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HOUSE COMMITTEE ON
APPROPRIATIONS

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MEMORANDUM

To: Rep. Botzow, Chair, House Committee on Commerce
From: Rep. Heath, Chair, House Committee on Appropriations
Date: May 1, 2014
Subject: Request for Review of Section in Senate passed Budget

The Conference Committee on the budget has been appointed and is in the process of reviewing provisions added, deleted, or changed by the Senate. It would be very helpful if you could review the section below and provide me with your feedback by 1 p.m. on Tuesday, May 6th, or earlier if possible. Thank you for your help with this issue.

Sec. E.100.5 VERMONT ENTERPRISE FUND

(a) There is created a Vermont Enterprise Fund, the sums of which may be used by the Governor, with the approval of the Emergency Board, for the purpose of making economic and financial resources available to businesses facing circumstances that necessitate State government support and response more rapidly than would otherwise be available from, or that would be in addition to, other economic incentives.

(b)(1) The Fund shall be administered by the Commissioner of Finance and Management as a special fund under the provisions of chapter 7, subchapter 5 of this title.

(2) The Fund shall contain any amounts transferred or appropriated to it by the General Assembly.

(3) Interest earned on the Fund and any balance remaining at the end of the fiscal year shall remain in the Fund.

(4) The Commissioner shall maintain records that indicate the amount of money in the Fund at any given time.

(c) The Governor is authorized to use amounts available in the Fund to offer economic and financial resources to an eligible business pursuant to this section, subject to approval by the Emergency Board as provided in subsection (e) of this section.

(d) To be eligible for an investment through the Fund, the Governor shall determine that a business:

(1) adequately demonstrates:

(A) a substantial statewide or regional economic or employment impact; or

(B) approval or eligibility for other economic development incentives and programs offered by the State of Vermont; and

(2) is experiencing one or more of the following circumstances:

(A) a merger or acquisition may cause the closing of all or a portion of a Vermont business, or closure or relocation outside Vermont will cause the loss of employment in Vermont;

(B) a prospective purchaser is considering the acquisition of an existing business in Vermont;

(C) an existing employer in Vermont, which is a division or subsidiary of a multistate or multinational company, may be closed or have its employment significantly reduced; or

(D) is considering Vermont for relocation or expansion.

(e)(1) Any economic and financial resources offered by the Governor under this section must be approved by the Emergency Board before an eligible business may receive assistance from the Fund.

(2) The Board shall invite the Chair of the Senate Committee on Economic Development, Housing and General Affairs and the Chair of the House Committee on Commerce and Economic Development to participate in Board deliberations under this section in an advisory capacity.

(3) The Governor designee shall present to the Emergency Board for its approval:

(A) information on the company;

(B) the circumstances supporting the offer of economic and financial resources;

(C) a summary of the economic activity proposed or that would be forgone;

(D) other State incentives and programs offered or involved;

(E) the economic and financial resources offered by the Governor requiring use of monies from the Fund;

(F) employment, investment, and economic impact of Fund support on the employer, including a fiscal cost-benefit analysis; and

(G) terms and conditions of the economic and financial resources offered, including:

(i) the total dollar amount and form of the economic and financial resources offered;

(ii) employment creation, employment retention, and capital investment performance requirements; and

(iii) disallowance and recapture provisions.

(4) The Emergency Board shall have the authority to approve, disapprove, or modify an offer of economic and financial resources in its discretion, including consideration of the following:

(A) whether the business has presented sufficient documentation to demonstrate compliance with subsection (d) of this section;

(B) whether the Governor has presented sufficient information to the Board under subdivision (3) of this subsection;

(C) whether the business has received other State resources and incentives, and if so, the type and amount; and

(D) whether the business and the Governor have made available to the Board sufficient information and documentation for the Auditor of Accounts to perform an adequate performance audit of the program, including the extent to which necessary information or documentation is or will be withheld under a claim that it is confidential, proprietary, or subject to executive privilege.

(f)(1) Proprietary business information and materials or other confidential financial information submitted by a business to the State, or submitted by the Governor to the Emergency Board, for the purpose of negotiating or approving economic and financial resources under this section shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Chair of the Joint Fiscal Committee, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent, and the Auditor of Accounts, shall not disclose, directly or indirectly, to any person any proprietary business or other confidential information or any information which would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(2) Nothing in this subsection shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

(g) On or before January 15 of each year following a year in which economic and financial resources were made available pursuant to this section, the Secretary of Commerce and Community Development shall submit to the House Committees on Commerce and Economic Development and on Ways and Means and to the Senate Committees on Finance and on

Economic Development, Housing and General Affairs a report on the resources made available

pursuant to this section, including:

(1) the name of the recipient;

(2) the amount and type of the resources;

(3) the aggregate number of jobs created or retained as a result of the resources;

(4) a statement of costs and benefits to the State; and

(5) whether any offer of resources was disallowed or recaptured.

(h) This section shall sunset on June 30, 2016 and any remaining balance in the Fund shall be transferred to the General Fund.