (b) Form of incentives; enhanced incentives.

7 (1) The Vermont Economic Progress Council may approve an incentive
8 under this subchapter in the form of a direct cash payment in annual
9 installments or in the form of a forgivable loan from the Vermont Economic
10 Development Authority.

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

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

15 (B) an enhanced incentive for an environmental technology business
16 pursuant to section 3335 of this title.

17 (C) [Repealed.]

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

20 § 3331. DEFINITIONS

21 As used in this subchapter:

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

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

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

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

12 (5) “Economically disadvantaged region” means a labor market area in
13 which:

14 (A) the average annual unemployment rate is greater than the average
15 annual unemployment rate for the State; or

16 (B) the average annual wage is less than the average annual wage for
17 the State.

18 (6) “Jobs performance requirement” means the minimum number of
19 qualifying jobs a business must add.

20 ~~(6)~~(7) “Labor market area” means a labor market area as designated by
21 the Vermont Department of Labor.

1 ~~(7)~~(8) “Non-owner” means a person with no more than 10 percent
2 ownership interest, including attribution of ownership interests of the person’s
3 spouse, parents, spouse’s parents, siblings, and children.

4 ~~(8)~~(9) “Payroll performance requirement” means:

5 (A) ~~the~~ The minimum value of Vermont gross salaries and wages a
6 business must pay as compensation for one or more qualifying jobs.

7 (B) For purposes of the forgivable loan incentive, a qualifying
8 business that maintains at minimum the same number of full-time employees
9 on its payroll throughout the term of the loan agreement.

10 (10) “Qualifying business” shall only apply to forgivable loan applicants
11 and means a business that has 50 or fewer full-time employees.

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

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

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

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

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

- 1 (ii) dental assistance;
- 2 (iii) paid vacation;
- 3 (iv) paid holidays;
- 4 (v) child care;
- 5 (vi) other extraordinary employee benefits;
- 6 (vii) retirement benefits; and
- 7 (viii) other paid time off, excluding paid sick days.

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

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

15 ~~(10)~~(12) "Utilization period" means each year of the award period and
16 the four years immediately following each year of the award period.

17 ~~(11)~~(13) "Vermont gross wages and salaries" means Medicare wages as
18 reported on Federal Tax Form W-2 to the extent those wages are Vermont
19 wages, excluding income from nonstatutory stock options.

1 ~~(12)~~(14) “Wage threshold” means the minimum amount of annualized
2 Vermont gross wages and salaries a business must pay for a qualifying job, as
3 required by the Council in its discretion, but not less than:

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

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

10 § 3332. APPLICATION; APPROVAL CRITERIA

11 (a) Application.

12 (1) A business may apply for:

13 (A) ~~an~~ a direct-cash payment incentive in one or more years of an
14 award period by submitting an application to the Council in the format the
15 Council specifies for that purpose; or

16 (B) a forgivable loan incentive from the Vermont Economic
17 Development Authority by submitting an application to the Council in the
18 format the Council specifies, provided it is a qualifying business as defined in
19 subdivision 3331(10) of this title.

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 for
7 the Vermont Economic Growth Incentive program or the forgivable loan
8 incentive unless it finds:

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

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

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

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

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

1 (C) the proposed economic activity would conform to applicable
2 town and regional plans and with applicable State laws and rules.

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

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

8 (A) would not occur; or

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

11 (c) Forgivable loan incentive.

12 (1) The Council, in coordination with the Vermont Economic
13 Development Authority and in accordance with the approval criteria set forth
14 this section, shall have the authority to review and approve an application for a
15 forgivable loan incentive for a qualifying business.

16 (2) The Vermont Economic Development Authority shall provide the
17 underwriting for an application approved by the Council.

18 (3) The Vermont Economic Development Authority shall establish loan
19 loss reserves, which shall be supported by funds appropriated by the General
20 Assembly for this purpose.

1 (4) A business denied a forgivable loan incentive may apply for other
2 incentives administered by the Council pursuant to this subchapter.

3 (d) A qualifying business is not eligible for a forgivable loan incentive if it
4 has another incentive pending pursuant to this subchapter.

5 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

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

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

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

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

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

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

10 (5) To calculate the value of the incentive, the Council shall multiply
11 qualifying payroll by the incentive percentage.

12 (6) Calculate the amount of the annual installment payments. To
13 calculate the amount of the annual installment payments, the Council shall:

14 (A) divide the value of the incentive by ~~five~~ three; and

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

18 (b) Forgivable loan incentive program; loan amount and terms.

19 (1) To determine the dollar amount for a forgivable loan incentive, the
20 Council shall:

1 (A) multiply the number of full-time employees of a qualifying
2 business by a maximum of \$5,000.00, with a maximum total award of
3 \$200,000.00; or

4 (B) take the lesser of 20 percent of total capital investments made by
5 the qualifying business or \$1,000,000.00.

6 (2) A qualifying business that is approved for a forgivable loan incentive
7 and receives the loan funds shall make monthly interest payments on the loan
8 at a rate determined by the Vermont Economic Development Authority during
9 the initial three years of the loan term and pursuant to the loan agreement.

10 (3) The Department of Taxes shall verify the total amount of increase
11 from base payroll and full-time employee count of the qualifying business
12 during the initial three years of the loan term.

13 (4) The Vermont Economic Development Authority shall verify the total
14 amount of capital investment during the initial three years of the loan term.

