



Vermont Economic Progress Council

Agency of Commerce and Community Development
6th Floor, Deane C. Davis State Office Building
1 National Life Drive, Montpelier, VT 05620-0501

HOUSE COMMERCE TESTIMONY ON S.162

Vermont Economic Process Council

Megan Sullivan, Executive Director

Tuesday, April 16, 2019

Please find information on each study required in this bill bulleted in blue.

Sec. 5. ENHANCED INCENTIVES; BACKGROUND GROWTH; SMALL BUSINESS PARTICIPATION

On or before December 15, 2020, the Vermont Economic Progress Council shall submit to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development a report addressing:

(1) the use of the enhanced incentive for environmental technology businesses in the Vermont Employment Growth Incentive Program and shall specifically address the effectiveness, costs, and benefits of modifying the background growth rate when calculating the value of the enhanced incentives; and

- In 2016 at the request of the General Assembly in § H.13 Act 157, a study of the Vermont Employment Growth Incentive (VEGI) program was conducted by the Vermont Economic Progress Council (VEPC) with contributions from over 20 interested parties.
- The outcome of that study was reported to the legislature in January of 2017. This Study is attached as Appendix A.
- That report included a review of the enhanced incentive offered to environmental technology businesses. Please see Appendix A, pages 8-13.
- An update of the use and outcome of this enhancement is included in the VEGI annual report. Please see Appendix B, the VEGI annual report, page 12.

(2) specific recommendations for reducing the administrative burdens and other barriers to participation in the Program for small businesses.

- A review of small business participation in VEGI was also included in the Report required by ACT 157 released in January of 2017. Please see Appendix A, pages 23-24.
- The outcome of that study led to no changes recommended at that time.
- This year, to respond to a common thread from testimony taken during that study on needs of small businesses to access operating capital early in its growth, the administration put forward a plan for a Small business Enhancement to match the Green VEGI Enhancement.

Sec. 6. VERMONT EMPLOYMENT GROWTH INCENTIVE; STUDY



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On or before January 15, 2020, the Agency of Commerce and Community Development, in consultation with the State Auditor, shall study and report to the House Committees on Commerce and Economic Development and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs and on Finance concerning the Vermont Employment Growth Incentive Program, specifically addressing the following:

(1) the internal controls and methods used to evaluate whether the program is working as intended;

- Statute governing VEGI requires that VEPC and the Tax Department issue an annual report with specific programmatic information included. See Appendix B.
- This annual report and correlating spreadsheets (also publicly available) serve the purpose of allowing VEPC, the legislature, and all interested parties to evaluate if the program is working as intended.

(2) the procedures used to select, vet, and approve participants and projects;

- VEPC must use the Mandatory Criteria set forth in Vermont law in Statute 32 VSA § 3325 - 3342 for vetting and approving participants in the VEGI program. See Appendix C.
- Participants must provide information on how they meet this criterion in an online application as well as in person before the VEPC Board.
- Please see Appendix D to review the application process.

(3) the controls and due diligence surrounding the application of the “but for” test;

- VEPC has an external guidance document on the “but for” test as well as an internal procedural document. Please see Appendix E.
- In 2012 State Auditor Tom Salmon issued “Progress Under Way on Audit Recommendations” from an audit of the VEGI program in 2008 and 2010. In his update on progress he found that the addition of a House and Senate member to the VEPC Council should increase the level of review and due diligence of the “but for” test and found his earlier audit’s recommendation of independent review to be fully implemented. See Appendix F Page 7-8.
- The Senate has not appointed a member to VEPC in two years.

(4) the specific outcomes of the Program in each year, including the net revenue gain to the State and the net increase in jobs, payroll, and capital investment; and

- This information is included in the VEGI Annual Report which is provided to the Legislature by September 1 of each year. Please see Appendix B, pages 14.

(5) the procedures and controls for measuring and verifying those Program outcomes.

- Programmatic outcomes aggregate VEGI participant outcomes verified by the Tax Department (not by VEPC or ACCD) in accordance with Statute. Please see Appendix C.



