



GENERAL ASSEMBLY
STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, September 27, 2018

Minutes

Room 10, State House

Members present: Representatives Ancel, Fagan, Lippert, Toll, and Senators Ayer, Cummings, Kitchel, and Sears.

Other Attendees: Administration, Joint Fiscal Office, and Legislative Council staff, and various media, lobbyists, and advocacy groups.

Representative Janet Ancel, Chair, convened the meeting at 10:04 a.m. Representative Fagan moved to approve the minutes of July 27, 2018, and Senator Cummings seconded the motion. The Committee accepted the motion.

B. Administration's Fiscal Updates – 1. FY 2018 Final Closeout

Matt Riven, Deputy Commissioner, Department of Finance & Management, explained that the FY 2018 fiscal year ended with \$11.2 million more in General Funds than the May revenue forecast had estimated. Act 11 of SS2018 prescribed that the additional revenue be deposited into the Teachers' Retirement Pension Fund to pay down the unfunded liability. Senator Kitchel asked for clarification of the total funds in FY 2018 used toward the Pension Fund. Mr. Riven responded there was \$15 million previously set aside in FY 2018, plus the \$11.2 million in FY 2018 from the additional revenue above forecast, and an additional \$10 million in the FY 2019 budget for a total of \$36.2 million.

2. FY 2019 – a. Budget Adjustment Pressures

Mr. Riven explained that there were no large known Budget Adjustment (BAA) pressures for FY 2019. A small pressure was a \$750k impact to the General Fund in FY 2019 and again in FY 2020 for the State's share of the University of Vermont's bargaining agreement for direct care workers. Another BAA pressure was an unachievable target of \$2 million by the Agency of Human Services (AHS) in reducing grants. AHS would develop a plan for the gap in FY 2019 that extended into FY 2020. Senator Sears asked the Joint Fiscal Office to ensure that the minutes reflected the AHS shortfall. Mr. Riven continued by explaining that the big unknown for the State was Medicaid, but the Medicaid consensus group would meet and have a better sense of upward or downward pressures soon.

b. General Fund and Transportation Fund Reserves

Mr. Riven referred to two reports dated September 25, 2018 on the General Fund and Transportation Fund Rainy Day reserves for FY 2018. He stated that the Administration

expected to have in excess of \$200 million in General Fund reserves at the end of FY 2019. They anticipated that the Stabilization Reserve at 5% would be up \$1 million to about \$78 million. The Rainy Day reserve was currently at \$12 million and they anticipated an additional \$3 million in that reserve. The 27/53 reserve would have about \$13 million, and with instructions from Act 11 in SS2018, the Human Caseload Reserve (HCR) would climb to \$100 million from \$22 million by transferring the Intensive Benefits Management (IBM), also known as the Tail, from the Global Commitment Fund (GCF).

Representative Toll noted an article from the National Council of State Legislatures that Vermont's diligence in compiling reserves was a positive preparation for a downgrade in the economy. Representative Fagan inquired if the Stabilization Reserve funds were transferred to the Education Fund as instructed by Act 11 as the final disengaging of the two funds, and to ensure the Education Fund and the General Fund reserves were brought up to their statutory 5% level. Mr. Riven responded both funds were at their statutory 5% level but there was still some flux on how replacement funds would work in the General Fund reserve. Senator Kitchel noted there was language in Act 11 for the Administration to review all reserves and the statutory amounts for possible revision to ensure they had adequate amounts.

