



GENERAL ASSEMBLY
STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Monday, September 16, 2019

Minutes

Room 10, State House

Members present: Representatives Ancel, Fagan, Hooper, Lippert, and Toll and Senators Ashe, Cummings, Kitchel, Sears, and Westman.

Other Attendees: Representatives Emmons, Shaw, and Haas, former Senator Branagan, Administration, Joint Fiscal Office staff, various media, lobbyists, and advocacy groups.

Senator Cummings, Chair, called the meeting to order at 9:34 a.m., and Senator Ashe requested a delay in approving the minutes until an amendment was available to the Committee. The Chair moved to the next agenda item.

B. Administrations Fiscal Updates 1. – General Fund and Transportation Fund Balance Reserve

Adam Greshin, Commissioner, and Matt Levin, Deputy Commissioner, Department of Finance and Management, referred to the reports on the General Fund and Transportation Fund Balance Reserves, and Mr. Riven explained that the Transportation Rainy Day Fund was at zero balance from the allocation of those remaining funds to the FY 2019 Transportation rescission plan. The General Fund Balance Reserve was \$31.5 million at the yearend closeout for FY 2019, and the Education Fund had 14% in total reserves when combining all reserve funds.

2. 27/53 Reserve

Mr. Riven gave background on the reserve, and then pointed out the schedule chart included in the 27/53 reserve memorandum from Commissioner Greshin with an FY 2020 projected deposit of \$4.02 million to the reserve.

3. Special Funds

Commissioner Greshin explained that the Universal Service Fund (USF) was projected to fall into deficit around November or December of 2019 about \$230 to \$250k. The fees from the fund that were paid by consumers for various telephone services was deposited into a special fund and paid out as follows: less than 5% appropriated to the fiscal agent of the fund and Lifeline, about 92% to Enhanced 911 (E-911), and any remaining revenue was transferred to the Connectivity Fund. The USF fund has had relatively stagnant revenue growth but increasing expenses, even though the USF fee was increased by .04% in FY 2020 to 2.04%. E-911 receives about \$409k monthly from the fund and its total budget was just under \$5 million annually.

Senator Ashe asked if legislative amendments to the administration of E-911 would alleviate some of the costs associated with the services. The Commissioner agreed there could be savings from the legislation, and there were some possible recommendations from E-911 to reduce its operating costs. Senator Ashe suggested that to further seek savings, the Administration should review [Sec. 19 of Act 61 of 2019](#) and respond to the legislations' request of the Administration determining a specific housing place for E-911.

Representative Ancel commented that the House Ways and Means Committee was open to suggestions on how to address E-911's funding with its outdated revenue source. Commissioner Greshin promised to review the matter further. Senator Kitchel requested a summary of the Commissioner's testimony on the issue of the USF shortfall. Representative Hooper asked for the summary to include the fiscal issues with E-911, and the plan for resolving it. Senator Kitchel asked that the recommendation to the Legislature on the proposed new home for E-911 include options with advantages and disadvantages of each location. Senator Ashe commented that Act 61 directed the Administration to report to the Committees on Senate Government Operations, and House Energy and Technology with recommendations.

4. – VEDA's Farm Operating Loan Program 2018 Report

Commissioner Greshin explained that upon FY 2019 closeout, there was \$750k available for carryforward as a one-time appropriation from Special Session FY 2018. The Commissioner introduced Cassie Polhemus, CEO, Vermont Economic Development Authority (VEDA). Senator Kitchel referred to a memorandum from Ms. Polhemus dated September 10, explaining the reason for the excess funds associated with the 2018 Farm Operating Program, and inquired whether the appropriation achieved what the legislation intended. Ms. Polhemus explained that when the program was implemented, funds were set aside for high-risk loans to mitigate issues with repayment. VEDA used its own money to subsidize a lower interest rate with a higher loan-to-value ratio and \$2.6 million was committed to those high-risk loans. Farmers were typically highly leveraged, so there was little capacity for them to take on further debt. Even though milk prices had increased, input costs were still high and created further challenges. VEDA would continue to extend loans to dairy farmers that had vendor accounts with double digit interest rates to alleviate some of their financial stress.

