Joint Fiscal Office

One Baldwin Street • Montpelier, VT 05633-5701 • 802) 828-2295 • Fax: 802) 828-2483

MEMORANDUM

To: Representative Janet Ancel, Chair
Senator Ann Cummings, Vice Chair
Senator Jane Kitchel
Representative Kitty Toll
Members of the Joint Fiscal Committee

From: Stephen Klein, Chief Fiscal Officer

Date: November 8, 2018

Subject: November 2018 – Fiscal Officer's Report

What follows is an update of recent developments, some of which will be on the agenda for the November 8, 2018 meeting of the Joint Fiscal Committee.

1. FY 2019 Revenue Collection through October

Preliminary revenues through the first four months of the fiscal year continue to exceed targets in the General Fund. The Transportation Fund is just above target while the Education Fund is below target.

After the first four months, General Fund revenues are $21.8 million, or 5.7%, higher than forecasted. Much of the strength is in the income tax and the corporate tax - both areas of uncertainty as the April true-up occurs. The income tax is up $15.2 million or 6% and the corporate tax is up $7.6 million or 29% above forecasted amounts. The estate tax is off $2.8 million from forecasted amounts.

The Transportation Fund revenues are up $1.4 million or 1.5% over forecast after the first four months of the fiscal year.

The Education Fund is below by $4.6 million or -2.5% from forecast after the first four months of the fiscal year. The shortfall is in the sales tax, which is running $4.8 million below projections. This shortfall is being partially offset by lottery and rooms and meals being just over forecast.

2. Medicaid Trend

Medicaid expenditures through October 26, 2018 are $5.12 million or 1.6% above forecast. The forecast for Medicaid is to be essentially unchanged for the remainder of the fiscal year and adjusted slightly upwards for FY 2020. Overall, the following categories drive most of the variance in spending compared to the benchmark:

- $709K in Drug rebates, under-collected (correlates to overspending)
- $5.52M net overspending in Choice for Care and Regular claims

- $951K Buy In, overspent
- $567K Clawback, underspent

3. The Bond Rating Downgrade

Moody's action dropping Vermont's rating from AAA to AA+ is disappointing; however, the financial impact is not likely to be large. Based upon the Treasurer and other projections, for $100 million in bond issuance, the 20-year additional interest cost is estimated at $500,000 to $700,000. Of concern are the three areas that Moody's raised as considerations in their decision: Vermont's aging demographics, the State's long-term debt due largely to pension and OPEB obligations, and its lack of strong economic growth.

4. Federal Funding Changes

In the past few months, several federal funding changes have arisen that are likely to impact Vermont:

- The State's Byrne grant that funds criminal justice activities may be impacted due to Vermont's approach to cooperation with federal immigration agencies

- The State fiscal year and the federal fiscal years differ by three months. The Federal Medicaid match rate for federal fiscal year 2019 went up for VT last year, and the Federal fiscal year 2020 rate came down a small amount. This timing difference results in the State fiscal year 2020 having an estimated beneficial fiscal impact of $1.1 million. Assuming no change at the federal level for Federal fiscal year 2020, there will likely be a modest negative fiscal impact in State fiscal year 2021.

- A recently passed Federal Opioid bill may increase access to Medicaid for some selected mental health populations. Rulemaking is in process that should clarify the impacts of this bill to the state.

5. State Employees' and Teachers' Retirement Funds

The actuarial reports for the State Employees' Retirement System and the State Teachers' Retirement System have been released.

- The state employees retirement system funded ratio of total pension liability based on the market value of assets went from 69.6% at the end of FY 2017 to 69.2% at the end of FY 2018.

- For FY 2020, the actuarially determined contribution is $78,943,914, up from $62,984,742 in FY 2019. This contribution is paid as a charge to agencies and represents the obligation shared by a variety of funds.

- The State Teachers Retirement System funded ratio of total pension liability based on the market value of assets went from 53% at the end of FY 2017 to 54.2% at the end of FY 2018.

- For FY 2020, the requested contribution is $129,491,206. This is higher than the actuarial request. The normal cost paid from the Education Fund is $7,116,765. An estimated $5,700,000 to $6,000,000 will be covered by school districts from federal grants leaving about $116,500,000 to come from the General Fund if this request were to be funded.