3. FY 2020 – a. General Fund 27th Payroll and 53rd Medicaid anticipated liability payments

Mr. Riven distributed a memorandum and chart reviewing the status of the 27/53 reserve fund. He explained that in order to get to the \$24 million needed to cover both expenses due in 2022, the payments for both the FY 2018 and FY2019 obligations were paid from FY 2018 one-time funds. Mr. Riven explained that the fund swap from GCF to the HCR was contingent upon any liabilities that may materialize from incurred but not reported (IBNR) obligations, then the reserve funds in the HCR would be redirected to the 27/53. Any fund swaps would be triggered by the final FY 2018 closeout, which should be known by late fall.

b. Budget Development Process, Instructions and Preliminary Gap Analysis

Adam Greshin, Commissioner, Department of Finance & Management, explained that the FY 2020 budget instructions were sent out the previous week to departments. The departments were asked within the memorandum, dated September 20, 2018, to level fund FY 2020 proposed budgets to the FY 2019 enacted amount in Act 11 of SS2018. The Administration was anticipating upward pressures in FY 2020 of an additional payment of \$20 million to State Teachers' Pension Fund and another \$6-\$7 million for the State Employees Retirement accrued liability payment (Other Postemployment Benefits (OPEB)). The State's Debt Service payment was estimated to increase to about \$7 million. This totaled to a \$35 to \$36 million pressure for FY 2020. Commissioner Greshin stated there was a slight upward pressure in Human Services within the Federal Medical Assistance Percentages (FMAP) where the federal government had reduced the FMAP rate by .03%, which was less of a decline than the State had anticipated.

The Chair inquired as to why there was an increase in the Debt Service. Commissioner Greshin stated that it was normal ebb and flow of payments. Senator Kitchel asked what the second year estimate was for the State Employee pay increase to departments. Mr. Riven responded it was another \$7-\$8 million pressure on Department budgets that had not yet been factored into FY 2020 budgets. Senator Kitchel noted that with the pay increase to department budgets and the Administration's request for level funding meant that there would have to be

reductions in some budgets. The Senator inquired if the Transportation user fees were due in the upcoming budget and whether the Administration would be submitting a Fee Bill for FY 2020. Commissioner Greshin responded that the Administration was prepared to consider fee requests on a case-by-case basis. Later in the meeting, Mr. Riven confirmed that the Transportation user fees were indeed due in FY 2020.

C. Agency of Human Services – 1. Substance Use Disorder Response Initiatives Plan.

Al Gobeille, Secretary, and Sarah Clark, Chief Financial Officer, Agency of Human Services, distributed two documents. Secretary Gobeille referred to the document on the Substance Use Disorder (SUD) Initiative Funding, and explained that the Agency was requesting the approval of the Committee for its proposed plan to spend the one-time \$2.5 million. In addition, the Agency included a required report within the same document regarding the proposed allocation of \$7.1 million that could not be implemented until addressed in the FY 2019 BAA.

Secretary Gobeille summarized that within the proposed \$2.5 million SUD initiatives, the proposed After School Program's total funding of \$600k would be spread out over three years. The funding included a contracted position to do a one-time analysis, and a small amount of additional funding to the actual programs. Senator Ayer asked what the analysis would entail. The Secretary responded the Agency would need to develop a mechanism to ensure the program was viable statewide and that would continue through the three years of the grant. Senator Kitchel asked how much of the grant would be used toward the analysis. Secretary Gobeille responded they estimated about \$200k for a position that has a level of knowledge to analyze the data properly, but the Agency had not done the analysis yet on what a contract would cost. The Secretary clarified that any funds beyond the contract would be distributed to the program. Representatives Toll and Lippert showed concern of program funding as one-time, and inquired how the program would be sustained after the grant ended. Secretary Gobeille stated that the Agency had not identified sustained funding past the three years of the grant funding.

Representative Ancel inquired if the analysis of the After School Program would include the review of funding for all similar afterschool programs currently receiving State funds. Secretary Gobeille stated the analysis would include the review of how State and other non-State funds are distributed amongst the various similar programs, including Success beyond Six and universal Prekindergarten programs.

Secretary Gobeille explained the other proposed initiatives of the SUD funding. The amount of \$400k would be used to incorporate Addison and Chittenden Counties into the new Nurse Home Visiting model, bringing it statewide. The Clinical Suboxone Harm Reduction program would receive \$600k to grow programs around the State in order to expand intervention services. Representative Lippert inquired if there would be a provision for access to Narcan and Suboxone, and if so, how would those integrate with the services. Secretary Gobeille explained that the issue was not whether the State could afford enough Narcan but rather its ability to deliver Narcan to all areas of the State. Distributing more funds to areas such as needle exchange sites where Narcan was supplied to people in need along with safe needles was the best way to address the issue. Senator Ayer inquired if Turning Point was included in the funding distribution. Secretary Gobeille responded that the organization provided peer support and did not have safe recovery centers.