5. – Transportation FY 2020 Rescission Plan

Commissioner Greshin referred to a memorandum from the Agency of Transportation, dated September 9, and summarized there was an estimated \$1,943,148 million budgetary shortfall, and it would be addressed through a surplus in the Transportation Infrastructure Bond (TIB) fund with the remainder of \$823,403 addressed in the FY 2020 Budget Adjustment.

Senator Sears requested the Committee receive an update at its next meeting regarding the State's legal action of J.A. McDonald, Inc. and the construction of the four bridges in Southern Vermont. Representative Toll expressed concern that the Agency had not observed the construction issues prior to the whistleblower. Senator Kitchel asked to hear more information on whether there was pending legal action, and, if so, where they were in that process. The Committee agreed to hear testimony at its next meeting on the four Southern Vermont bridges and the J.A. McDonald whistleblower issue, as well as more general information on the process

of the State monitoring its construction contracts. Senator Kitchel added that if the State was pursuing legal action, the Attorney General should be included in the testimony.

C. – FY 2021 Revenue and Expenditure Trends

Stephanie Barrett, Associate Fiscal Officer, distributed a presentation on revenue and expenditure trends for FY 2021, and summarized that the largest programs in the State's \$6.1 billion budget are Medicaid and Education. The State budget for FY 2020, without federal funds and net property taxes, was \$2.9 billion. In reviewing the initial numbers for FY 2021, pressures areas included debt service, retirement obligations, reserve requirements, and possible State employee areas that include pay act, reclassification and health care insurance.

Ms. Barrett explained that federal match related budget pressures included the reduced federal match for the Children's Health Insurance Program (CHIP) for the next two years. Global Commitment waiver investment pressure are estimated at \$5.9 million in FY 2021, with further pressure due to Institutions for Mental Disease (IMD) phasedown in the future. The Accountable Care Act (ACA) expanded population of new childless adults shows initial pressure of \$4.3 million. In addition, the Tobacco Settlement revenue was declining.

Ms. Barrett reviewed the programmatic pressures for FY 2021 within the Medicaid program of utilization, a rate increase request and new beds from Brattleboro Retreat, designated services increase in caseload, and long-term care. Additional pressures in the Agency of Human Services are in emergency housing, child welfare, Woodside, and other areas of the Department for Children and Families; the Departments of Health, and Corrections as well as other areas such as Judiciary, Public Safety, Renter Rebates, and the Legislature. Additional unknowns include Information Technology projects.

Representative Hooper asked what the pressure in Judiciary was related to, and Ms. Barrett responded that it was for over and above the pay act amounts as expressed by the Branch. There were no new anticipated potential pressures in any of information presented.

D. Correctional Facility Assessment

The motion as approved by the Joint Legislative Justice Oversight Committee (JLJOC) was handed out. Representative Alice Emmons, vice chair of JLJOC, Representative Butch Shaw, and Michael Touchette, Commissioner, Department of Corrections introduced themselves. Senator Sears recommended that the Committee support the deliberations of JLJOC. Representative Emmons explained that the current women's correctional facility needed replacement, and the intent of the legislation was to have a basis for a decision of the type of construction and population for the new facility. Senator Sears added that the legislation was compromise language between the two houses that allowed the interim committees and the Council on State Government to research further into the issue before the Legislature committed to building a facility.

Commissioner Touchette stated that the legislation in Act 42 was a good compromise and allowed for flexibility to evaluate the type of facility most needed. There were questions in need of exploration such as how best to deliver programs for inmates' reentry into the public. As an example, the second largest and newest correctional facility did not include a vocation program.

The Chittenden County facility was not conducive to having a reentry program due to space and other issues. Historically, corrections facilities across the nation have been built for the sole purpose of containing people with no thoughts for reentry into communities. Other challenges with Vermont's current facilities are the health of its employees because of long work hours and no place for staff to take breaks.

