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STATE OF VERMONT

GENERAL ASSEMBLY LEGISLATIVE JOINT FISCAL COMMITTEE

Wednesday, November 17, 2021 Minutes

Hybrid Meeting: Room 24 and Videoconference

Members present: Representatives Ancel, Briglin, Fagan, Hooper, and Kornheiser and Senators Balint, Kitchel and Westman. (Senator Sears via videoconference)

Other attendees: Joint Fiscal Office and Administration staff and various viewers in person and on live stream.

The Chair called the meeting to order at 9:32 a.m., and Representative Fagan moved to adopt the minutes of July 30, 2021. Representative Briglin seconded the motion, and the Committee accepted the motion and adopted the minutes.

1. Introductions of new Joint Fiscal Office employees

Catherine Benham, Chief Fiscal Officer, Joint Fiscal Office, introduced three new fiscal analysts: Akol Aguek, Julia Richter, and Patrick Titterton.

2. Administrations fiscal reports/updates – a. Vermont Coronavirus Economic Stimulus Equity Program

Adam Greshin, Commissioner, Department of Finance and Management, deferred to Xusana Davis, Executive Director of Racial Equity, Agency of Administration, to give an update on the Vermont Coronavirus Economic Stimulus Equity Program.

Ms. Davis referred the Committee to the Program's <u>April 2021 report</u> and reviewed the current number of adults and children who received funding. When the program ended, there were some Vermonters who had expressed interest in the funding but had not received information on how to access it. Nonetheless, Program staff were pleased with the outreach, the funding disbursed, and the amount of information the Program learned about Vermont's Black, Indigenous, and People of Color (BIPOC) community. The initiative provided useful feedback that included the need to design future programs around the beneficiary and communicate to potential beneficiaries that are banked and underbanked through nontraditional ways, such as using alternative media sources and partnerships for translators to break down language barriers. Future programs should invest in a data management system to provide robust and secure information on beneficiaries and a centralized funding distribution process with one administering entity. Other suggestions for the future programs should include the use of

multiple organizations to provide an interactive way for beneficiaries to access programs and provide robust and built-in wrap-around services, such as legal assistance.

Senator Kitchel commented that Vermont may want to consider the use of the lessons learned by the equity program to support small, disadvantaged businesses when anticipated funds from the U.S. Treasury become available to Vermont's small businesses. The Chair agreed of the importance to continue to focus on Vermont's disadvantaged populations.

b. Updates on the use of existing federal funds

Commissioner Greshin and Douglas Farnham, Chief of Operations, Agency of Administration, gave an <u>update on Coronavirus Relief Funds</u> (CRF). Commissioner Greshin explained that of the remaining \$33 million, encumbered funds for obligations included \$17.5 million to the Agency of Human Services, \$5.7 million to the Public Service Department, and \$1 million each to the Agency of Education, Agency of Digital Services, and the Legislature. The remaining unallocated \$5.5 million CRF was available for reallocation. The Commissioner suggested using the unallocated funds to pay the outstanding expenditure of \$4.3 million from the Maximus contract for administering the Department of Labor's COVID-19 unemployment insurance program.

Senator Balint inquired if some of the \$1 million of CRF to the Agency of Education for the vaccination incentive program could be dedicated to schools for COVID-19 testing. Commissioner Greshin responded that the plan was to disburse funds through grants to schools that reached a certain percentage of vaccination rate, but he would further investigate the need for schools to receive additional resources for testing.

Commissioner Greshin explained that half of the \$1 billion of American Rescue Plan Act (ARPA) federal funds designated to Vermont had been received and the remaining funds would be disbursed in July 2022, once the Department submitted its recertification in June 2022. The Commissioner referred to a document of <u>ARPA funding</u>. Act 9 and Act 74 of 2021 originally appropriated \$625 million in ARPA funding, and then some was swapped out for General Funds, leaving a net ARPA appropriations of \$506 million. Of this amount, \$41 million had been disbursed with the largest portion for broadband initiatives.

