



GENERAL ASSEMBLY
STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Wednesday, July 29, 2020

Minutes

Videoconference

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

Other attendees: Representative Webb and Senator Baruth, Joint Fiscal Office and Administration staff, and various viewers on live stream.

Senator Cummings, Chair, called the meeting to order at 10:00 a.m. Representative Fagan moved to approve the minutes of the June 15, 2020 meeting, and the Committee passed the motion and approved the minutes on a unanimous voice vote.

B. Administrations Fiscal Updates – 1. Fund Transfers, Reversions, Reserves

Adam Greshin, Commissioner, Department of Finance & Management, [reviewed a summary document](#) of the Administration's two possible scenarios for FY20 General Fund Close-out and Transition to FY21. The Commissioner noted that preliminary revenue estimates were currently at \$25 million above the January 2020 consensus forecast and were anticipated to increase further within the next few weeks. Receipts received through July 28, totaling \$160 million, were predominantly due to income and corporate taxes from calendar year 2019. The Commissioner noted that this improved revenue situation could help alleviate fiscal pressure in FY 21.

2. FY 2020 Preliminary Close-Out - Education Fund and Transportation Fund

Commissioner Greshin reported that the Education Fund preliminary close-out used 10% or \$3.8 million of its reserve. The Transportation Fund used no reserves for close-out and instead used primarily reversions from carryforward amounts to balance the Fund. Representative Lippert requested that the Administration alert the Committee prior to its next meeting of any negative changes to the revenue.

C. Education Fund Outlook Update

Mark Perrault, Senior Fiscal Analyst, Joint Fiscal Office, gave an [update on the Education Fund Outlook](#) explaining that the deficit to the Fund is still expected to be significant, but not as large as projected in March. Currently for FY21, it is anticipated that the fund will have a \$92 million deficit for FY21 assuming a full stabilization reserve.

D. Grant - JFO #3011 - \$31,148,360

Heather Bouchey, Deputy Secretary, and Bill Bates, Chief Financial Officer, Agency of Education, reviewed Grant JFO #3011 regarding the Secondary School Emergency Relief (ESSER)

Fund. Mr. Bates explained that the Agency has elected to keep 10% of the funds (\$3 million) for Secondary Education Agency (SEA) purposes and to distribute the remaining \$28 million to the Local Education Agency (LEAs). By federal guidelines, these funds must be budgeted and obligated by September 2022. Mr. Bates explained the Agency had a process in place through its grants management system to receive applications from the LEAs. There were two options for LEAs to apply for funding: Option 1 was based on total enrollment of all participating schools within an LEA jurisdiction. Option 2 was based only on low-income students.

Representative Toll relayed her school districts concern of how complicated the process was for LEAs to access the grant funding. Mr. Bates assured the Committee that if LEAs contacted the Agency with questions, there was adequate staff to respond. Representative Fagan inquired if the funds were available to private schools, and Mr. Bates responded that the LEA applies through one of the two options and the funding stays with the public school to be used for services that benefit all its schools. Deputy Secretary Bouchey added that there was no dedicated funding to private schools but instead the funding benefited new shared services or resources within the LEA district and how this should occur would need to be negotiated at the local level. In responding to Representative Ancel, Deputy Bouchey stated the two options offered to LEAs came from a federal regulation. Senator Kitchel asked whether the federal requirements of the ESSER grant had limited the flexibility of the State to offer an easy way for LEAs to access the funds. Mr. Bates confirmed the requirements delivered in June by the federal government restricted the States' flexibility of the grant. At the request of Representative Lippert, Mr. Bates gave examples for the use of the grant funds—sanitation or training on how to sanitize or purchase of cleaning supplies related to the response of COVID-19; planning for the long-term closure of schools; and the purchase of education technology.