Senator Kitchel commented that the assessment of Vermont's correctional facility should include a multi-year process of gathering information before an informed decision could be made. The size and design of Vermont's correctional facilities made them expensive, and Capitol needs were over \$200 million for current facilities. A continuing challenge in providing inmate programming was the frequent movement of inmates, due to capacity regulations. The Senator commented that the State should design a facility that anticipates the future and supports policy goals. Senator Sears added that the best example of a flawed execution of a plan was the Springfield facility that included a vocational program and no available funds for building the actual vocational facility because they were used to pave the road to the designated area.

Commissioner Touchette stated that other national industry workers found the key to the design of a facility was flexibility in the use and building more American Disability Act (ADA) compliant beds than anticipated because of Vermont's aging population.

Representative Lippert stated that he supported the BGS study but had concern for the March 2020 completion deadline of the report. Representative Emmons suggested that the CSG report was due by December 15, 2019, which could allow for any additional policy changes during the 2020 session. The information from the two reports could assist the Legislature in a conceptual path forward for a new facility by the end of the 2020 session.

Representative Fagan moved to approve the motion as approved and submitted by the Joint Legislative Justice Oversight Committee on September 9, 2019, and Senator Westman seconded the motion. The Committee approved the motion.

E. Integrated Eligibility and Enrollment System

Cassandra Madison, Deputy Commissioner of Healthcare Eligibility & Enrollment, Department of Vermont Health Access, and John Quinn, Chief Information Officer and Secretary, Agency of Digital Services, distributed an update to the progress report submitted September 1, 2019 on the Integrated Eligibility and Enrollment System (IE&E). The State had committed to four deliverables in 2019 and three in 2020, with two of them completed.

Senator Kitchel asked about the issue of the slow file transfer, and whether experts were able to resolve it, and Secretary Quinn stated the issue had in fact been resolved. Ms. Madison explained that the third deliverable was on track for completion, but the fourth deliverable for reporting and analytics was delayed until February 2020 due to the timing of open enrollment that began on October 1.

Representative Fagan inquired if there were outside vendors in place for contingency purposes. Ms. Madison responded that OPTUM was under contract to keep the system up and running as well as host the data, and Archetype had been contracted for reporting. After the roll

out in February, all the system functions and maintenance would be done inhouse and no longer rely on those vendors for the system. Senator Kitchel asked for clarification on the delay and system progress, and Ms. Madison explained that the Department delayed the testing starting October 1 for open enrollment and the disbursement of 1095's to recipients on January 1, 2020.

Representative Hooper inquired of the cost for the delay, and Ms. Madison responded it was estimated at \$3.5 million in total with 75% of federal funding and 25% from DVHA's operating budget. Those health care projects such as the Business Intelligence Project, the federal government would cover 87% of the costs. Representative Lippert inquired if the federal government had committed to paying the extra costs associated with the delay, and Ms. Madison responded that the Department had been in constant communication with the Centers for Medicare and Medicaid Services (CMS) on the project and there was no obvious risk with either agreement.

Senator Kitchel asked for clarification on the additional costs, and Ms. Madison explained that a portion of the additional expenditures were from the estimated cost of \$1.5 million for Archetype to maintain two data warehouses for Vermont Health Connect, and another portion was from the IE&E delay. Representative Fagan inquired why the Agency was building its own server farm rather than hiring a vendor to manage them. Secretary Quinn explained there had been past problems with vendors maintaining their servers and the Agency had the inhouse resources and talent to tend to any ongoing maintenance. Ms. Madison added there would be future savings for inhouse maintenance of the IE&E, as well as better access to data.

Senator Cummings asked for clarification on whether the concerns of the letter from the Joint Information Technology Oversight Committee were addressed in the motion. Catherine Benham, Associate Fiscal Officer, Joint Fiscal Office, clarified that the motion, the letter from JITOC and the recommendations from the six Chairs of the committees involved in the oversight of the project, were all consistent with each other and followed Daniel Smith's recommendation.

