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Sent: Wednesday, January 20, 2016 5:37 PM

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Subject: Conf. Exec Priv: Daily Legislative Report for Thursday, January 20, 2016

Attachments: W~Doug Hoffer~Enterprise Fund~1-20-2016.pdf; VEF annual report 2016 final.pdf

Senate Reconvenes Tomorrow at 1:45pm.

House Reconvenes Tomorrow at 3:30pm. *(Will update in morning.)*

HOUSE

House Bills Read First Time and Referred

- H. 583 An act relating to amending 2015 Acts and Resolves No. 46;
Referred to the committee on Education.
- H. 584 An act relating to miscellaneous timber harvesting, forestry, and State lands
Referred to the committee on Agriculture & Forest Products.
- H. 585 An act relating to lobbying, gifts, and political contributions;
Referred the committee on Government Operations.
- H. 586 An act relating to divesting the Vermont retirement systems' assets from companies that earn more than half their revenue from coal mining;
To the committee on Government Operations.
- H. 587 An act relating to authorizing the use of a light to hunt coyotes;
To the committee on Fish, Wildlife & Water Resources.
- H. 588 An act relating to an extended producer responsibility program for unused prescription drugs;
Referred to the committee on Human Services.
- H. 589 An act relating to banning industrial wind;
Referred the committee on Natural Resources & Energy.
- H. 590 An act relating to survivor benefits for law enforcement officers;
Referred the committee on Government Operations.
- H. 591 An act relating to the display of year of manufacture license plates;
To the committee on Transportation.
- H. 592 An act relating to the use of transportation revenues for transportation purposes;

Referred to the committee on Transportation.

H. 593 An act relating to Quechee Gorge Bridge safety measures;
Referred to the committee on Transportation.

Committee Relieved of Consideration & Bill Committed to Other Committee

H. 578 An act relating to potable water supply and wastewater system permits
Bill will be committed to the committee on Fish, Wildlife & Water Resources.

Senate Bill Referred

S. 233 An act relating to amending Act 46
Read and Referred to the committee on Education.

Third Reading; Bill Passed

H. 65 An act relating to designating the Gilfeather turnip as the State Vegetable
Read a third time and passed.

House Bills Released for Introduction:

| | |
|-----------------------|--|
| H.607 | An act relating to increasing the cumulative net metering system cap |
| H.606 | An act relating to relief from the settlement patterns criterion due to physical site constraints |
| H.605 | An act relating to the municipal role in Public Service Board telecommunications siting |
| H.604 | An act relating to requirements for older drivers to obtain or renew operator's licenses |
| H.603 | An act relating to mortgage lending |
| H.602 | An act relating to application of the solid waste franchise tax |
| H.601 | An act relating to allowing municipalities to retain certain types of education funding when the school district in that town merges |
| H.600 | An act relating to cemetery fencing |
| H.599 | An act relating to increasing public notice and information on proposed energy facilities before applications are filed |
| H.598 | An act relating to the right to participate in Public Service Board siting proceedings |

| | |
|-------|--|
| H.597 | An act relating to Public Service Board consideration of municipal land use plans and bylaws |
| H.596 | An act relating to local land use regulation of electric generation facilities |
| H.595 | An act relating to potable water supplies from surface waters |
| H.594 | An act relating to side-by-side RED qualification |

SENATE

Bill Passed; Rules Suspended; Bill Messaged to House Forthwith

S. 233. An act relating to amending Act 46.

Read a third time and passed in concurrence on a roll call, Yeas 28, Nays 1.

Roll Call: The Senator who voted in the negative was: *Degree.

Bill Passed in Concurrence

H. 363. An act relating to the Petroleum Cleanup Fund

House bill was read the third time and passed in concurrence.

COMMITTEE INTEL & TESTIMONY:

HOUSE EDUCATION – Act 46 – House Ed voted unanimously against repealing spending thresholds in Act 46.

HOUSE APPROPRIATIONS – Budget – House Apps approved 2016 budget adjustment 11-0 and restored half the money for DCF proposed cuts.