The Secretary explained that the Federal or Other SUD Contingency Initiative was included to address areas of funding that the federal government did not address. There was an additional earmark of \$3.2 million under the allocation report. Senator Kitchel inquired if the contingency fund would be enough to address those significant areas of SUD impacting Vermonters. Secretary Gobeille responded the Agency has estimated possible areas for backfilling with State funds such as Planned Parenthood and the COPS grant. Senator Kitchel clarified that the Legislature's intent was to backfill for a temporary loss of federal funding such as the possible funding issue of the Howard Center grant. The Secretary announced that the Howard Center did receive its grant and was not part of the Contingency funding.

Secretary Gobeille explained another SUD funding initiative was to continue the pilot program Screening, Brief Intervention, and Referral to Treatment (SBIRT). In addition, the Agency was negotiating with the federal government to switch SBIRT to Screening, Brief Intervention, and Navigation to Services (SBINS) program that may allow for the use of Medication-Assisted Treatment (MAT) funds.

The Secretary explained the final SUD funding initiative providing services for the treatment of Hepatitis C for those people in Corrections custody. He noted there was an additional proposal of funding for \$1.8 million in the Allocation Report. Senator Sears expressed concern that the Joint Legislative Justice Oversight Committee (JLJOC) heard testimony that the State paid the company Centurion \$2.2 million for Hepatitis C treatment of people in the custody of corrections, and the Agency was now asking for an additional \$1.8 million for the same treatment. Secretary Gobeille referred to a memorandum on the Corrections contract with Centurion that explained the payment structure and methodology between the State and Centurion. He stated that there seemed to be a misunderstanding on the contract since the State had moved away from the fee-for-service contract and was now a value-based contract where the State pays a per-member-per month payment and an administrative fee to Centurion for treatment to its patients in custody of corrections. Senator Ayer asked if the structure was the same as what the State used with the Accountable Care Organizations (ACO), and what the risk corridor was for the contract. The Secretary agreed it was the same structure, and explained that Centurion contract was a more forward-thinking and progressive contract than the ACO contract because it included pharmaceuticals and mental health services.

Senator Sears asked why Vermont was second in the nation for the highest amount spent on medical care. Secretary Gobeille responded Vermont provides better care than some other State facilities making the price tag higher. The Secretary encouraged the Legislature to take a closer look at how the State provides health services to its inmates. Senator Ayer and Representative Lippert inquired if Centurion had met its contract obligations for Hepatitis C. The Secretary stated that the State's standard of care for inmates had changed since the initial contract with Centurion was signed by the previous administration, but he believed the company had met its obligations. He promised to retrieve more details on the contract and the numbers of inmates with Hepatitis C during the time frame in question. Senator Sears expressed concern for MAT treatment as well and suggested that there should be a more robust level of care than what has been reported. Senator Kitchel indicated that JFO was tasked with hiring an independent contractor to analyze health care costs in the correctional industries, and has since hired CGL Companies. The Centurion contract was outdated and an RFP to bid on a new State contract was under development, and she cautioned that any RFP include the concerns of the Committee.

The Chair reminded the Committee that the proposed initiatives funding for SUD was an action item. Ms. Clark clarified that the actual action from the Committee for the Department of Corrections Hepatitis C Treatment was for just the FY 2019 funding of \$200k because the health contract was on target to overspend this amount.