Representative Fagan inquired if there were hard dates for the completion of the project for the Centers for Medicare and Medicaid Services (CMS). Ms. Madison explained the next big CMS date was June 2020 and was anticipated to fix the issues around the American Disabilities Act (ADA) compliance for paper and online applications. A final thought was of the complexity of sunsetting the Vermont Health Connect due to the lack of understanding of the Oracle system. The goal was to reduce the size of the system components to be nimbler technically and fiscally when making changes.

Senator Kitchel made a motion to approve the release of the second installment of \$750k for Integrated Eligibility and Enrollment funds pursuant to Sec. 3 of Act 42; the FY 20-21 Capital Bill, and consistent with the recommendation of the Joint Information Technology Oversight Committee in its memorandum that was dated September 16, 2019, and Representative Ancel seconded the motion. Senator Ashe asked where the additional expense for the delay came from within the DVHA operating budget, and Ms. Madison responded it would be part of the broader conversation for the FY 2021 Department budget. Senator Kitchel requested that when the Department had completed its migration from the Oracle system to the new system that it provide the ongoing net savings and economic gain with the change. Ms.

Madison explained that the total annual cost with federal and state funds was \$30 million to maintain the Oracle system. There was an immediate \$500k reduction in annual costs and another \$1 million with Business Intelligence. Ms. Madison agreed to provide more information on projections and savings for the switch of the two systems. Representative Hooper requested the Department include additional information on the budget impacts to those relevant budgets in the future, in its FY 2021 budget testimony. The Committee approved the motion.

The agenda was interrupted for the approval of the July 29, 2019 minutes. Senator Ashe submitted a proposed amendment to item D (Fitch Rating for Vermont) to provide a more accurate reflection of the discussion. The Senator then moved to approve the minutes with the proposed amendment, and Senator Kitchel seconded it. The Committee approved the motion.

F. – VEGI Cost Benefit Model Updates

Megan Sullivan, Executive Director, and Ken Jones, Economic Research Analyst, Vermont Economic Progress Council, summarized the proposed updates to the Vermont Economic Growth Investment's (VEGI) Cost Benefit Model, explained in a memorandum that was dated September 12. Representative Ancel asked for the Administration's response to Tom Kavet's recommendations, and Mr. Jones stated they agreed with Mr. Kavet's comments on the proposal.

Representative Ancel moved to approve the revised annual updates to the VEGI Cost Benefit Model as submitted on September 15, 2019, and further requests "*that in future years a few sample runs (typical of those performed for VEPC applicants) be run to demonstrate and quantify "before" and "after" effects of these changes*" as stated in Tom Kavet's memorandum dated September 15, 2019, and Representative Fagan seconded the motion. The Committee approved the motion.

G. – VEPC Response to Performance Audit of the St. Albans Tax Increment Financing (TIF) district and potential changes to the TIF rule.

The Chair explained that a letter was sent to the Vermont Economic Progress Council (VEPC) from the Committee as requested, regarding the recommendation of the State Auditor's testimony at the Committee's July 2019 meeting. Rebecca Wasserman, Legislative Counsel, Office of the Legislative Council, clarified the Auditor's concerns in relation to the Tax Incremental Financing (TIF) statutory language. The Chair stated there was a request for legislation, on her behalf, to address concerns raised by the Auditor, for the 2020 legislative session.

Senator Sears expressed concern that the State was now following the legal opinion of the Attorney General, and it was the responsibility of the Attorney General to defend the State and any disagreements between the Administration and the State Auditor should follow the advice of the Attorney General. Representative Ancel commented there was a clear difference of opinion with the St. Albans TIF district, and that the policy should be clarified by the Legislature. Senator Kitchel added that there should be a clear message that the remedy to resolve the issue resides with the committees of jurisdictions.

Ms. Sullivan and Michael Keene, Vice-Chair, VEPC Board Member, Bennington County, reviewed and addressed the issues raised by the Auditor and the Chair in their memorandums to VEPC. The Chair requested that Ms. Sullivan provide her written testimony to the Committee.