15 (5) The Department of Taxes shall not approve the forgiveness of a loan
16 to a qualifying business pursuant to this subchapter unless it finds that:

17 (A) at the end of the initial three years of the loan term, the Vermont
18 Economic Development Authority has verified that the qualifying business has
19 made the required amount of capital investment agreed in the loan agreement;
20 and

1 (B) at the end of the initial three years of the loan term, the qualifying
2 business has satisfied the payroll performance requirement pursuant to this
3 subchapter and as agreed in the loan agreement.

4 (6) Upon verification that the requirements of this subsection (b) are
5 met, the Department of Taxes shall pay the Vermont Economic Development
6 Authority for the full amount of the loan.

7 * * *

8 § 3337. EARNING AN INCENTIVE

9 (a) Earning an incentive; installment payments.

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

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

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

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

19 (2) A business that earns an incentive specified for an award year is
20 eligible to receive an installment payment for the year in which it earns the
21 incentive and for each of the next ~~four~~ two years in which the business:

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

2 (B) maintains or exceeds the payroll performance requirement

3 specified for the award year; and

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

7 (b) Award year one.

8 (1) For award year one, a business has from the date it commences its
9 proposed economic activity through December 31 of that year, plus two
10 additional years, to meet the performance requirements specified for award
11 year one.

12 (2) A business that does not meet the performance requirements
13 specified for award year one within this period becomes ineligible to earn
14 incentives for the award year and for all remaining award years in the award
15 period.

16 (c) Award ~~years~~ year two ~~and three~~.

17 (1) For award year two ~~and award year three~~, beginning on January 1 of
18 the award year, a business has ~~three~~ two years to meet the performance
19 requirements specified for the award year.

20 (2) A business that does not meet the performance requirements
21 specified for award year two ~~or for award year three~~ within ~~three~~ two years

1 becomes ineligible to earn incentives for the award year and for all remaining
2 award years in the award period.

3 (d) Extending the earning period in award years one and two.

4 Notwithstanding subsections (b)–(c) of this section:

5 (1) Upon request, the Council may extend the period to earn an
6 incentive for award year one or award year two if it determines:

7 (A) a business did not earn the incentive for the award year due to
8 facts or circumstances beyond its control; and

9 (B) there is a reasonable likelihood the business will earn the
10 incentive within the extended period.

11 (2) The Council may extend the period to earn an incentive:

12 (A) for award year one, by two years, reviewed annually; or

13 (B) for award year two, by one year.

14 (3) If the Council extends the period to earn an incentive, it shall
15 recalculate the value of the incentive using the cost-benefit model and shall
16 adjust the amount of the incentive as is necessary to account for the extension.

17 (e) Award year three.

18 (1) Beginning on January 1 of award year three, a business that remains
19 eligible to earn incentives has one year to meet the performance requirements
20 specified for award year three.

1 (2) A business that does not meet the performance requirements
2 specified for award year three by the end of that award year becomes ineligible
3 to earn the incentive specified for that award year.

4 (f) Award year four.

5 (1) Beginning on January 1 of award year four, a business that remains
6 eligible to earn incentives has two years to meet the performance requirements
7 specified for award year four.

8 (2) A business that does not meet the performance requirements
9 specified for award year four within two years becomes ineligible to earn
10 incentives for award year four and award year five.

11 ~~(f) Award year five.~~

12 ~~(1) Beginning on January 1 of award year five, a business that remains~~
13 ~~eligible to earn incentives has one year to meet the performance requirements~~
14 ~~specified for award year five.~~

15 ~~(2) A business that does not meet the performance requirements~~
16 ~~specified for award year five by the end of that award year becomes ineligible~~
17 ~~to earn the incentive specified for that award year.~~

18 (g) Carrying forward growth that exceeds targets. Carrying forward
19 growth that exceeds targets. If a business exceeds one or more of the payroll
20 performance requirement, the jobs performance requirement, or the capital
21 investment performance requirement specified for an award year, the business

1 may apply the excess payroll, excess jobs, and excess capital investment
2 toward the performance requirement specified for a future award year,
3 provided that the business maintains the excess payroll, excess jobs, or excess
4 capital investment into the future award year.

5 * * *

6 § 3339. RECAPTURE; REDUCTION; REPAYMENT

7 * * *

8 (c) Repayment of forgivable loan incentives.

9 (1) At the end of the three years of the loan term, upon verification by
10 the Department of Taxes that the business failed to meet the payroll
11 performance requirement, the business shall repay the Vermont Economic
12 Development Authority in an amount and manner established in the loan
13 agreement.

14 (2) At the end of the three years of the loan term, upon verification by
15 the Vermont Economic Development Authority that the business failed to
16 make the required amount of capital investment, the business shall repay the
17 Vermont Economic Development Authority in an amount and manner
18 established in the loan agreement.

19 (3) If a business disputes a determination by the Department of Taxes or
20 the Vermont Economic Development Authority under subsections (c)(1) and

1 (2) of this section, the Vermont Economic Development Authority shall be
2 held harmless.

3 (d) Tax liability.

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

7 (2) For purposes of this section, the Department of Taxes may use any
8 enforcement or collection action available for taxes owed pursuant to chapter
9 151 of this title.

10 * * *

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

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

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

19 Sec. 3. EFFECTIVE DATES

20 This act shall take effect on January 1, 2025, except for Sec. 2, which shall
21 take effect upon passage.