The Secretary continued reviewing the other proposed allocations for the FY 2019 BAA. Senator Kitchel inquired why the Opioid Coordination Council was only \$137,500. Ms. Clark responded that the smaller amount reflected just the State's share. Representative Toll asked that the Agency summarize, at a later date, what the Opioid Coordination Council would do differently than the duties the Departments are already accomplishing to address opioids; and how would the Legislature know what the funding was paying to achieve. Senator Sears asked what the Opioid Coordination Council's function was besides making recommendations. Secretary Gobeille responded that he was one of three chairs on the Council that analyzes information and sets target areas that are in need of additional work or funding. Senator Sears opined that the State was not responding to deaths as it should with 117 overall opioid deaths, and 63-plus deaths on Vermont's roads due to opioid use in 2017. In addition, since Vermont response teams were using upwards of 2-3 doses of Narcan to revive one person, combating the opioid epidemic should be the number one priority of the State. Senator Kitchel expressed appreciation that there were a couple of preventative areas in the proposed initiatives such as the After School Program, but wanted to also see more on mentoring as well.

Senator Kitchel moved to approve the 3-year plan relating to the Substance Use Disorder Response Initiatives Funding as presented by the Secretary of Administration, and as required by Act 11 of SS2018. Representative Fagan seconded the motion, and the Committee accepted the motion with Senator Sears voting no.

2. Global Commitment Fund Waiver Trend

Secretary Gobeille distributed a presentation reviewing the Global Commitment Fund (GCF) Waiver Trend, and explained that the State had recently updated its 1115 Waiver. The Agency estimated the difference between what the State's spending would have been without the Waiver and with the Waiver as "headroom." The State received a letter from the federal government on August 18 explaining that the State must abide by the GCF Waiver Trend rules and use the lower of the two estimates from the States' growth and the U.S. President's estimates. Senator Kitchel suggested that the Managed Care Organizations (MCO) investments should be reviewed for those investments as opposed to Medicaid funded by General Funds. The Secretary explained that the Agency was reviewing how the different buckets of Medicaid funds interrelate with one another, including the GCF Waiver, the MCO Investment funds, and State plan Medicaid funds. The Secretary advised that the federal changes to the Waiver were a big issue for Vermont. Senator Ayer asked what was new or different with the revised Waiver. Secretary Gobeille responded that "with or without waiver" had changed along with a different growth rate, and the federal government holding the State accountable to that growth rate has changed. The cap for the Medicaid Waiver Trend was very different than in years past.

3. Designated Agency Staff Retention – a. Administration – Implementation Report

Melissa Bailey, Commissioner, Department of Mental Health, gave a summary of the Department report on the implementation of \$4.3 million to designated agencies. The

Department reviewed the capacity of Medicaid within the Agency's system and how it was distributed to the DAs. Commissioner Bailey stated that the metrics used showed the Department was on target for 2019.

b. Designated Agencies – Recruitment and Retention Impacts

Julie Tessler, Vermont Council of Developmental & Mental Health Services (VCDMHS), distributed a document in response to the recruitment and retention impacts for the implementation of the \$4.3 million to designated agencies, and stated that VCDMHS surveyed its members how the funds would be managed.

4. Choices for Care

Secretary Gobeille and Ms. Clark explained that the current budget bill required the Agency report annually on whether there were savings in the Choices for Care program after a 1% reserve. In FY 2018 there were excess savings in the program available for reinvestment. Extraordinary relief of nursing home payments was included in the calculation because of the language added in the budget. Senator Kitchel stated that the codified language's intent was different than what the Department had determined for how savings were calculated. She suggested there should be more discussion and thought on how those savings were determined. Secretary Gobeille offered that the Agency was open to discussing further how the Agency accounts for distributing relief to nursing homes.

5. Health Information Technology (HIT) Fund Annual Report

Michael Costa, Deputy Commissioner, and Emily Richards, Program Director for HIT, Department of Vermont Health Access, summarized the HIT fund annual report. Mr. Costa gave the background of the steps the Department has made toward getting the HIT program back on track or what was the contingency plan. Representative Ancel inquired if the funding source for the HIT program was up for renewal in 2019, and for the Department to be prepared for questions in the 2019 session on what information the legislative members would receive that would renew confidence in the program. Senator Kitchel stated that the HIT fund was a critical piece of the Blueprint but it did not have the accountability piece, but it was encouraging that staff at the Department was taking the issue very seriously.

