

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred House Bill No. 10 entitled “An act relating to amending the
4 Vermont Employment Growth Incentive Program” respectfully reports that it
5 has considered the same and recommends that the Senate propose to the House
6 that the bill be amended by striking out all after the enacting clause and
7 inserting in lieu thereof the following:

8 Sec. 1. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022
9 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72,
10 Sec. 39, is further amended to read:

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

12 Notwithstanding any provision of law to the contrary, the Vermont
13 Economic Progress Council shall not accept or approve an application for a
14 Vermont Employment Growth Incentive under 32 V.S.A. chapter 105,
15 subchapter 2 on or after ~~January 1, 2025~~ January 1, 2030.

16 Sec. 2. 32 V.S.A. § 3325(b) is amended to read:

17 (b) Membership.

18 (1) The Council shall have 11 voting members:

19 ~~(A) nine who are residents of the State appointed by the Governor~~
20 ~~with the advice and consent of the Senate and~~ and who are knowledgeable and
21 experienced in the subjects of community development and planning,

1 education funding requirements, economic development, State fiscal affairs,
2 property taxation, or entrepreneurial ventures and represent diverse
3 geographical areas of the State and municipalities of various sizes; appointed
4 as follows:

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

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

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

11 (B) two members, at least one of whom is a current member of the
12 House of Representatives, appointed by the Speaker of the House; and

13 (C) two members, at least one of whom is a current member of the
14 Senate, appointed by the Committee on Committees.

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

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

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

4 (b) Form of incentives; enhanced incentives.

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

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

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

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

15 (C) [Repealed.]

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

18 § 3331. DEFINITIONS

19 As used in this subchapter:

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

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

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

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

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

12 (A) the average annual unemployment rate is greater than the average
13 annual unemployment rate for the State; or

14 (B) the average annual wage is less than the average annual wage for
15 the State.

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

18 ~~(6)~~(7) “Labor market area” means a labor market area as designated by
19 the Vermont Department of Labor.

1 ~~(7)~~(8) “Non-owner” means a person with ~~no~~ not 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~~ two 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~~ a direct-cash
21 payment incentive, the 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 (3) In a forgivable loan incentive application, the business shall be
7 required to:

8 (A) specify a payroll performance requirement;

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

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

13 (b) Mandatory criteria. The Council shall not approve an application for
14 the Vermont Employment Growth Incentive program or the forgivable loan
15 incentive unless it finds:

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

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

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

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

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

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

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

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

15 (A) would not occur; or

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

18 (c) Forgivable loan incentive.

19 (1) Vermont Economic Development Authority, in coordination with the
20 Council, and in accordance with the approval criteria set forth this section,

1 shall have the authority to review and approve an application for a forgivable
2 loan incentive for a qualifying business.

3 (2) The Vermont Economic Development Authority shall provide the
4 underwriting and loan decision for an eligible application.

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

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

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

12 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

13 (a) Except as otherwise provided for an enhanced incentive for a business
14 in a qualifying labor market area under section 3334 of this title ~~or~~, an
15 enhanced incentive for an environmental technology business under section
16 3335 of this title, or a forgivable loan pursuant to subsection 3332(c) of this
17 title and subsection (b) of this section, the Council shall calculate the value of
18 an ~~a~~ direct-cash payment incentive for an award year as follows:

19 (1) Calculate ~~new~~ revenue ~~growth~~ benefit. To calculate ~~new~~ revenue
20 growth ~~benefit~~, the Council shall use ~~the~~ a cost-benefit model created pursuant
21 to section 3326 of this title to determine the amount by which the ~~new~~ revenue

1 benefit generated by the proposed economic activity to the State exceeds the
2 costs of the activity to the State.

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

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

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

16 (5) Calculate the value of the incentive. To calculate the value of the
17 incentive, the Council shall multiply qualifying payroll by the incentive
18 percentage.

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

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

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

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

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

7 (A) multiply the number of full-time employees of a qualifying
8 business by a maximum of \$5,000.00, with a maximum total award of
9 \$200,000.00; and

10 (B) take the lesser of 20 percent of total capital investments made by
11 the qualifying business or \$500,000.00.

12 (2) A qualifying business that is approved for a forgivable loan incentive
13 and receives the loan funds shall make monthly interest payments on the loan
14 at a rate determined by the Vermont Economic Development Authority during
15 the loan term and pursuant to the loan agreement.

16 (3) The Department of Taxes shall verify the total amount of increase
17 from base payroll and full-time employee count of the qualifying business
18 during the loan term.

19 (4) The Vermont Economic Development Authority shall verify the total
20 amount of capital investment during the loan term.

1 business shall repay the Vermont Economic Development Authority in an
2 amount and manner established in the loan agreement.

3 (2) At the end of the loan term, upon verification by the Vermont
4 Economic Development Authority that the business failed to make the required
5 amount of capital investment, the business shall repay the Vermont Economic
6 Development Authority in an amount and manner established in the loan
7 agreement.

8 (d) Tax liability.

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

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

15 § 3340. REPORTING

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

1 Development, Housing and General Affairs, and on Appropriations, and to the
2 Joint Fiscal Committee.

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

4 (1) the total amount of incentives authorized during the preceding year;

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

6 (A) the date and amount of authorization;

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

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

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

11 (E) NAICS code; and

12 (3) the following aggregate information for claims processed:

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

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

16 (C) the amount of new payroll and capital investment for each claim
17 processed.

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

20 (2) Notwithstanding a provision of this section to the contrary, when
21 reporting data and information pursuant to this section, the Council and

1 Department shall take steps necessary to avoid disclosing any information that
2 would enable the identification of an individual employee or the employee's
3 compensation.

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

7 § 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS
8 INFORMATION

9 * * *

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,~~ provided the data are disclosed in a form that
13 cannot identify or be associated with a particular business.

14 * * *

15 Sec. 4. ONE-TIME APPROPRIATION FOR FORGIVABLE LOAN;
16 ELIGIBILITY IN FY 2025

17 (a) Appropriation. In fiscal year 2025, the General Assembly shall
18 appropriate \$350,000.00 from the General Fund to the Vermont Economic
19 Development Authority for the purpose of establishing the loan loss reserve for
20 forgivable loan track program created in this act.

1 (b) Eligibility. For fiscal year 2025, only a business in the State that
2 incurred economic loss due to 2023 flooding events and is located in a
3 Vermont county that was listed in President Biden’s disaster declarations dated
4 July 14, 2023, October 6, 2023, and March 2, 2024 is eligible for the
5 forgivable loan track program created in this act. Such a business is still
6 subject to the forgivable loan application criteria and other terms set forth in
7 this act. Economic loss shall be confirmed by the Vermont Economic Progress
8 Council.

9 Sec. 5. EFFECTIVE DATES

10 This act shall take effect on July 1, 2024, except that Sec. 2, 32 V.S.A.
11 § 3325(b), shall take effect on April 1, 2025.

12

13 (Committee vote: _____)

14

15

Senator _____

16

FOR THE COMMITTEE