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Verbal testimony to the Joint Fiscal Committee
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Thank you, Madame Chair, for the opportunity to speak to the Joint Fiscal Committee today.

The individuals that make up the Vermont Economic Progress Council and its staff have the upmost respect for the State agencies involved in these matters and the role they serve. VEPC has spent months reviewing the audit of the Saint Albans TIF District, and have continually stated the audit raised many important issues that need further clarification. VEPC staff and its Vice Chair attended the audit exit interview, the full Council participated in drafting management comments in which we accepted all recommendations to us, and hours of the Council's summer retreat were spent discussing in detail the issues raised in the audit. VEPC members bring an immense amount of expertise to their work and they have acted with independence and integrity.

On the first issue raised in the letter regarding related costs, the Council did not find that a fee was paid to a private developer. The Council reviewed the invoice and questioned the City and found that the fee paid for real estate broker services for which the contractor was acting solely on behalf of the City. The Council reviewed statute and the TIF Rule and determined this consulting service fit within the definition of an allowable related cost.

On debt proceeds for debt service: As background, debt service reserve funds are a common practice in bonding, especially in general obligation bonds such as those issued for TIF debt in Vermont. The City of Saint Albans had intended to finance its debt in the years increment wasn't available through this method and has documentation from the bond sale outlining this intention. They received legal guidance and at no point prior to their audit was told this may not be allowable in TIF.

VEPC and our legal counsel have the greatest respect for the Attorney General and for Bill Griffin who wrote the memorandum on this matter at the request of the State Auditor's Office. The guidance provided to VEPC from our legal counsel agrees with the legal guidance



given in the memorandum based its more narrow review of Title 24, Subchapter 5 and deference to Mr. Griffin is outlined in that document. What VEPC's counsel points out however is that this review did not also consider TIF statute in Title 32. Amongst other areas, counsel refers to the requirement for applicants to show need, the purpose provision, and to a section of Title 32 which broadly provides, "Any use of education property tax increment approved shall remain available to the municipality for the full period authorized...." Our attorney found that when taken together this issue is less than clear and found that it is a reasonable interpretation for VEPC to find that this standard financing tool could be utilized.

This guidance was neither sought nor provided with any malice intent or disrespect but as it is a critical issue this was provided to seek additional guidance from the Attorney General's Office that looked more broadly at both guiding statutes. We have not received further written guidance to date but would continue to welcome discourse with any of the attorneys that are involved.

The Audit recommended the City seek determinations from VEPC on a number of findings and VEPC worked diligently and under legal guidance to review the issues raised and make determinations.

A request in the letter sent to me from this body was that VEPC not provide guidance on this issue or include it in a Rule update with the understanding that this will be specifically dealt with in the legislative session. I have respected that request and do not have this included in the draft of the Rule update, however there is a great deal of anxiety and frustration in our TIF Districts right now who are trying to understand what this means for them both retrospectively and prospectively. While it is imperative that this be resolved in this legislative session, if VEPC is being asked not to provide guidance on this issue how are these immediate concerns to be answered? I can continue to refer Districts to members of this body or their legislative representatives, but guidance is needed.

For months we have been working internally with the Tax Department on a draft update to the 2015 Adopted TIF Rule. We are doing this with the goal of providing technical clarification in areas throughout the TIF program so all parties involved have the same understanding of expectations and obligations. The meeting that was held last month between VEPC staff and TIF Districts had been planned for months as an informational session for the Districts to review our first draft of that rewrite. I believe that getting input prior to entering the official and lengthy Rule making process from the parties most affected is important to achieve the outcome of clarity. In addition to taking comments from Districts, I have been speaking with VEPC's legislative members about having a meeting specifically with legislators to review the

next draft and have inquired with the State Auditor's Office about renewing their role as a technical advisor.

I began this position one year ago it has been my intention that the first of many steps in overseeing this program is in providing guidance and assistance to the Vermont communities participating in TIF in order to help them get it right. Waiting to catch communities getting it wrong serves no one and I don't believe would have been the intent of VEPC's role. Vermont's municipalities are doing their best to use their time in this program to better the centers of their community while also complying with statute. When issue resolution or compliance enforcement is warranted, we will use the procedures in place to bring a District into compliance. Whether it is through monitoring, substantial change, issue resolution or compliance enforcement, we will continue to diligently oversee this program while treating the communities in it with respect.

I know much of the ongoing dialogue of this situation has been playing out in commentaries, editorials, and comment sections. VEPC has been largely absent from these forums as I personally don't have the time or the intention as a State Employee of being part of an online debate, but this silence is not an indication that I always agree with how VEPC or its actions have been represented. If at any time a State agency, a member of the legislative body, or a member of the public would like to engage in a constructive dialogue about VEPC or TIF, I would be more than happy to make the time to have that conversation and greatly appreciate the time that this Committee has provided me today for that purpose, thank you. I would welcome any questions Committee members may have.