

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to
3 which was referred Senate Bill No. 247 entitled “An act relating to An act
4 relating to repealing the Vermont Employment Growth Incentive (VEGI)
5 Program sunset” respectfully reports that it has considered the same and
6 recommends that the bill be amended by striking out all after the enacting
7 clause and inserting in lieu thereof the following:

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

9 Subchapter 2. Vermont Employment Growth Incentive Program

10 § 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES;

11 ELIGIBLE APPLICANT

12 (a) Purpose. The purpose of the Vermont Employment Growth Incentive
13 Program is to generate net new revenue to the State by ~~encouraging~~ providing
14 incentives to a business to add for adding new payroll, create new jobs, or
15 make new capital investments and sharing a portion of the revenue with the
16 business it otherwise would not have without the incentive.

17 (b) Form of incentives; enhanced incentives.

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

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

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

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

7 (C) [Repealed.]

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

10 § 3331. DEFINITIONS

11 As used in this subchapter:

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

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

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

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

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

5 (A) the average annual unemployment rate is greater than the average
6 annual unemployment rate for the State; or

7 (B) the average annual wage is less than the average annual wage for
8 the State.

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

11 ~~(6)~~(7) “Labor market area” means a labor market area as designated by
12 the Vermont Department of Labor.

13 ~~(7)~~(8) “Non-owner” means a person with no more than 10 percent
14 ownership interest, including attribution of ownership interests of the person’s
15 spouse, parents, spouse’s parents, siblings, and children.

16 ~~(8)~~(9) “Payroll performance requirement” means:

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

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

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

3 ~~(9)~~(11) “Qualifying job” means a new, permanent position in Vermont
4 that meets each of the following criteria:

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

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

9 (C) The business provides for the position at least three of the
10 following:

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

13 (ii) dental assistance;

14 (iii) paid vacation;

15 (iv) paid holidays;

16 (v) child care;

17 (vi) other extraordinary employee benefits;

18 (vii) retirement benefits; and

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

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

1 (E) When the position is added to base employment, the business’s
2 total employment exceeds its average annual employment during the two
3 preceding years, unless the Council determines that the business is establishing
4 a significantly different, new line of business and creating new jobs in the new
5 line of business that were not part of the business prior to filing its application.

6 ~~(10)~~(12) “Utilization period” means each year of the award period and
7 the ~~four~~ two years immediately following each year of the award period.

8 ~~(11)~~(13) “Vermont gross wages and salaries” means Medicare wages as
9 reported on Federal Tax Form W-2 to the extent those wages are Vermont
10 wages, excluding income from nonstatutory stock options.

11 ~~(12)~~(14) “Wage threshold” means the minimum amount of annualized
12 Vermont gross wages and salaries a business must pay for a qualifying job, as
13 required by the Council in its discretion, but not less than:

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

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

20 § 3332. APPLICATION; APPROVAL CRITERIA

21 (a) Application.

1 (1) A business may apply for:

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

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

9 (2) For each award year the business applies for ~~an~~ a direct-cash
10 payment incentive, the business shall:

11 (A) specify a payroll performance requirement;

12 (B) specify a jobs performance requirement or a capital investment
13 performance requirement, or both; and

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

16 (2) For a forgivable loan incentive, the business shall: (only upon
17 commencement)

18 (A) specify a payroll performance requirement;

19 (B) specify a jobs performance requirement or a capital investment
20 performance requirement, or both; and

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

3 (b) Mandatory criteria. The Council shall not approve an application for
4 the Vermont Economic Growth Incentive program or the forgivable loan
5 incentive unless it finds:

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

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

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

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

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

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

20 (4) If the business proposes to expand within a limited local market, an
21 incentive would not give the business an unfair competitive advantage over

1 other Vermont businesses in the same or similar line of business and in the
2 same limited local market.

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

4 (A) would not occur; or

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

7 (c) Forgivable loan incentive.