The Commissioner noted that, unlike the fast pace of expending CRF for critical and immediate State needs relating to COVID-19, the State had three years to expend ARPA funds. The biggest challenge for State government has been the labor force participation, with a vacancy rate greater than 10 percent. Senator Kitchel asked if there were specific areas of State government more affected than others, and Commissioner Greshin responded there were a few areas, including the Departments of Corrections, for Children and Families, of Mental Health, and of Buildings and General Services. The Chair requested that the Commissioner identify ARPA funds not expended and those departments receiving the appropriations from Act 9 of 2021.

Commissioner Greshin gave the example of using ARPA funds for school construction relating to air quality concerns to explain the complexity of navigating the guidelines for the use

of ARPA funds, rather than less restrictive CRF. The Agency of Education has been working with Efficiency Vermont on plan details for use of the funds while staying within the federal guidelines. Mr. Farnham agreed with the Commissioner's assessment and added that both the U.S. Treasury and the U.S. Agency of Education had requirements within the guidelines that states must follow. The Administration spent time over the course of the year training staff on the guidelines of the ARPA funding requirements that should enable faster turnaround times for future programs.

Representative Kornheiser commented that air quality concerns may have changed from the prior year and could delay work inside schools. In light of this, there may be a reason to review whether the ARPA funds designated to some schools should be reevaluated. Representative Hooper agreed that past decisions could be reevaluated and possibly reallocated in different ways or areas. Senator Kitchel commented that the fluidity of funds was important to allow for the recalibration of needs from time to time. Commissioner Greshin agreed with the Committee and responded to Senator Sears that the Department tracks the appropriations, but the Judiciary Branch would have the best information regarding the accounting of funds for courts reopening.

Josh Hanford, Commissioner, Department of Housing and Community Affairs, gave an update on Vermont's Housing Investment Program (VHIP). Of the \$7.5 million CRF obligated for VHIP, 245 housing units had been built through the regional home ownership programs. The breakdown of these were as follows: Champlain Housing Trust created 33 housing units with one to be completed; Rural Edge created 38 housing units; Neigborworks of Western Vermont created 65 housing units with one to be completed; Windham-Windsor Housing Trust created 69 housing units; and Downstreet created 38 housing units.

Commissioner Hanford then discussed the \$5 million in ARPA funding that had more rigorous federal guidelines. While awaiting the release of the ARPA grant funding from the U.S. Treasury, the homeownership programs have accrued 50-plus reservations from property owners and landlords interested in the programs. The Windham-Windsor Housing Trust won an award for its five-minute video, using CRF, that showed a family transitioning from homelessness to housing. Of the total 245 units created from CRF, one-third were dedicated to serving people experiencing homelessness. The APRA funding was expected to create an additional 140 units to serve the homeless population. The maximum grant amount for the ARPA was \$30,000 with a 20 percent match and criteria to demonstrate a success of people exiting homelessness. The Commissioner suggested the grant maximum and/or 20 percent match may need to be reassessed with the rising costs of construction. A covenant has been placed on all properties funded through the grant program to ensure perpetual affordability.

Commissioner Hanford commented that possible federal legislation might allow funding to be used for landlords that were negatively impacted by the loss of rent from tenants not applying for rental assistance and then vacating the unit. Representative Fagan asked for the number of uninhabited units, and Commissioner Hanford responded that about three-fourths were offline. Some of the Mercy Rental Funding could be used to bring units up-to code but the primary use of the funding was to make vacant units available to rent.

Commissioner Greshin discussed the barriers of disbursing federal funds and explained the biggest challenges to providing housing were the lack of workforce to rehabilitate units, changing requirements of federal funding with new grants, and the unknowns of COVID-19, including the resurgence of variants.

3. Federal single audit review

Tim Ashe, Deputy State Auditor, referred to three documents: The Uniform Guidance Single Audit Report, Summary Schedule of Prior Audit Findings, and the Corrective Action Plans, and gave background information on the single audit process and prior audits. Mr. Ashe explained that a notable area of the recent audit report showed new material weakness within the Department of Labor's (VDOL) Unemployment Insurance program; a repeat of a material weakness within the Department of Liquor and Lottery Control (DLL), regarding the yearend reconciliation of incoming revenues; and two significant deficiency findings in the Department of Taxes and one in the Department of Public Safety. All these areas had corrective action plans in place.