Senator Kitchel moved to accept the grant, and Representative Fagan seconded the motion. The Committee continued its discussion on the grant. Mr. Perrault added that the information presented to the Committee was the Agency's interpretation of the rules around the grant, and the State may have difficulty recapturing the funds. Representative Ancel inquired if the Agency had considered the State's ability to claw back any of the funding and whether the Agency was open to influencing the LEAs to choose a certain option that allowed the State greater fiscal flexibility. Mr. Bates responded that the federal government had implemented a final rule blocking states' ability to get involved in the LEAs decisions. However, there was a multi-state injunction filed with this rule. Deputy Bouchey added that prior to the federal rule, there was flexibility to the states on how the funds were made available to the LEAs. Senator Cummings explained that the Agency should be prepared to explain to the LEAs the consequences associated with each of the grant options. Representative Lippert asked several questions on the sequence of how an LEA applies for the funds, including how the amount of funds for each LEA is determined, when they determine which option to choose, what happens to any unspent funds that are allocated to them, and when the funds are reverted. Mr. Bates explained that the amount of funds was determined by the option the LEA chose, and any funds not awarded and obligated by September 2022 return to the federal government.

Senator Kitchel asked for the substance of the litigation of the ESSER internal rule from other states. Mr. Bates explained it was a motion for a preliminary injunction lead by Michigan and California. Deputy Bouchey added that the court filing stated there was a misinterpretation between the guidelines of the internal ESSER rule and the CARES Act and was related to the use of public funds for private schools. Mr. Perrault clarified that since Vermont's LEAs are too small, the Supervisory Unions (SU) would apply and receive the funds and then disperse to the individual schools. In

responding to Representative Fagan, Mr. Bates explained that if the Committee did not approve the grant, any applications for funds would be held until the grant was approved. Representative Fagan clarified that if an SU chooses option two, then the difference between the two options would be put in a reserve account until the court filing occurred and then the funds would be redistributed according to those court actions. In responding to Representative Toll's question, Mr. Bates explained there was no deadline for applications and funds were available back from July 1, 2020.

Senator Kitchel made a motion to amend her original motion to delay action on the grant and establish another Committee meeting to discuss in the next two weeks, and Representative Fagan agreed with the amendment as the second. Senator Sears requested the Joint Fiscal Office work with the Agency of Education to answer the questions posed by the Committee in bullets or a list of FAQs in advance of the next meeting. Representative Lippert noted that it was important to communicate to school districts that the delay in accepting the funds was due to a need for information on the grant and the ramification of the court filing on the internal rule. The Committee approved the motion 9-0-1.

E. COVID-19 Relief Fund Requests totaling \$23,629,362

Commissioner Greshin reviewed the current COVID-19 Relief Funds requests. The Commissioner and Lindsay H. Kurrle, Secretary, Agency of Commerce and Community Development (ACCD), presented the first CRF request from ACCD for \$250,000 for a contract with Maximus for a call center to provide technical assistance to Vermont employers applying for Economic Relief Grants.

Commissioner Greshin and John Quinn, III, Secretary, Agency of Digital Services, reviewed the Agency of Digital Services (ADS) CRF request of \$1,789,249.25 for the reimbursement for Coronavirus Relief Fund (CRF) grant implementation project costs.

Commissioner Greshin and Julie Moore, Secretary, Agency of Natural Resources, explained the Agency of Natural Resources' (ANR) two CRF requests. The first request was for \$450,000 from the Department of Forests, Parks and Recreation (FPR) seeking funding to purchase three large format scanners to digitize use value appraisal records. The second CRF request of \$1,400,000 was for support to the Agency for retooling its approach to regulatory review and environmental permitting to allow for and support increased telework, doing so in a manner that enhances technical assistance available to applicants, improves the timeliness of regulatory review, and ensures public participation processes are maintained or enhanced. Specifically, the project will: (1) deploy a virtual "one-stop shop" to help Vermonters identify what permits are required for specific projects; (2) expand online application materials, payment, and report submissions to facilitate remote permitting by programs that are currently partially or fully paper-based; (3) develop and deploy a suite of tools to improve online technical assistance and permitting guidance; and (4) convert select ANR paper records to electronic records necessary to facilitate remote transactions.