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

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

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

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

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

21 § 3333. CALCULATING THE VALUE OF AN INCENTIVE

1 (a) Except as otherwise provided for an enhanced incentive for a business
2 in a qualifying labor market area under section 3334 of this title, ~~or an~~
3 enhanced incentive for an environmental technology business under section
4 3335 of this title, or a forgivable loan pursuant to subsection 3332(c) of this
5 title and subsection (b) of this section, the Council shall calculate the value of
6 ~~an~~ a direct-cash payment incentive for an award year as follows:

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

12 (2) Calculate the business's potential share of ~~new~~ revenue growth
13 benefit. Except as otherwise provided for an environmental technology
14 business in section 3335 of this title, to calculate the business's potential share
15 of ~~new~~ revenue growth benefit, the Council shall multiply the ~~new~~ revenue
16 growth benefit determined under subdivision (1) of this subsection by
17 80 percent.

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

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

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

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

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

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

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

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

15 (A) multiply the number of full-time employees of a qualifying
16 business by a maximum of \$5,000.00, with a maximum total award of
17 \$200,000.00; and

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

20 (2) A qualifying business that is approved for a forgivable loan incentive
21 and receives the loan funds shall make monthly interest payments on the loan

1 at a rate determined by the Vermont Economic Development Authority during
2 the initial three years of the loan term and pursuant to the loan agreement.

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

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

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

10 (A) at the end of the initial three years of the loan term, the Vermont
11 Economic Development Authority has verified that the qualifying business has
12 made the required amount, if any, of capital investment agreed in the loan
13 agreement; and

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

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

20 * * *

21 § 3337. EARNING AN INCENTIVE

1 (a) Earning ~~an~~ a direct-cash incentive; installment payments.

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

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

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

8 (C) meets or exceeds the jobs performance requirement specified for
9 the award year or the capital investment performance requirement specified for
10 the award year, or both.

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

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

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

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

20 (b) Award year one.

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

5 (2) A business that does not meet the performance requirements
6 specified for award year one within this period becomes ineligible to earn
7 incentives for the award year and for all remaining award years in the award
8 period.

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

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

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

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

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

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

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

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

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

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

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

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

11 (e) Award year three.

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

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

18 (f) Award year four.

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

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

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

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

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

11 (g) Carrying forward growth that exceeds targets. Carrying forward
12 growth that exceeds targets. If a business exceeds one or more of the payroll
13 performance requirement, the jobs performance requirement, or the capital
14 investment performance requirement specified for an award year, the business
15 may apply the excess payroll, excess jobs, and excess capital investment
16 toward the performance requirement specified for a future award year,
17 provided that the business maintains the excess payroll, excess jobs, or excess
18 capital investment into the future award year.

19 * * *

20 § 3339. RECAPTURE; REDUCTION; REPAYMENT

21 * * *

1 (c) Repayment of forgivable loan incentives.

2 (1) At the end of the three years of the loan term, upon verification by
3 the Department of Taxes that the business failed to meet the payroll
4 performance requirement, the business shall repay the Vermont Economic
5 Development Authority in an amount and manner established in the loan
6 agreement.

7 (2) At the end of the three years of the loan term, upon verification by
8 the Vermont Economic Development Authority that the business failed to
9 make the required amount of capital investment, the business shall repay the
10 Vermont Economic Development Authority in an amount and manner
11 established in the loan agreement.

12 (d) Tax liability.

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

16 (2) For purposes of this section, the Department of Taxes may use any
17 enforcement or collection action available for taxes owed pursuant to chapter
18 151 of this title.

19 * * *

20 Sec. 2. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022

1 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72,
2 Sec. 39, is further amended to read:

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

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

8 Sec. 3. ONE-TIME APPROPRIATION FOR FORGIVABLE LOAN

9 In fiscal year 2025, the General Assembly shall appropriate \$350,000.00
10 from the General Fund to the Vermont Economic Development Authority for
11 the purpose of supporting the forgivable loan track program created in this act.

12 Sec. 4. EFFECTIVE DATES

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

15
16 (Committee vote: _____)

17 _____

18 Representative _____

19 FOR THE COMMITTEE