Senator Kitchel asked if there were repeat findings that had been ignored by a department and Mr. Ashe responded that the DLL finding was a timing issue with the merger of the Departments of Liquor Control and the Lottery Commission, and VDOL's findings occurred during COVID-19. Both the auditor's office and Clifton Larson Allen LLP (CLA), the independent auditor contractors for Vermont, were comfortable with the findings and corrective action plans. The number of qualified opinions had decreased from a 12–17 percent range between the years of 2012 to 2016 to now around one to three percent, which shows the process of corrective action was working.

4. Updates—a. Department of Mental Health's plan to reduce wait times in emergency room

Alison Krompf, Deputy Commissioner, Department of Mental Health, explained that a 30-percent vacancy rate in the mental health workforce was the biggest barrier for moving patients from emergency rooms to stable inpatient or community-based care. The Department has been promoting that mental health work can be meaningful and rewarding work. Some of the challenges to retaining current workers were difficulties around child care, eldercare, higher pay, affordable housing, and safer working conditions.

Ms. Krompf informed the Committee of a new Centers for Medicare and Medicaid Services (CMS) rule that mandated all affiliated providers follow the federal employee vaccine rules, which would further exacerbate the workforce issues Vermont was already experiencing. Currently, there were 50 beds offline in the State mental health system due to workforce shortages. The designated agencies (DAs) and special service agencies (SSAs) have increased assistance to the mental health system but had experienced similar staffing issues. To retain and attract workers, the DAs have offered sign-on bonuses and more attractive pay.

Ms. Krompf explained that the market for traveling nurses had become an attractive alternative for the workforce. Hiring traveling nurses for mental health work has become less viable due to other health care sectors hiring these staff. Additionally, the extraordinary costs of

hiring traveling nurses had proven unsurmountable. The Agency of Human Services' immediate plan of action to respond to this workforce shortage was to invest \$2 million into the DA and SSA systems, where the funding will have the most impact. The Agency would explore other federal funding opportunities to support expected and continued needs in the mental health system and to provide more stable long-term funding through reimbursement rates to support staffing. In addition, now that children are eligible for COVID-19 vaccines and staff were required to be vaccinated, the workforce that are parents will hopefully become more comfortable with returning to work.

Ms. Krompf stated that inpatient alternatives for people in crisis were being discussed by the Agency and the mental health community. The Department was proposing to use the FMAP bump toward the Pediatric Urgent Care (PUC) mobile crisis response, exploring the use of the empath units within emergency rooms, and funding a CAHOOTs model for prehospital mental health crisis intervention. The CAHOOTs model was a success in the State of Oregon where Emergency Medical Services (EMS) responders worked collaboratively with mental health providers as an alternative to calling police or admitting the person into the emergency room when someone was experiencing crisis.

Representative Ancel asked if the Department was including staff and providers of hospital emergency rooms (ERs) within the stakeholder's groups conversations. Ms. Krompf responded that the Vermont Association of Hospitals and Health Systems (VAHHS) met regularly with hospital directors, and the Department had an engagement group of its own that met on a regular basis that included ER physicians. Representative Fagan asked for an update on the mental health mobile crisis unit for Rutland, and Ms. Krompf responded that the unit was functional but was not yet fully staffed. Representative Kornheiser asked for further explanation of a PUC, and Ms. Krompf explained that a PUC mobilized mental health staff directly to the site of the person in crisis. There were times that a staff's personal vehicle was used if a State van was not available. The crisis was generally low-level, but it was whatever the child or family defined as a crisis. Emergency crisis teams were short staffed, but the Department was working toward building teams that were within a certain area of each regional space to provide greater coverage of the State.