HOUSE TRANSPORTATION – Storm Water - Rebecca Ellis of DEC stopped by to let us know about a good conversation Chris Cole had with Rep. Deen who is concerned about the storm water being brought to House Transportation yesterday. (Chris testified on utility language.) Deen believes this should be taken up with House Committee on Fish, Wildlife and Water Resources.

HOUSE FISH, WILDLIFE, & WATER – Clean Water Fund Board – Secretary Markowitz testified on H.518 (Rep. Deen’s act relating to adding members to the Clean Water Fund Board). Deb stood firm on stance of not adding more members with the reason of keeping out ‘special interests.’ **Deb hopes that other commissioners and secretaries hold this stance and use that language.** They believe there is a vigorous process in place and legislators argument of having a ‘watch dog’ does not stand. A lot of push back here.

SENATE ECONOMIC DEVELOPMENT – Paid Sick leave - Testimony from stakeholders continued on H. 187. Major issues raised were the impact on Davis Bacon, the question of whether out of state

contractors would have to comply with law, and how high schoolers/part-time/seasonal/state workers should be treated. It is likely that all of these issues will come up in some fashion during a mark-up. Department of Labor will be brought in to discuss the first two issues (Tom Cheney gave Matt Hill a heads up.) Tom C. suspects a **vote will not be possible tomorrow** as schedule, however, it was not discussed either way.

SENATE JUDICIARY – Cannabis –Andrew Freedman, Colorado Governor’s Office of Marijuana Coordination re S.241. He testified that CO’s biggest mistake was edibles. Also, CO didn’t need as much DRE’s as anticipated.

HOUSE WAYS & MEANS – Enterprise Fund – Pat Moulton’s testimony on the Vermont Enterprise Fund report has been moved to tomorrow. Report is attached. Her plan is to go over report and answer questions. Doug testified yesterday. His comments are attached.

OTHER:

Vermont Coalition for Disability Rights held a press conference in the Cedar Creek Room to the new policy (which legislators approved as part of an effort to close budget gap for FY16 – which would save the state \$1.6m) that reduces public assistance to families with disabled parents receiving Supplemental Security Income. Affected families receiving Reach Up benefits will face monthly reductions of up to \$125. Because SSI recipients are excluded from the Reach Up program altogether their income should not be counted to reduce Reach Up grants. The group is hoping lawmakers will consider repealing the cuts. Vermont Legal Aid took up this cause which was dismissed by a federal district court in November. *A lot of press here.*

Opponents of Wind gathered in the Cedar Creek Room calling for local control in the process of wind energy development. Senator Rodgers stood up to speak on his proposal to ban all industrial wind in Vermont – this was met with huge applause.

Doug Hoffer Testimony
House Committee on Ways & Means
19 January 2016

Enterprise Fund

General comments:

- According to the statute, the EF is for rapid response. In my view, none of the three EF applications qualified as emergencies.
- The members of the E Board have little time to evaluate the proposals or ask for additional information, especially during the legislative session. Absent extraordinary circumstances, it is not prudent to make such decisions in haste.
- The EF is not a program *per se* and has
 - No wage requirements (GF would not have met the VEGI wage threshold);
 - No consideration of background growth; and
 - Weak (and ad hoc) recapture provisions. Note that each grant agreement states that any funds recaptured would revert to the EF for allocation to other projects. But if the EF is not renewed, the legislature should make clear where recaptured funds should go.
- The information provided in each proposal is prepared by the Agency of Commerce, which cannot be considered an objective source since it is clearly an advocate for the companies. The three memos from the Governor that I reviewed raise questions about the Agency's level of due diligence and the reliability of the data provided. For example:
 - Due diligence:
 - ❖ The Governor's memo stated that the Canadian firm "*is negotiating with New Hampshire and New York concerning incentives [but] company management is not at liberty to discuss what is offered since amounts are not final.*" No information was provided to support this claim. We don't know if the Agency even requested any documentation.
 - ❖ On behalf of the Canadian firm, the Governor's memo stated that "*Vermont environmental laws concerning air quality will require additional investment on the company's part to comply and adapt its production compared to other locations under consideration. Incentives are necessary to mitigate the more stringent regulations.*" No evidence was presented to substantiate the assertion that Vermont's air quality requirements are more stringent than NY or NH and would require

additional investment. Here again, we don't know if the Agency requested evidence to support the claim.