6. Legislator Tax Status

As a result of the Tax Cuts and Jobs Act (TCJA, Federal Tax Reform), state legislators who live more than 50 miles from the state capital will no longer be able to deduct travel expenses on federal income tax returns. According to the IRS, this long-standing federal tax deduction, known as the "legislator tax home" provision, was suspended for taxable years 2018 through 2025 by the TCJA passed by Congress on December 22, 2017. The Legislative Council and the Joint Fiscal Office will be looking into this further to clarify the impacts.

7. Areas of Developing Legislative Work

A number of fiscal issues are coming up as the session draws closer. Among these are:

- *A Model to estimate the impact of retail sales of Marijuana*. The Governor's Marijuana Advisory Commission is looking at this issue and the Tax Department and Joint Fiscal Office have been building analytical tools to understand potential revenue impacts. The Commission may recommend that State revenues collected from a future marijuana retail market should be in the form of a new excise tax, which would be a special fund receipt. This excise tax would be coupled with the existing sales tax.

- *Tax Modernization Fund Revisions.* Under current law, the Tax Modernization Fund, which has funded the new computer capacity at the Department of Taxes, will continue to be in place until 2024. The fund consists of 80% of the tax receipts received as a direct result of the implementation of the integrated tax system solution (including any additional data warehouse modules). Essentially, these are funds that would not have been collected without the new system. The fund's revenue is currently outstripping expenditure need and the Department will be proposing to reduce the amount of this revenue set aside for IT expenses from 80% to 40% or 50%. This presentation will be provided to the Joint Fiscal Committee before the meeting and will be explained in more detail at the meeting. The positive financial impact to State funds would be realized in FY 2020 since it would require legislative changes.

- *The December 1, 2018 Tax letter.* The Department of Taxes with the participation of the Education Secretary and the Joint Fiscal Office is working on the letter required by December 1, 2018, that details projected education tax rates. This work includes consideration of the upgrade of the Sales tax receipts, lower projections of spending, and some savings from income sensitivity costs. Initial estimates indicate tax rate increases in the range of 2-4 cents. With the Act 46 changes there is ongoing uncertainty in developing this estimate.

- *Act 46 implementation issues.* A number of work requests are coming in to JFO related to Act 46 implementation issues as communities try to work though the implications of possible changes.

8. Studies and other Fiscal Office-related work

- *Capital Gains tax expenditure evaluation.* As part of the Tax Expenditure Report, Graham Campbell will be including a full review of the Capital Gains Tax expenditure. This report should be completed in November.

- *The Basic Needs Budget*. The Basic Needs budget methodology is on the JFC agenda since the Committee needs to address some technical changes before the study is finalized. A memo on the basic needs proposal is attached.

- *Opioids Affecting Babies in Vermont*. In the next week or so, the Joint Fiscal Office will release an Issue Brief on “Births in Vermont Affected by the Opioid Epidemic.” It will be available on JFO’s webpage under New & Notable.

- *The Tax Structure Commission*. The appointment process for the Tax Structure Commission has yet to be completed. In the interim, we are interviewing candidates for the Commission’s staff director position. Two Commission members have been identified. The Governor has named Stephen Trenholm, CPA, a director in the Department of Taxes at Gallagher, Flynn & Company, LLP. The Speaker has named Deb Brighton of Salisbury, Vermont, who has been a consultant to the State and the Joint Fiscal Office on property taxes and other matters. To date, we have not heard of the Senate President Pro Tempore appointment. If appointments and staffing are finalized, we anticipate that an organizational meeting will be scheduled in late November or early December.

- *Corrections Health Study.* The Corrections health care study is underway and the study consultants will be presenting interim findings to the Corrections Oversight Committee during the next few weeks.

9 Joint Fiscal Office Updates

- *Redevelopment of the JFO website.* The Joint Fiscal Office is working with Bluehouse Group, the same contractor that developed and manages changes to the Legislature’s website. This work will improve the JFO website by better visually aligning with the Legislature’s site as well as improving the search function. We hope to have the revised website up before the legislative session in January.