D. Grant Request JFO# 2923

Representative Ancel explained that the grant had been previously approved through the expedited review process but a request was made for further discussion.

Laura Werner, Public Health Preparedness Coordinator, and Bryan O'Connor, Financial Manager, Department of Health (VDH), summarized the grant. Ms. Werner explained the grant from the Centers for Disease Control and Prevention (CDC) totaled about \$2.7 million begins on September 1, 2018 with funds to be expended by August 2019. The grant funds would be used to advance the understanding of the opioid overdose epidemic and scale up prevention activities. Specific actions would include, but not be limited to, the development of teenage after-school programs, development of a death registry system, improving capacity of rapid treatment delivery services, and improving VDH's communications capacity to support opioid-related requests. Senator Kitchel asked if communication meant content or technology, and who it was directed toward. Ms. Werner explained the Department was increasing staff within the communications office to manage internal and external requests, providing training on

communication at the State information center, and providing a tool kit on the safe disposal of sharps to communities.

Representative Toll inquired how the Department would ensure there was no duplication of services with what the Governor's Opioid Council was developing. Mr. O'Connor responded that the Department had a team to review internal opioid programs for overlap, and they were in constant communication with AHS but have not had any formal discussion at this time with the Council. Senator Ayer asked how the Department would enable the Hospitals to share information on MAT patients admitted into the Emergency Rooms with federal rules disallowing the sharing of information for those instances. Ms. Werner responded that VDH was working closely with the Alcohol & Drug Abuse Program within the Department but have not mapped out how that component of the grant would work. She promised to send additional information to the Senator.

The Committee recessed at 12:20 p.m. and reconvened at 1:20 p.m.

E. Introduction of Decarbonization Contractors

Catherine Benham, Associate Fiscal Officer, Joint Fiscal Office, introduced Wesley Look, Senior Research Associate, and Marc Hafstead, Fellow and Director, Carbon Pricing Initiative, of Resources for the Future (RFF). RFF was hired to analyze and produce a report on the cost and benefit of policies to reduce greenhouse gas emissions in Vermont, per Act 11 of SS2018. Ms. Benham announced there were two public forums scheduled to receive Vermonters' comments on decarbonization efforts.

Mr. Look and Mr. Hafstead gave their backgrounds and qualifications. Mr. Look explained that RFF proposed to do a quantitative analysis using its modeling for at least three possible policy approaches: a carbon tax that would increase the price of energy directly and two cap and trade approaches; joining the [Western Climate Initiative](#); and expanding the Regional Greenhouse Gas Initiative (RGGI) to include the transportation sector as considered in the [Transportation Climate Initiative](#). Mr. Hafstead added that RFF has been in business since 1952 and was an independent and nonpartisan nonprofit with the objective of providing economic analysis with the goal of a healthy environment and economy.

Representative Lippert asked if the analysis would include the agriculture and forestry industries in Vermont. Mr. Hafstead responded the study would review them from a qualitative standpoint.

F. Financing Utility Regulation in Vermont Interim Status Report of Public Hearings.

Senator Kitchel explained that the request for the report came out of concern for the Department's structure of generating revenue that no longer was able to support all the work the Legislature expected, and what was a growing deficit.

June Tierney, Commissioner, Riley Allen, Deputy Commissioner, and Stacey Drinkwine, Financial Director, Department of Public Service distributed a presentation on an interim analysis, and Commissioner Tierney explained that it appeared that the Department had been funding its operations starting around 2015 with reserves, and it now depleted those reserves and created a deficit of about \$175k in FY 2018. The shortfall of \$800k was projected for FY 2019.

The Gross Receipts Tax (GRT) as it presently exists was no longer aligned with the sectors the Department regulates, and it warrants a comprehensive review of how this tax is administered. Questions to ask could include whether the tax should be increased, should there be a fee for services, or a combination of both. The Department had public hearings scheduled to take comments on the draft analysis. In responding to Representative Ancel, Commissioner Tierney stated that the Department was including its bill-back revenue into the analysis.

