DOUGLAS R. HOFFER
STATE AUDITOR

STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

To: House Committee on Commerce and Economic Development

Re: H.10 2.1

Date: February 28, 2023

I offer the following comments about the "study" proposed in Sec. 3 of H.10 2.1. Draft bill text in black and my comments in red.

Many of the questions raised in H.10, as well as some in version 2.1, are policy choices that do not lend themselves to fact-based analyses because, in many cases, there are not sufficient and appropriate facts to measure VEGI outcomes. In such cases, that argues for new strategies. Now to the study.

(1) changes to the composition of the Council and any statutory and operational changes necessary to ensure that the Council has sufficient resources and expertise to achieve structural independence and the ability to perform its duties without reliance on other State agencies and departments for legal, fiscal, or operational functionality;

The main question at issue is whether ACCD can be objective in its oversight of VEPC while it actively promotes VEGI. The inherent conflict of interest is a legitimate concern (see EB-5).

However, the idea that one program should have "the ability to perform its duties without reliance on other State agencies and departments for legal, fiscal, or operational functionality" is not at all what was first proposed in H.10 and would be a departure from the norm. In general, programs operate under the umbrella of a parent entity. A desire to avoid conflicts of interest does not lead logically to the need for total independence. Moreover, the legislature's continuing concerns about VEGI argue against building a new standalone bureaucratic home. I don't think the idea of independence for VEPC was intended by the co-sponsors of H.10, but the question of where VEPC could be housed is a suitable topic for review by the JFO.

Re. legal services: H.10 called for all legal services going forward to be provided by the Attorney General's Office. The intent was to eliminate conflicts of interest arising from VEPC's reliance on ACCD's inhouse attorney who does not report to the AG. At present, almost all state attorneys are Assistant AGs and embedded in the various agencies and departments. Relying on a free-range attorney (as in ACCD) can result in dueling opinions and is not in the State's best interest. Therefore, rather than looking for legal independence for VEPC (the status quo), we should seek to promote unbiased and accountable legal services. In my view, there is no need to study this issue.

(2) statutory and operational changes necessary to determine the efficacy of new job creation through the Program, including methods to determine whether new positions are filled by current residents or new residents and whether net new positions are created and filled by new employees or merely by job switchers;

Serving un- or under-employed Vermonters is an important goal, but VEGI is not designed for that purpose. Indeed, ask yourselves whether the money spent on VEGI could be better spent on well-designed programs intended to increase the quality of the workforce. If you're interested in the subject, you can read our report on the Department of Labor's administration of the Workforce Innovation and Opportunity Act.

(3) whether the Program should be modified or expanded to change the basis of awarding financial incentives, including eliminating the payroll performance requirement, modifying the capital investment performance requirement, or making other changes;

The changes proposed by the administration would make the program even less accountable than it is now. The current methodology (including the econometric model) is designed to ensure that the proposed economic activity is likely to produce the fiscal impacts necessary to justify an award (assuming the "but for" is legitimate). Eliminating those guardrails would seriously undermine the integrity of the program and likely waste taxpayer money.

Re. payroll performance: Renaming the program to remove the reference to job growth is telling. Removing the payroll performance e requirement moves VEGI even further toward corporate welfare rather than a well-defined program with shared and defensible goals and measurable outcomes. The administration's proposal is exactly opposite of (what I perceive to be) the intent of the original H.10. I recommend against its inclusion.

Re. capital investment: According to the Census Bureau's Annual Survey of Manufacturers, Vermont firms spent over $230 million annually for capital expenditures from 2019 - 2021. Therefore:

- Where is the evidence that Vermont businesses need incentives for these expenditures? A business can't grow or increase productivity to keep pace with competitors without periodic investments in new plant, machinery, or equipment.
- How does VEPC justify offering the lower of 20% or $1 million for capital expenditures? It is impossible to know if such awards are justified without a benefit-cost analysis. To use a flat rate for such grants is to just guess. In my view, that is not how Vermont should spend taxpayer funds, especially when left to unelected members of a Council whose decisions cannot be challenged either administratively or judicially.

(4) evaluating whether the cost-benefit model adequately and appropriately accounts for the multiplier effects of awarding financial incentives to businesses that prioritize local supply chains;

Like all such econometric models, REMI is based on information from the U.S. Commerce Department and represents the complex interactions of the component parts of the economy. The base model is regularly updated with new information. The multiplier effect of local inputs is of interest to policymakers everywhere and is a standard output of the model. The REMI model has been used by the State's two economists for many years for a number of purposes. No doubt Tom Kavet can address this directly, but I see no reason to include this in the proposed study.

(5) whether to limit or suspend the program at certain levels of unemployment in this State and on what basis.

This is best addressed by your economist.