1 BALDWIN STREET,
MONTPELIER, VT 05633-5701

PHONE: (802) 828-2295
FAX: (802) 828-2483

STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Fiscal Committee Members

From: Daniel Dickerson, Fiscal Analyst

Date: November 6, 2018

Subject: 2019 Basic Needs Budget

In accordance with 2 V.S.A. § 505, the Joint Fiscal Office must report the basic needs budget (BNB) and livable wage on or before January 15 of each new legislative biennium. Any modifications to the existing methodology shall be approved by the Joint Fiscal Committee no later than November of the year preceding the release of the report. For the 2019 Basic Needs Budget report, the Joint Fiscal Office has suggested two modifications to the methodology from the previous report.

Additionally, the Joint Fiscal Office recommends that during the upcoming biennium the Legislature consider once again appointing a technical advisory council to work with the Joint Fiscal Office on the 2021 basic needs budget report. The 2021 report will be the 13th iteration over the past 20 years and it would be helpful to have a separate, independent set of eyes collaborate with JFO to review the statutory construct, current data sources and methodology that drive the basic needs budget and livable wage calculations and determine whether comprehensive changes could be made.

The suggested methodology changes for the 2019 report are outlined below. The Joint Fiscal Committee will be expected to vote on these proposed modifications at its meeting on November 8, 2018.

1. **Dental –**
    a. Proposal Summary: Use Vermont specific-data for out-of-pocket (OOP) dental costs provided by Northeast Delta Dental.
    b. Rationale: Until recently, finding relevant up to date dental OOP cost data proved elusive. As a result, previous reports relied on older MEPS national-level data trended forward to estimate OOP dental costs for family configurations. The data used for the 2019 report is Vermont-specific data provided by Northeast Delta Dental, which has significant market-share in Vermont. As a result of this methodology change, users will notice estimated dental OOP costs have increased significantly. For instance, estimated monthly OOP costs for a single person and a family of four increased from $5 and $20 to $24 and $83 respectively.
    c. Cost Impact: The impact to budgets from the proposed out-of-pocket cost methodology change is given in table I below. There is no difference in dental costs between urban and rural family configurations in the basic needs budget report.

Table I: Monthly Dental Costs for VT Basic Needs Budget Families *(premium + out-of-pocket)*		
Family Configuration	Dental Costs	
	2017	2019
Single	$9	$28
Single + 1 child	$34	$64
Single + 2 children	$86	$127
2 Adults, no children	$34	$70
2 Adults (1 working) + 2 children	$91	$150
2 adults (both working) + 2 children	$91	$150

2. **Transportation –**
   a. Proposal Summary: Continue to use data from the 2009 National Household Travel Survey (NHTS) for one more report but merge travel data from respondents living in urban clusters with data from respondents in rural areas.
   b. Rationale: The 2017 NHTS results were recently released but the number of respondents decreased significantly from the 2009 edition and the reported miles traveled also changed significantly from 2009 for many family configurations. The Joint Fiscal Office weighed whether to use the new data or alternative data options for calculating transportation costs but ultimately decided to continue using 2009 data pending further consideration by an advisory council or other body, as determined by the Legislature. JFO does recommend that data for urban clusters be merged with data for rural areas for the 2019 BNB report. In previous reports, urban clusters were ignored and only urban and rural data was used to calculate transportation costs. However, ignoring urban clusters left out data from many respondents and ultimately did not offer the most accurate depiction of rural travel patterns.[1] Using urban clusters will change the vehicle miles traveled (VMT) data shown in table II below.
   c. Cost Impact: The first four household lifecycles shown in table II have been historically used to calculate urban and rural transportation costs. The urban VMT numbers will not change in the 2019 report but the rural VMT numbers will change to the numbers shown in red above. The vehicle miles traveled data is multiplied by a mileage rate to arrive at the monthly cost per family configuration. The mileage rate is the annual IRS reimbursement rate for business travel adjusted by AAA cost-per-mile data to reflect varying per-mile costs for driving greater or fewer miles. None of this part of the methodology will change, however the IRS reimbursement rate and the AAA cost-per-mile data have increased since the most recent report. The transportation costs from the previous 2017 report and the upcoming 2019 report are given in table III below.

[1] For the basic needs budget, "urban" has traditionally been defined as Chittenden County, while "rural" has encompassed the rest of the state.