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Appendices (HYPERLINKED OR ATTACHED)

- A. [Report on Act 157.](#)
- B. [2018 Annual Report, Vermont Employment Growth Incentive.](#)
- C. [Statute: 32 VSA § 3325 – 3342.](#)
- D. [VEGI Online Application Instructions.](#)
- E. [External “But For” Criteria document](#) and Internal control document of the “But For” test.
(attached)
- F. [Vermont Employment Growth Incentive; Progress Under Way With Audit Recommendations by State Auditor Tom Salmon.](#)



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APPENDIX E- Internal control documents- “But For” Process

VEGI APPLICATION

But For Process

Pre-Application:

- Prior to recommending that a company file a VEGI application, staff communicates with the potential applicant regarding the circumstances of the project, makes sure the applicant is aware of and understands the But For and why it is part of the program, and advises them on the types of information that will be required.
- Staff also confers with the regional economic development director to obtain their assessment on the validity and veracity of the project circumstances and But For.

Applicant Requirements:

- Applicant companies must have at least two company officers register on Intelligrants application system.
- VEPC Executive Director uses Secretary of State registrations, Internet information, and discussion with applicant company to confirm positions of the Users in the applicant company and assign the Authorizing Official (AO) and Senior Authorized Official (SAO) roles in the application system.
- The AO and SAO must hold certain decision-making positions in the company and certify that:
 - They are duly authorized by the applicant company to represent the company, sign the application, and affirm the Authorizations and Certifications contained on this form;
 - They have completely reviewed the application and the program rules and requirements;
 - They are actually the person designated by the applicant business and registered by VEPC in the VEGI Application and Claim System as the Authorizing Official (AO) or Senior Authorizing Official (SAO) for the application (and not a designee); and
 - They understand by clicking each box to enter a checkmark and changing the application status they are affixing their signature to the application and acknowledge that they are responsible for the application content.
- Only Users with these roles may make changes to the application and change the application status at the point of application certification and in order to submit the application.
- Which company officers are assigned these roles depends on the structure of the applicant company. Generally:
 - Sole Proprietorship: Owner/CEO has dual AO and SAO role.
 - Vermont-based company: Owner/CEO or other similar position is assigned SAO and second officer such as VP Finance, CFO, CAO is assigned AO.



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- Multi-state or Multi-National: Officer from corporate headquarters is assigned SAO and top person from Vermont operation is assigned AO.

Application Requirements:

- Applicant must provide a But For Statement on the appropriate form in the VEGI application.
- Applicant must complete the standard But For questions on the But For form in the VEGI application.
- Applicant must upload supporting documentation to the But For form as appropriate and relevant to the But For statement.
- AO and SAO must certify the application.

Application Consideration Process:Staff review:

- Staff checks data and information in application for consistency.
- Staff checks application for completeness and requests further information or additional supplemental information as appropriate.
- Staff checks Corporate Structure form information for consistency with Users assigned AO and SAO roles.
- Staff checks But For statement, standard question responses, and uploaded information: Appropriate for statement made and adequate for VEPC Board to make a determination?
- As appropriate for and relevant to applicant's But For statement:
 - Staff conducts Internet research on company and principals:
 - Company website: Locations, principals, news
 - News stories
 - Vt Secretary of State page
 - Permitting records
 - Other state incentives
 - Job postings
 - Staff checks with municipality regarding land ownership
 - Staff checks on applications/awards with other programs (VEDA, CDBG, Working Lands, etc.)
 - Staff reviews lease or P&S
 - Staff reviews business plan
 - If But For is "significantly different, significantly less desirable," staff reviews financials and alternative growth scenario.
- Staff reviews certification by AO and SAO.



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- Staff prepares summary write-up, including any concerns regarding But For and a recommendation based on non But For aspects of the application.

Board Review:

- Board reviews application on Intelligrants, with access to all forms, applicant attachments, and staff summary and staff attachments.
- Board members develop questions for staff and applicant
- Applicant AO and/or SAO must attend VEPC Board meeting during consideration of application
- Applicant presents application
- VEPC Board review company and project with applicant and interrogates applicant directly, in person, regarding the But For.