Commissioner Greshin and Diane Snelling, Chair, Natural Resources Board, reviewed the Boards CRF request, totaling \$80,113 to expedite COVID-19 permitting by digitizing a subset of our permit files, those that are most directly related to Vermont's emergency response to COVID-19.

Commissioner Greshin and Michael Pieciak, Commissioner, Department of Financial Regulation (DFR), reviewed DFR's CRF request for \$410,000. The Department was seeking funding to contract with the consulting firm Oliver Wyman for modeling and consulting work related to Vermont's COVID-19 response.

Commissioner Greshin and Sarah Clark, Chief Financial Officer, Agency of Human Services (AHS), reviewed the Department of Mental Health's CRF request of \$500,000. The Department of Mental Health (DMH) was seeking funding for suicide prevention efforts that will support Vermonters whose mental health has been significantly impacted by the COVID-19 pandemic. DMH applied for an Emergency SAMHSA Suicide Prevention grant, but learned on Tuesday, July 21, that Vermont was not awarded the SAMHSA grant. There was a critical need to immediately invest in suicide prevention efforts and in accordance with Act 136, Sec. 9. Representative Lippert requested a summary of the \$300k in CRF funds for the statewide expansion of ZERO SUICIDE.

Commissioner Greshin and Michael Harrington, Commissioner, Department of Labor (VDOL), reviewed VDOL's two CRF requests, totaling \$18,750,000. The first request of \$750,000 was to contract with a vendor to begin modernizing the Unemployment Insurance (UI) system through the implantation of a mainframe software system (Mulesoft) and the digitization of records. The second CRF request of \$18,000,000 was for reimbursement of expenses incurred from contracting with Maximus to operate the UI call center and for additional funds to extend Maximus' contract through December 2020. Senator Kitchel requested a summary of all UI system support CRF funds that VDOL had received to date. Representative Hooper echoed Senator Kitchel's request for a summary and added the concerns of investing in VDOL's current outdated system, as well as making investments in a new system from an outside source with past challenges. She added that a larger conversation should include how the State finds a way to hire and invest using in-state talent.

Senator Sears moved all the CRF requests presented and requested that the minutes reflect the concerns of the Committee on the UI system, and Senator Westman seconded the motion. The Clerk called the roll receiving a 9-0-1 vote.

F. Introduction to Guidehouse Consultant

Brad Ferland, Deputy Secretary, Agency of Administration, summarized the process of hiring Guidehouse and introduced Hillary Thompson, Vermont COVID-19 Project Lead for Guidehouse. Ms. Thompson gave an overview of her organization, and the Committee asked Guidehouse to share their proposed process for reviewing grants.

G. FY 2020 Revenue Close-out Update

Tom Kavet, Legislature's Economist, Kavet, Rockler & Associates, and Graham Campbell, Senior Fiscal Analyst, Joint Fiscal Office gave an update on FY20 revenues as of July 28 and estimates of year-end FY20 close out.

H. Fiscal Officer's Report

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, gave the highlights of his report. Joyce Manchester, Senior Economist, Joint Fiscal Office, updated the Committee on the Study of the Future of Higher Education in Vermont; and Catherine Benham reviewed the study on the assessment of the space and health and safety needs of the Legislative Branch for COVID-19 mitigation and meeting social distancing requirements.

The Committee agreed to meet next on August 12, 2020 at 9:00 a.m. That meeting would include a continued conversation and an action on Grant JFO # 3011, and a review of the consensus forecast by Mr. Kavet.

The Committee adjourned at 12:32 p.m.

Respectfully Submitted,

Theresa Utton-Jerman, Senior Staff Associate
Legislative Joint Fiscal Office