CONFIDENTIAL
Legislative Bill Review Form: 2016

Bill Number: H.868

Name of Bill: An act relating to miscellaneous economic development provisions

Agency/Dept: Tax

Author(s) of Bill Review: Kirby Keeton, Candace Morgan

Date of Bill Review: 5/12/16

Related Bills & Key Players: ACCD, VEPC, Auditor's Office, miscellaneous departments for Sec. J.1 study

Status of Bill: As passed by both

Recommended Position: Remain neutral

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
This summary only addresses the economic devleopment changes related to the Department of Taxes. Sections H.1-14 and Q.2.

In Section H.1-

• The VEGI statute was moved from the income tax chapter to the “General Provisions” part of title 32. Chapter 105 will be the VEGI chapter starting January 1, 2017.
• The Conference Committee changed the effective date from January 1, 2018 to January 1, 2017. The rationale was to see the new changes in effect sooner so that the Legislature may respond sooner. The Committee recognized the inconvenience to Tax and VEPC but made the change nonetheless.
• H.868 was intended as a rewrite with very few substantive changes. Nearly all of the intended substantive changes relate to VEPC’s approval process and not the Department’s review of incentive claims.
• As with current law, VEPC will calculate the value of an incentive for a business prior to the submission of a claim for an incentive. Many of VEPC’s current administrative guidelines for approvals and incentives were put into statute with the rewrite.
• As with current law, different calculations are used for enhanced incentives for some labor markets, environmental technology, and workforce training. One substantive change is that the incentive caps for initial VEGI approval have been increased and the review process has somewhat changed (this does not directly relate to work done by the Department).
• The incentive period (timeframe in which payments are made) remains five years. As with current law, a business earns an incentive by (1) maintaining or exceeding base payroll and base employment, (2) meeting the payroll performance for the specified year, (3) and meeting either the job performance requirement OR capital investment requirement for the specified year.
• The rewrite breaks down the qualifying criteria and rules for extensions by award year. It is the same as current law but the new language organizes the rules by award year, which is intended to be a clarification.
• The incentive claims process and the manner in which the Department makes a payment are intended to be exactly the same.
• The rules relating to recapture and reduction of payments are now fully explained. There are now provisions relating directly to the Department’s authority to enforce recapture. Previously, the authority was granted implicitly through the income tax provisions.
• Property tax stabilization is no longer an option for incentive payments.

In Section H.13-
VEPC is required to conduct a policy review relating to several possible improvements in the program. One area VEPC will consider is whether there should be a recapture of payments when a business relocates out of state. The Department of Taxes is required to assist with the policy review.

Section H.14-
The Joint Fiscal Committee will be in charge of a VEGI technical working group. The group will focus on four questions relating to the soundness of the statistical and economic data used to support and justify the VEGI Program. The working group will have a Department of Taxes fiscal analyst or the state economist.

Section Q2-
JFO will conduct a tax study that compares Vermont to other states for historical trends, tax burden, and cross-border competitiveness. The Department is required to provide assistance.

Section J.1-
Asks for the Tax Department, Health Department, Department of Tourism and Marketing, DFR, and Division of Fire Safety within DPS to review their laws that would be applicable to Internet-based lodging accommodations. The report is due to committees of jurisdiction by January 15, 2017.

2. **Is there a need for this bill?** *Please explain why or why not.*
Section H.1 rewrites the VEGI statute. In the short term, there may be unintended consequences of completely changing the language of the entire program. Staff from VEPC, the Department of Taxes, and Legislative Council have attempted to mitigate any problems but ther emay be unforeseen issues. In the long term, this bill should make for a clearer framework for the VEGI program because the previous statute had been amended so many times that it was difficult to understand for a person unacquainted with the program.

3. **What are likely to be the fiscal and programmatic implications of this bill for this department?**
The Department of Taxes is prepared to incorporate the changes when they become effective on January 1, 2017. Although the language was changed, the Department's process and authority under the law remains nearly the exact same.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**
The approval process for VEGI applications by VEPC has changed in some relatively minor ways.

5. **What might be the fiscal and programmatic implications of this bill for others and what is likely to be their perspective on it?** (*e.g., public, municipalities, organizations, business, regulated entities)*
VEPC and ACCD seem to have accepted the changes and are ready to implement them.

6. **Other Stakeholders**
   - **6.1 Who else is likely to support the proposal and why?**
   - **6.2 Who else is likely to oppose the proposal and why?**

7. **Rationale for recommendation:** *Justify recommendation stated above.*

The Department of Taxes is able to implement these changes with some administrative burden resulting from adapting to the new language.

8. **Specific modifications that would be needed to recommend support of this bill***: Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

9. Will this bill create a new board or commission AND/OR add or remove appointees to an existing one? If so, which one and how many? *This is simply expanded language to indicate whether the bill would also add or remove appointees to existing board or commission, under the administration's control.*

Secretary/Commissioner has reviewed this document. Name: Mary Peterson ***Date:*** 05/18/16