➤ Data reliability:

- ❖ The Governor's memo in support of a grant to G.W. Plastics stated that *"Each job created by the company adds approximately \$14,000 in new tax revenues to the State per year."* This seemed inconceivable so I questioned it. ACCD staff subsequently admitted that it was an error. The actual figure would be less than half what they reported.
- ❖ The Governor's memo in support of a grant to Global Foundries included the results of a cost-benefit model run estimating the fiscal impacts of GF's capital investments and the conversion of 100 temporary jobs to permanent positions. ACCD claims that in the three years following the capital investments (after all the construction jobs are gone), the state can expect \$3.3 million in new tax revenues. I have requested the supporting documentation, but my initial view is that the estimate is wildly optimistic.

All EF grants are in addition to the promise of significant taxpayer support through VEGI and VTP.

| Promised and Expected Public Assistance for EF Companies | | | | | | |
|---|--------------------|------------------------|----------------------------|--------------------|-------------------|-------------------|
| | VEGI | Enterprise Fund | VT Training Program | Total | # New Jobs | Cost / Job |
| BHS Composites | \$694,711 | \$200,000 | \$90,000 | \$984,711 | 75 | \$13,129 |
| GW Plastics | \$977,125 | \$500,000 | \$55,000 | \$1,532,125 | 73 | \$20,988 |
| Global Foundries | \$0 | \$1,000,000 | \$185,000 | \$1,185,000 | 0 | NA |
| Totals | \$1,671,836 | \$1,700,000 | \$330,000 | \$3,701,836 | 148 | \$25,012 |

For a single person with a job paying \$35,000, the state can expect to receive about \$900 per year in income tax. In addition, the state would receive sales and education tax revenues from the new job (along with revenues from indirect economic activity). Nevertheless, it would likely take 10 – 15 years to recoup the average amount expended per job (assuming they all survive).

Enterprise Fund Example - GW Plastics

The Agency's January 15 report stated that "298 full-time jobs [have been] retained"¹ as a result of the \$500,000 EF grant. That implies that the company was considering relocating the entire Vermont operation out of state. No evidence was presented to support that claim. Indeed, the Governor's memo stated that

*"GW would maintain existing facilities and employment (300 full-time) in Bethel and Royalton."*²

This is not surprising because one of the factors contributing to the company's position as one of top injection molders in the world is its "long-tenured work force."³ Thus, if the company moved the entire operation, it would surrender one of its key assets.

The memo also called attention to various cost factors related to other possible locations. For example:

"The benefits of the San Antonio, Texas option include low cost (\$800,000) investment to transform their warehouse to manufacturing space, with warehouse space available across the street from their plant, putting the new operation in immediate proximity to existing company technical resources. Plus, significant cost advantages over Vermont including 47% lower power costs, 125% lower UI, 33% lower Worker's Comp rates, hourly workforce starting wages that are 24% lower, and a better labor supply. An argument against Texas is shipping costs to the NH customer. While they ship all over the United States—and the world—from all plants, closer is an advantage."(Emphasis added)

It is noteworthy that no effort was made to compare the three possible locations for all of the factors listed. This would be instructive. For example:

- According to the Energy Information Administration (U.S. Dept. of Energy), it is true that industrial electric rates in Texas are 47% lower than in Vermont. But the rates in New Hampshire are 23% higher than in Vermont.

| Industrial Electric Rates Per kWh | |
|-----------------------------------|--------------|
| TX | 5.44 |
| VT | 10.21 |
| NH | 12.55 |

Source: EIA, 2015

In addition, according to the 2013 Census of Manufactures, the cost of purchased electricity for "plastics manufacturers" is 1.79% of the value of shipments. Therefore, for every \$1 million in shipments, a Texas facility would save less than one-tenth of one percent from lower electric costs.

¹ Vermont Enterprise Fund Report, ACCD, January 15, 2015; p.3.