There was a discussion on possible delays to communities in receiving TIF payouts while the Legislature deliberates on the issues raised. Senator Ashe recommended that VEPC, the Attorney General and the State Auditor work together prior to the upcoming session to expedite the process. Ms. Megan stated that she and her staff at VEPC were open to meet and find resolution. Senator Sears echoed the advice of Senator Ashe that concerned parties meet and find resolution prior to session. Representative Westman requested a list of the communities within the TIF process.

Doug Hoffer, State Auditor responded to VEPCs testimony and encouraged the Committee to review the Attorney General's opinion on TIF.

H. Federal Single Audit

Andrew Stein, Deputy State Auditor, summarized the State's federal single audit from Clifton, Larson, Allen (CLA). The State had reduced its findings to two federal programs as well as fewer repeat findings. Senator Kitchel commented that the Legislature had made a commitment to resolving audit findings and the results had proved positive.

Mr. Stein explained there were no adverse opinions in the audit but there were two qualified opinions that would need a repeat audit next year. One of the qualified opinions was in the Agency of Education's child nutrition cluster and was one of the five repeat findings. The second was in the Agency of Transportation's Highway Safety cluster where a required State match was not appropriated, and it was not clear why the calculation was not administered correctly. Although a new finding, there was a similar finding in the Agency the previous year. Mr. Stein promised to send a complete list of repeat findings and information on where and why they occurred.

I. JFO #2970-\$3,363,695 from the U.S. Dept. of Health and Human Services – Administration for Children and Families to the VT Dept. of Children and Families (DCF)

Senator Kitchel explained the grant had been held for further testimony at her request. Ken Schatz, Commissioner, Department for Children & Families, explained the grant would further enhance the work of the State for children from birth to age five. Dr. Morgan Crossman, Executive Director, Building Bright Futures (BBF), explained that the grant leveraged funding to cover gaps in current services, and offered better navigation tools.

Senator Kitchel commented that there was a substantial growth of child welfare programs within the State with very different challenges and demands with these very high-risk children. The Commissioner responded the grant allowed for a needs assessment and strategic plan to add a more sophisticated level of assistance to the program. Representative Westman expressed concern of the Departments delay in requesting the grant, and the Commissioner affirmed that the Department would ensure that grant timelines were met if accepted. Senator Ashe asked if

any part of the grant locked the State into how it delivered services to a specific age group. The Commissioner responded that the grant allowed for flexible decisions.

Representative Lippert moved to approve the grant, and Representative Hooper seconded the motion. The Committee approved the motion and acceptance of the grant.

JFO #2971-\$56,500 from the Northern Border Regional Commission in Concord, NH to the VT ACCD Department of Economic Development to help fund the development of a statewide prioritization plan of community and economic development projects.

Senator Cummings stated the grant was held for approval for additional information at her request. Joan Goldstein, Commissioner, Department of Economic Development, explained that the federal funding from the grant was sent directly to the recipients from the federal government, and the Department acted as an outreach coordinator by reviewing applications and recommending recipients. Due to the large volume of applications, the Department requested the capacity grant to assist in its work for the Northern Boarder Regional Commission (NBRC). Senator Ashe asked if the funding was for staff time or to prioritize areas of investment. Commissioner Goldstein responded that the process occurred only once a year and the capacity funding would be disbursed to individual regions for prioritization of those areas, and that the grant had expanded to the entire State with different geographic match requirements.

Senator Kitchel moved to approve the grant, and Representative Westman seconded the motion. The Committee approved the motion and acceptance of the grant.

Fiscal Officers Report

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, highlighted areas of his report, and explained that the State Treasurer's Office and its actuarial were delayed in providing estimates for retirement. Senator Ashe requested additional information on the specific reasons for the delay, and Mr. Klein agreed to report back to the Committee.

Representative Fagan moved to adjourn, and the Committee approved the motion. The Committee adjourned at 12:55 p.m.

Respectfully Submitted,

Theresa Utton-Jerman
Legislative Joint Fiscal Office