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To: Michael Marcotte, Chair
House Committee on Commerce and Economic Development
Date: 25 January 2023
Re: VEGI – H.10

I look forward to testifying tomorrow on H.10. As you consider the bill, you will hear claims about the program that are misleading and not based on verifiable data.

For example, VEPC claims there is no cost to taxpayers because the incentives are paid from tax revenues derived from economic activity incentivized by the program that would not have occurred "but for" the awards.

The "but for" criterion is the touchstone of the program. In theory, it protects taxpayers. But, in practice, VEGI's effectiveness cannot be determined because applicant self-attestations about intent (the "but for") are based on corporate decisions that cannot be independently tested or verified. Therefore, it is impossible to validate VEPC's claims about job creation purportedly resulting from the awards.

Awarding grants to companies that would have created jobs without an incentive is a waste of precious taxpayer funds. The myth of the "but for" is a fatal flaw in the program. I am not alone in this view as the Legislature's economist has opined on this subject repeatedly over the years.

In order to evaluate VEPC's due diligence, I reviewed a number of VEGI applications, including the purported confidential information kept from policymakers and the public. In each one, VEPC failed to perform sufficient due diligence to justify awarding public dollars. Following are brief descriptions of those applications and VEPC's conduct.

1. An applicant noted that it had previously received a substantial incentive to expand operations in another state. The applicant stated that it would decide where to make its next investment based on total cost, net of any grants or incentives. The clear implication was that the company was willing and able to shop around and that incentives were an important consideration. However, the applicant reported that it was not seeking incentives from any other state, so it's unclear whether the company was seriously considering out-of-state alternatives.

   The VEPC staff write-up submitted to the Council referred to "competition" from the state where the company had received an earlier incentive. But there is no evidence to support this assertion because the applicant admitted it was not seeking an incentive from that or any other state. It is unclear why, in the face of a somewhat insubstantial "but for" statement, VEPC staff accepted the applicant's insinuation and mischaracterized the facts. The application was approved.

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2. An applicant described three options for an expansion, assigned risk levels to each, and stated that the Vermont option required financial assistance to make it work. However, there is no evidence that VEPC requested information to support the company's characterization of the costs and risks of the options, which was the basis of the applicant's "but for" attestation.

   Also, VEPC never verified the assertion that the firm needed financial assistance. This is significant because the company's payroll had grown significantly in the preceding three years, which demonstrated its ability to grow without VEGI incentives. If the company meets its performance goals, the award authorized by VEPC represents 1.5% of the company's expected new payroll over the five-year term of a VEGI award. While every dollar matters, these facts argue for a closer examination of whether such an incentive is pivotal to the company's decision.

   These deficiencies were not highlighted in the VEPC staff write-up, but the write-up did include this cautionary note to the Council:

   > *"The company has been quoted in the news…about their growth plans in Vermont, so the Council should vigorously question how the company's 'but for' statement matches with their representations to the media about their plan to continue growing in Vermont."*

   While the matter may have been discussed in executive session, there is no evidence that the Council sought additional documentation. The application was approved.

3. An applicant described investments made some years prior that resulted in considerable growth. It then sought to expand into what it characterized as a new product line to meet new and growing demand. Having reached capacity in its facility, the company said it needed an incentive to move forward.

   Based on information submitted by the applicant, this was a successful company, which needed to expand to keep up with its competitors. Given its growth and access to capital, the assertion that it would not expand without incentives was curious and the staff expressed concern:

   > *"The Council should vigorously question the company's But For statement. There has been not [sic] backup documentation provided to support the statements in this application, so the Council should question the assertion that without the incentive this investment wouldn't happen."*

   There is no evidence that the Council sought additional documentation. The application was approved.

4. An applicant provided VEPC with information about its facilities in other locations. The company stated that it would proceed here rather than elsewhere if it received the VEGI incentives. However, the firm said it was not negotiating with any other states for incentives. There is no evidence that VEPC sought additional information to substantiate the applicant's implied threat to take its business elsewhere. The application was approved.

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