² Oct. 19, 2015 memorandum from Gov. Shumlin to the E Board; p.5.

³ Vermont Enterprise Fund Report, ACCD, January 15, 2015; p.4.

- Unemployment insurance tax rates vary considerably. But at the low end, the impact is modest. We can assume that a successful company like GW Plastics has a comparatively low experience rating (meaning limited benefit payments). If so, the difference between the effective tax rates in the three states is *de minimus*.

| Unemployment Insurance Tax Rates by State | | | |
|---|---------------------|--------------------------------|--------------------------------|
| | Wage subject to tax | Minimum rate and resulting tax | Maximum rate and resulting tax |
| TX | \$9,000 | 0.45% --- \$41 | 7.47% --- \$672 |
| VT | \$16,400 | 0.40% --- \$66 | 8.4% --- \$1,378 |
| NH | \$14,000 | 0.10% --- \$14 | 7.5% --- \$1,050 |

- The memo asserted that “hourly workforce starting wages are 24% lower” in Texas than in Vermont. This is true in some cases but wages in this industry are even higher in New Hampshire. For example, here are the figures for two occupations common to firms doing plastic injection molding.

| Extruding and Drawing Machine Setters, Operators, and Tenders, Metal and Plastic, OCC 51-4021 | | |
|---|--|--------------------|
| | Starting Hourly Wage (10 th percentile) | Median Hourly Wage |
| TX | \$9.21 | \$13.49 |
| VT | \$11.31 | \$15.97 |
| NH | \$11.37 | \$16.60 |

Source: BLS, OES 2014

| Molding, Coremaking, and Casting Machine Setters, Operators, and Tenders, Metal and Plastic, OCC 51-4072 | | |
|--|--|--------------------|
| | Starting Hourly Wage (10 th percentile) | Median Hourly Wage |
| TX | \$8.43 | \$12.75 |
| VT | \$9.89 | \$13.01 |
| NH | \$9.95 | \$13.97 |

Source: BLS, OES 2014

While the entry-level wage is considerably lower in Texas, that wage would soon increase as workers gained experience and skills on the job (and we assume GW Plastics works hard to avoid high turnover). Therefore, the more appropriate comparison is the median hourly wage, which is very similar in Vermont and Texas.

By comparing Vermont only to Texas, the Governor’s memo failed to give E Board members all of the relevant information needed to evaluate GW Plastics’ claim that it needed public assistance to justify expanding in Vermont rather than Texas or New Hampshire.

Vermont Enterprise Fund Report

Submitted to:

Senate Committee on Finance

Senate Committee on Economic Development

House Committee on Commerce and Economic Development

House Committee on Ways and Means

By:

Vermont Agency of Commerce and Community Development

January 15, 2016

Introduction

This report is submitted pursuant to Section E.100.5(g) of Act 179 (2014) and describes the projects that have received financial support from the Vermont Enterprise Fund. Included in this report are the following statutorily required elements, including:

- The name of the recipient;
- The amount and type of the resources;
- The aggregate number of jobs created or retained as a result of the resources;
- A statement of costs and benefits to the State; and
- Whether any offer of resources was disallowed or recaptured.

Background

The Vermont Enterprise Fund was created by Act 179 in 2014 with 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.” To date, three awards have been made totaling \$1.7 million.

In 2014, \$5million was appropriated to support the VEF. Of that, \$500,000 was transferred to VEDA to support their Entrepreneurial Lending Program. Since that time, the fund was used to fill budget gaps, leaving \$2.124 million available for projects as defined by the Act.

| Enterprise Fund | |
|-------------------------------|-----------------|
| Initial balance | 5,000,000 |
| VEDA allocation | (500,000) |
| Aug.'14 Rescission | (956,896) |
| Act 51 of 2015 - Sec. G.10 | (425,000) |
| FY15 interest earned | 5,921 |
| FY16 Budget -trans to GF | (1,000,000) |
| | <hr/> 2,124,025 |
| E-Board requests | (1,700,000) |
| | <hr/> 424,025 |

(Source: Joint Fiscal Office)

Description of Awards

There have been three awards made from the Vermont Enterprise Fund. The first, to GW Plastics of Royalton/Bethel was for \$500,000; the second was awarded to BHS Composites, a Sherbrooke, Quebec company that will expand to St. Johnsbury, in the amount of \$200,000 and the most recent approval of \$1million was made to support GlobalFoundries.