Commissioner Tierney referred to the chart on the Gross Revenue Tax and explained the equity issues. There were some necessary additions to the Department including enforcement in some areas but no dedicated funds to follow them.

G. Lottery Agent Sales Practices, Integrity, Review Report

Patrick Delaney, Commissioner, and Brian McLaughlin, Security Director, Department of Liquor and Lottery, summarized the report. Commissioner Delaney explained the Department collected data only on winners above the \$500 threshold, but had a comprehensive security system in place to avoid employee scamming of the system. Although the Department did not find any issues with employee scamming, it decided to implement some internal rules and policies through its vendor contracts.

Senator Sears commented that today any digital system was vulnerable to attacks and scamming, and he encouraged the Department to continue its vigilance. Representative Ancel asked for clarification of the Department's new rules. Commissioner Delaney responded that in dealing with the perception, the Department has prohibited employees at vendor locations to cash their own or family members' winning tickets, as well as to refrain from gaming while on duty. Representative Toll inquired if employers were allowed to purchase tickets at their own businesses. The Commissioner responded it was difficult to establish when an owner was on duty because anytime they were on the premises of the business they were considered on duty. The Commissioner opined that it precluded them from gaming in their own establishments, but they should be allowed to buy tickets at other establishments, which was a similar protocol to liquor contracts. Senator Kitchel asked if the new policies were enforceable. The Commissioner responded that the Department intended to utilize 8 compliance officers in the liquor division to enforce.

H. Agency of Digital Services Update – Cybersecurity Operations Center

John Quinn, Secretary and Chief Information Officer, and Scott Carbee, Deputy Chief Information Security Officer, Agency of Digital Services, provided an update on the Cybersecurity Operations Center (COC), and provided a copy of the sole-source waiver between the Agency and Norwich University that was approved by the Secretary of Administration.

Senator Kitchel commented that there were questions at the last meeting of whether there would be additional academic indirect costs from Norwich University with the contract, and the JFO had confirmed that there were no indirect costs. Secretary Quinn confirmed the same.

I. Vermont Equipment Growth Incentive Cost-Benefit Model proposed change

Brett Long, Deputy Commissioner, Department of Economic Development, Megan Sullivan, Executive Director, and Ken Jones, Economic Research Analysis, Vermont Economic Progress Council, distributed a memo explaining the proposed model changes. The Chair entered

the written opinion from the Legislature's Economist, Tom Kavet, into the record. Mr. Jones explained the background of the annual proposed change and summarized the proposal. Senator Cummings moved to approve the VEGI Cost-Benefit Model change as presented and Senator Kitchel seconded it. The Committee approved the motion.

J. Fiscal Officer's Report

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, summarized that the tracking of Medicaid had improved from the previous week where the State was \$4 million below the estimate. FMAP recently came in slightly better than estimated and was up \$.5 million or less as Commissioner Greshin alluded to earlier in the meeting. A concern area was that Moody's assigned a new team to work with Vermont. They raised issues with borrowing against cash flow with the State's 10% program used for areas such as local energy programs, Moody's also had concerns about OPEB health benefits funding. There was a report recently from S&P and Moody's that Vermont General Fund size was the smallest in the nation. Representative Ancel commented that Vermont had many other special funds instead of one large General Fund.

Mr. Klein stated that the State Treasurer's Office was in the process of finalizing the Debt Affordability's Committee on recommendations for bonds that could reduce funding by 7%. In the health care arena, two areas that warrant attention by the Legislature were a potential increase in the employer assessment by 23% if not addressed in the 2019 session, and the reintroduction of association health insurance plans and their potential impact on the small group market. Association health plans (AHPs) allow small businesses to band together to buy insurance. Due to changes under the Affordable Care Act (ACA), AHPs could no longer offer health insurance plans in the Vermont marketplace. However, due to recent changes at the federal level, two new associations will now be offering health plans in Vermont starting in CY 2019.

The Committee adjourned at 2:40 p.m.

Respectfully Submitted,

Theresa Utton-Jerman
Legislative Joint Fiscal Office