

Agency of Commerce and Community Development
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MEMO TO: Secretary Justin Johnson, Agency of Administration
Senator Kevin Mullin, Chair, Senate Economic Development, Housing and General Affairs
Senator Tim Ashe, Chair, Senate Finance
Representative Bill Botzow, Chair, House Commerce and Economic Development
Representative Janet Ancel, Chair, House Ways and Means

CC: Susan Donegan, Commissioner, Department of Financial Regulation
Joan Goldstein, Commissioner of Economic Development

FROM: Patricia Moulton, Secretary *PM*
Agency of Commerce & Community Development

DATE: April 8, 2016

SUBJECT: EB-5 Fund

In accordance with §21 of Act 52 of the 2011-2012 Legislative Session (copied below), this Agency must report to you on the receipts and expenditures of the EB-5 fund. My apologies this report is late. Due to staff and Commissioner changes this fell off our list. This will not happen again. And due to the lateness, we have included a progress report for the first six months of FY16. We will file a complete FY16 report after the end of FY16.

As a reminder, the EB-5 fund is capitalized with fees charged to EB-5 projects and other income including reimbursement for travel by the EB-5 Director. The fund is used to cover marketing, travel and other expenses associated with operating and marketing the Regional Center. Marketing is particularly important as EB-5 becomes more competitive, particularly when competing with more recognizable, urban projects. The fund enables the Regional Center to travel to critical conventions and shows to market our various EB-5 projects. Further, it is hoped and anticipated at some point in the future, the fund could cover all operating expenses such as salaries.

For the fiscal year end June 30, 2015, reporting period, the fund has received a total of \$120,404.61 in cash receipts (including \$30.50 of interest income). We have expended a total of \$63,720.58 on various expenses. Attached is a summary of expenses.

For the first six-months of fiscal year 2016, the fund has received a total of \$47,057.06 in cash receipts (including \$57.06 of interest income). Correspondingly, we have expended a total of \$ 87,619.59 on expenses.

As you know, the prior Director of the program has left. The EB-5 program is now under the direction of Gene Fullam, Director of the Vermont EB-5 Regional Center. Gene brings the leadership and skills to this program to take us to the next level of sophistication needed to continue to grow our international trade and foreign investment programs.



Additionally, since Gene's onboarding, we have further expanded staffing to include two (2) new hires that are located at the Department of Financial Regulation (DFR). The Vermont Regional Center budget is responsible for seventy-five (75%) of each new hire's annual salary (or a total of \$150,000.00 per annum). Please note that this additional expense is not captured in the FY 2015 or six-months 2016 expense reporting.

Despite revenues exceeding expenses for FY 2015, we do not expect revenues to exceed all operating expenses for several more years. Our analysis reflects the following: the seasonality of our new project pipeline; the additional expense associated with our enhanced regulatory oversight via our partnership with DFR; and, the incurrence of expenses associated with White & Burke oversight of construction expenditures at Jay Peak/Q-Burke. Therefore, it is our recommendation the Agency retain all funding collected thus far or anticipated to be collected in the coming year.

Revenues vs Expenditures:

	FYE 2015	FY 2016(6-mos)
<u>Revenues:</u>		
Cash received	\$120,374.11	\$47,000.00
Interest earned	\$ 30.50	\$ 57.06
TOTAL	\$120,404.61	\$47,056.06
<u>Expenses:</u>		
Contractor & 3 rd Party	\$ 33,456.62	\$54,896.82
Advertising	15,000.00	\$15,000.00
Trade Shows & Events	5,700.00	\$ 631.76
Travel – Out of State	8,536.52	\$ 5,519.67
Other (Reg/Telecom/Freight)	\$ 1,027.44	\$ 11,571.34
TOTAL	63,720.58	\$87,619.59

Sec. 21. 10 V.S.A. chapter 3 is added to read:

CHAPTER 3. EB-5 INVESTMENT § 21. EB-5 ENTERPRISE FUND:

(a) An EB-5 enterprise fund is created for the operation of the state of Vermont regional center for immigrant investment under the federal EB-5 program. The fund shall consist of revenues derived from administrative charges by the agency of commerce and community development pursuant to subsection (c) of this section, any interest earned by the fund, and all sums which are from time to time appropriated for the support of the regional center and its operations. (b)(1) The receipt and expenditure of moneys from the enterprise fund shall be under the supervision of the secretary of commerce and community development. (2) The secretary shall maintain accurate and complete records of all receipts and expenditures by and from the fund, and shall make an annual report on the condition of the fund to the secretary of administration, the house committees on commerce and on ways and means, and the senate committees on finance and on economic development, housing and general affairs. (3) Expenditures from the fund shall be used only to administer the EB-5 program. At the end of each fiscal year, the secretary of administration shall transfer from the EB-5 enterprise fund to the general fund any amount that the secretary of administration determines, in his or her discretion, exceeds the funds necessary to administer the program. (c) Notwithstanding 32 V.S.A. § 603, the secretary of commerce and community development is authorized to impose an administrative charge for the costs of administering the regional center and providing specialized services in support of participating economic development projects.

Sec. 22. EB-5 ENTERPRISE FUND REPORT On or before January 15, 2012, the secretary of commerce and community development shall submit a memorandum to the house committee on ways and means and the senate committee on finance concerning the performance of the EB-5 enterprise fund, including the number of projects and investors served, the amount of the charges imposed and collected, and recommendations concerning the EB-5 enterprise fund.