Table II: 2009 NHTS Average Annual Vehicle Miles of Travel (VMT) Per Driver				
Vermont Household Life Cycle	Annual VMT/Driver (Mean)			
	Urban	Urban Cluster	Rural	**New Rural[2]**
One adult, no children	12,846	15,451	14,341	**14,644**
2+ adults, no children	12,827	11,874	15,093	**14,657**
One adult, youngest child 0-5	11,223	12,000	10,727	**11,151**
2+ adults, youngest child 0-5	10,731	13,267	18,728	**18,085**
One adult, youngest child 6-15	11,125	17,717	10,848	**12,629**
2+ adults, youngest child 6-15	10,620	14,723	15,297	**15,194**
One adult, youngest child 16-21	10,184	10,057	11,523	**11,214**
2+ adults, youngest child 16-21	9,327	7,296	12,232	**11,537**
One adult, retired, no children	4,734	6,263	8,802	**8,285**
2+ adults, retired, no children	7,936	7,584	10,439	**10,088**
All	10,745	11,939	14,058	**13,733**

Table III: Monthly Transportation Costs for VT Basic Needs Budget Families				
Family Configuration	2017 Report		2019 Report	
	Urban	Rural	Urban	Rural
Single	$491	$516	$503	$512
Single + 1 child	$480	$459	$486	$483
Single + 2 children	$480	$459	$486	$483
2 Adults, no children	$981	$1,019	$1,004	$1,024
2 Adults (1 working) + 2 children	$917	$1,089	$930	$1,153
2 adults (both working) + 2 children	$917	$1,089	$930	$1,153

Proposed Motion: To accept the basic needs budget methodology changes proposed by the Joint Fiscal Office in its memo dated November 6, 2018 and to support the creation of a technical advisory council during the upcoming biennium, either through legislation or another means, to collaborate with the Joint Fiscal Office on a thorough review of the basic needs budget and livable wage study in order to recommend potential changes.

[2] Includes VMT data for urban clusters as well as rural areas. Annual VMT for urban clusters and rural areas were weighted by the number of samples for each when merging them into one category.

115 STATE STREET,
MONTPELIER, VT 05633-5301

PHONE: (802) 828-2231
FAX: (802) 828-2424

STATE OF VERMONT
OFFICE OF LEGISLATIVE COUNCIL

MEMORANDUM

To: Members, Joint Fiscal Committee

From: Rebecca Wasserman, Legislative Counsel, and Dan Dickerson, Fiscal Analyst

Date: October 29, 2018

Subject: Grant Approval Process, 32 V.S.A. § 5

Introduction

This memorandum identifies potential statutory interpretation issues with the grant acceptance provision, 32 V.S.A. § 5. The current language from 32 V.S.A. § 5 is attached to this memorandum as Appendix A for your reference.

Potential Statutory Interpretation Issues

The Office of Legislative Council (Legislative Council) and the Joint Fiscal Office (JFO) have identified potential statutory interpretation issues with the language set forth in 32 V.S.A. § 5 for the Joint Fiscal Committee (JFC) to consider. If the JFC determines statutory changes are required, Legislative Council and JFO could draft new language for introduction in the 2019 legislative session.

Below is a summary of the issues:

1. *Scope of approval:* As currently drafted, it is unclear whether all three branches of State government must meet the requirements set forth in 32 V.S.A. § 5 in order to accept a grant. 32 V.S.A. § 5(a) prohibits an "agency, department, commission, board, ***or other part of State government***" (emphasis added) from accepting a grant, except as provided in statute. Without a definition of "or other part of State government," there is an argument that the scope of the Governor's role in the grant approval process extends outside the Executive Branch to the Legislative and Judicial Branches.

2. *Ambiguous terms*: 32 V.S.A. § 5 does not include a definition section, and the following terms may require clarification.