Senator Sears expressed concern for programs, such as Choices for Care, that were continually experiencing workforce shortages exacerbated by the COVID-19 pandemic. Ms. Krompf stated that the Agency shared the same concern, and the Department was working to expand, beyond its current scope, what professionals were available and determined appropriate to deal with people in a mental health crisis, as well as using virtual opportunities to leverage workforce gaps. Senator Kitchel asked how the Department would measure its goal to reduce the demand on ERs and stabilize mental health staff. Ms. Krompf explained that the question was complex and that the Department would need some time to respond after it reviewed all the points of the continuum and the data metrics available for all the variables. Senator Balint noted an earlier report that stated the Administration was paying between \$200 to \$250 an hour for traveling nurses and asked what the current rate was for traveling nurses to staff mental health needs. Ms. Krompf explained the demand was still extremely high and that the Department would need to research the current amount, since it was a moving target. Representative Ancel

asked if there was a public report on the number of people in the ER at a given time, and Ms. Krompf confirmed the Department would send a list of reports available to the Committee. Representative Hooper expressed concern for mental health community-based systems and the workforce crisis that could lead to a loss of this network.

b. AHS plan for moving hospital patients to nursing and rehab facilities and how it will be funded

Monica White, Commissioner, Department of Aging, Disabilities, and Independent Living (DAIL), explained the Department had identified 80 people in need for subacute beds in skilled nursing homes that were currently patients in the hospital. The Department authorized \$1.4 million of CRF emergency funding to three skilled nursing homes able to relocate additional staff through a contract with DAIL to open at least 80 subacute beds. These nursing facilities were in St. Albans, Rutland, and Burlington, and beds were funded for a two-month period to cover the extraordinary cost for staffing. The first set of new beds became available on October 20, 2021, the additional 60 beds were available by November 1, 2021, and all 80 beds, were filled by November 11, 2021. It was evident that there was additional need beyond the initial 80 beds and the Department was working with VAHHS and the Vermont Health Care Association (VHCA) to better understand the total need for subacute beds and what nursing facilities would have the capacity to support these types of beds. The initial CRF was available through December 31, 2021, and currently funded nursing facilities had the option of applying for continued financial support for beds if needed.

The Chair asked for clarification on the funding for the currently authorized 80 beds, funding for reauthorization of those beds, and the funding mechanism for any additional beds. The Commissioner explained the Department would first quantify the need for additional beds and those locations in need, and under a similar funding timeframe as the current program. The Chair asked if the Department reevaluated every two months according to the funding expiration and Commissioner White responded yes in a targeted manner. Representative Fagan inquired how many beds remained offline that could be available to meet these needs, and Commissioner White responded that September census data for nursing homes showed that of the approximately 2,900 facilities in Vermont, 2,200 licensed beds were unstaffed, which was a 23 percent vacancy rate. With the additional 80 new beds, there was a total of just over 600 beds offline. Senator Kitchel stated that a 20-percent vacancy rate would impact the rate setting structure that required a 90-percent occupancy rate. The Senator then asked if the Department planned to fund the continuation of nursing home staff shortages after the end of the year using the available \$17 million. Commissioner White deferred to the Secretary of Human Services' staff on the funding question.

Senator Westman expressed concern that hospital field nurses were leaving current positions to become traveling nurses because of the pay scale difference. The Senator quoted from a report data showing that 80,000 qualified people applied to nursing schools nationally and could not access a school due to teachers leaving to become traveling nurses. Additionally, the Copley Hospital ER had to shut down for the first time ever at one point due to a staffing shortage. Senator Westman suggested that nursing teachers be paid a comparable salary to traveling nurses.

5. Grants—a. JFO #3071 — Two (2) limited-service positions for the VT Department of Health: Recovery Substance Abuse Program Manager and Contracts and Grants Administrator. The positions will administer a COVID-19 specific supplemental award to an existing Substance Abuse Block Grant. These supplemental funds will address the increased incidence of mental health and substance abuse disorders exacerbated by the COVID-19 pandemic. Positions funded through 3/14/2023.

Paul Daley, Deputy Commissioner, Department of Health, explained the grant that allowed for two new limited-service positions to complete the work of an existing substance abuse block grant.