GW Plastics

GW Plastics, with operations in both Royalton and Bethel, employs approximately 350. They are leaders in the design and manufacture of plastic-injection molded products for the healthcare and medical sectors.

Amount and Type of State Resources:

- Vermont Employment Growth Incentives: \$977,365
- Vermont Training Program: \$54,623
- Vermont Enterprise Fund: \$500,000 grant

Job Creation and Retention:

- 298 full-time jobs retained and 73 new full-time jobs to be created over three years as a result of this new investment

Disallowance/Recapture

No part of the Vermont Enterprise Fund award has been disallowed or recaptured to date. Additionally, there was no recapture or disallowance from the other incentives referenced above, to date.

BHS Composites

BHS Composites will be locating its US facility in St. Johnsbury and expects to employ approximately 75 over the next five years. They design and manufacture composite products for the aerospace and transportation sectors.

Amount and Type of State Resources

- Vermont Employment Growth Incentives: \$694,711 (Initial authorization)
- Vermont Training Program: \$90,000 (Estimated)
- Vermont Enterprise Fund: \$200,000 grant

Job Creation and Retention

- 75 new jobs to be created from 2016 to 2020

Disallowance/Recapture

No part of the Vermont Enterprise Fund award has been disallowed or recaptured to date. Additionally, there was no recapture or disallowance from the other incentives referenced above, to date.

GlobalFoundries

GlobalFoundries acquired the majority of the IBM operations in Vermont during 2015. As the need for cutting-edge technology increases at the same time chip-making companies must keep costs competitive, it is imperative that an efficient campus (and workforce) is in place.

Amount and Type of State Resources

- Vermont Enterprise Fund - \$1,000,000 grant
- Vermont Training Program - \$185,000 (pending)

Job Creation and Retention

- Existing full-time employment maintained and 100 supplemental (temporary) jobs will be transitioned to full-time, permanent status.

Disallowance/Recapture

No part of the Vermont Enterprise Fund award has been disallowed or recaptured, to date. Additionally, there was no recapture or disallowance from the other incentives referenced above, to date.

Projected Impact

The allocation of \$1.7 million from the Enterprise Fund for these three projects will help retain the State's largest private sector employer and one of Central Vermont's largest employers, as well as recruit a new employer to the Northeast Kingdom. The VEF investment will leverage private sector investments in Vermont totaling over \$92 million including new payroll and capital expenditures over the next five years. The projects will also create 248 direct full-time jobs. This investment and job creation will result in about 326 indirect and induced jobs, for a total job creation impact of 574 jobs. The net increase in State revenues over five years would exceed \$3.5 million

Conclusion

The Enterprise Fund has been used to help create a projected 148 direct full-time new jobs in areas of the state where there are challenges locating companies. It has also helped solidify the state's largest private sector employer, GlobalFoundries convert 100 temporary jobs to full time jobs with opportunities for career advancement. GlobalFoundries has also committed to reducing the number of temporary workers it uses overall.

Each recipient is making major investments in plant, equipment and workers in Vermont. These are new investments that are creating new property tax receipts for the host communities and the state.

The Enterprise Fund has proven to be an extremely helpful tool to assist important "anchor" companies remain and expand in Vermont and as a recruitment tool. We are often confronted with multi-state companies who may consider an expansion in Vermont and who are being offered incentives from another state to expand there. It has also proven to be a very valuable tool to retain companies in

Vermont. This Fund provides a much-needed source to help offset competition from other states as well as provide additional support to existing companies.

Vermont neither has the ability to compete with larger states in attracting new jobs, nor should we aspire to do so. The incentive programs we do have are measurable and based on performance. The Enterprise Fund provides the Governor the type of nimble, flexible funding to be utilized in those limited circumstances when other incentives are inadequate for regionally significant employers. The fund should be continued.