    - The prohibition on the acceptance of a grant applies to the "original" of a grant. Current practice only requires a new or "original" grant to go through the process. The ambiguity arises with respect to the interpretation of "original" as applied to the receipt of a grant that is then passed on from one entity to another. For example, it is unclear whether a federal grant to a quasi-State entity that did not require approval under 32 V.S.A. § 5 will need approval if it is passed on to a State entity that falls under the statute. **Under current practice, approval under 32 V.S.A. § 5 would not be required in this scenario.**

- The grant approval process applies to "any grant, gift, loan, or any sum of money or thing of value." It is unclear whether legal settlements would fall under this list of monetary gains to the State as a "sum of money or thing of value," and be required to go through the process set forth in statute. **Under current practice, legal settlements do not go through the grant acceptance process.**

- As drafted, there is an argument that the language requires any loan to the State to be accepted through the grant approval process. **Current practice only requires interest-free loans or below-market-value loans to go through the grant acceptance process.**

3. *Governor's rejection of a grant:* The language provides for how the Governor's approval of a grant becomes final but fails to address how the JFC or the General Assembly should proceed if the grant is rejected by the Governor.

4. *Grant received immediately prior to the start of the legislation session*: When a grant is received at the end of December, **current practice is to hold over the grant to the start of the legislative session with some flexibility in treatment in the event of an emergency grant**. While the statute provides that the grant is final if no action is taken within "30 days of receipt of the grant information," there may be a need for some clarification of the process for this time period immediately prior to the start of a legislation session.

Appendix A

32 V.S.A. § 5

§ 5. ACCEPTANCE OF GRANTS

(a) No original of any grant, gift, loan, or any sum of money or thing of value may be accepted by any agency, department, commission, board, or other part of State government except as follows:

(1) All such items must be submitted to the Governor who shall send a copy of the approval or rejection to the Joint Fiscal Committee through the Joint Fiscal Office together with the following information with respect to said items:

(A) the source of the grant, gift, or loan;

(B) the legal and referenced titles of the grant;

(C) the costs, direct and indirect, for the present and future years related to such a grant;

(D) the department and/or program which will utilize the grant;

(E) a brief statement of purpose;

(F) impact on existing programs if grant is not accepted.

(2) The Governor's approval shall be final unless within 30 days of receipt of such information a member of the Joint Fiscal Committee requests such grant be placed on the agenda of the Joint Fiscal Committee, or, when the General Assembly is in session, be held for legislative approval. In the event of such request, the grant shall not be accepted until approved by the Joint Fiscal Committee or the Legislature. The 30-day period may be reduced where expedited consideration is warranted in accordance with adopted Joint Fiscal Committee policies. During the legislative session, the Joint Fiscal Committee

shall file a notice with the House and Senate Clerks for publication in the respective calendars of any grant approval requests that are submitted by the administration.

(3)(A) This section shall not apply to the following items, if the acceptance of those items will not incur additional expense to the State or create an ongoing requirement for funds, services, or facilities:

(i) the acceptance of grants, gifts, donations, loans, or other things of value with a value of $5,000.00 or less;

(ii) the acceptance by the Department of Forests, Parks and Recreation and the Department of Fish and Wildlife of grants, gifts, donations, loans, or other things of value with a value of $15,000.00 or less; or

(iii) the acceptance by the Vermont Veterans' Home of grants, gifts, donations, loans, or other things of value with a value of $10,000.00 or less.

(B) The Secretary of Administration and Joint Fiscal Office shall be promptly notified of the source, value, and purpose of any items received under this subdivision. The Joint Fiscal Office shall report all such items to the Joint Fiscal Committee quarterly. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

(4) With respect to acceptance of the original of a federal transportation earmark or of a discretionary federal grant for a transportation project, the provisions of subdivisions (1) and (2) of this subsection shall apply, except that in addition:

(A) notification of the Governor's approval or rejection shall also be made to the Chairs of the House and Senate Committees on Transportation; and

(B) such grant or earmark shall be placed on the agenda, and shall be subject to the approval, of a committee comprising the Joint Fiscal Committee and the Chairs of the House and Senate Committees on Transportation, if one of the Chairs or a member of the Joint Fiscal Committee so requests.

(b) In accordance with subsection (a) of this section, in conjunction with a grant, a limited service position request for a position explicitly stated for a specific purpose in the grant, may be authorized. The position shall terminate with the expiration of the grant funding unless otherwise funded by an act of the General Assembly. Such authorized limited service positions shall not be created until the appointing authority has certified to the Joint Fiscal Committee that there exists equipment and housing for the positions or that funds are available to purchase equipment and housing for the positions.