Representative Fagan moved to approve two (2) limited-services positions in the Vermont Department of Health, and Senator Balint seconded the motion. The Chair reminded the Committee that Senators Cummings and Sears were not able to vote per joint rules regarding participation via videoconferencing. The Committee approved the positions on a roll call of 8-0-2.

b. JFO #3070 – \$350,000 to the VT Agency of Agriculture, Food and Markets from the Northern Borders Regional Commission to execute competitive subawards for two to eight grantees. Awards will address critical infrastructure needs to help grantees expand their workforces and to gain access to larger metro markets.

The Chair explained the Agency of Agriculture, Food and Markets requested a revision to the grant, asking expedited approval to allow for grants to be awarded quicker.

Representative Fagan moved to accept a grant of \$350,000 to the Vermont Agency of Agriculture, Food and Markets from the Northern Borders Regional Commission, and Representative Kornheiser seconded the motion. The Committee approved the grant on a roll call of 8-0-2.

c. JFO #3073 – One (1) limited-service position: Broadband Project Developer to the VT Public Service Department from the Northern Border Regional Commission. The position will prepare the Communications Unions Districts for accessing the bond market, ensuring additional review of all operating agreements and partnerships involving the CUDS and private providers, and using innovative financial and data tools. (NOTE: Originally the grant was going to fund a contractor, but over time it has proven out that hiring a limited-service employee is a more cost-effective approach for this grant. Please see grant JFO #3047 for the original scope.)

Rob Fish, Rural Broadband Technical Assistance Specialist, Vermont Community Broadband Board, reviewed the grant and the change in the original grant approved #3047 (noted in italics of the grant summary). The original grant funding would be amended to allow for an increase in the amount of funding toward the grant project to enable the limited-service position to become full-time.

Representative Fagan moved to approve one (1) limited-service position in the VT Department of Public Service under a grant from the Northern Borders Regional Commission,

and Senator Westman seconded the motion. The Committee approved the grant on a roll call of 8-0-2.

d. JFO #3072 – One (1) limited-service position to the VT Agency of Human Services:

Administrative Services Director III. The position will provide vital logistics planning for the COVID-19 response, including testing, vaccination, procurement, and product distribution, and planning for future emergencies. Position funded through previously approved grant JFO #3045.

Representative Fagan moved to approve one (1) limited-service position in the Vermont Agency of Human Services, and Senator Westman seconded the motion. The Committee approved the grant on a roll call of 8-0-2.

e. JFO #3074 – \$57,947,977 to the Agency of Commerce and Community Development,
Department of Economic Development from the American Rescue Plan Act. Funds for a Small
State Business Credit Initiative (SSBCI) to increase and expand programs designed to increase
access to capital for small businesses.

Joan Goldstein, Commissioner, Department of Economic Development, and Cassie Polhemus, Chief Executive Officer, Vermont Economic Development Authority, reviewed the grant request with the Committee. The Commissioner explained that Vermont began the Small State Business Credit Initiative (SSBCI) in 2010 with \$13 million in federal funds to mitigate the effects of the Great Recession. Currently, Vermont was eligible to receive \$57 million of ARPA, and the Department sought the opportunity to split lending between venture capital or investment capital. The federal application guidelines request legislative approval for changes beyond the normal scope of the program prior to submitting the application. The approval was supposed to accompany the grant application submission by December 11, 2021, with a plan for use of the funds. The federal deadline to finalize the application was February 11, 2022. The work includes sending out an RFP to manage some of the equity funds.

Senator Kitchel explained the Chair and herself (Vice Chair) briefed the subject matter committee chairs prior to the Joint Fiscal Committee's meeting to gather feedback on the uniqueness of the grant. The Chair asked for clarity on the funding disbursements and the timeline and deliverables or targets to meet federal guidelines. Commissioner Goldstein responded the State must have proof of deployment to receive the first disbursement of funds that was 80 percent of the total grant. States can make changes to the grant application criteria, but the U.S. Treasury must approve those changes. Representative Briglin asked if the funding would remain within the Vermont Economic Development Authority (VEDA) as an evergreen loan to evolve and reinvest over time. The Commissioner explained that VEDA would have the ability to continually leverage and invest the funds from repayments of loans. Representative Briglin inquired how the success of the loan would be measured, and the Commissioner responded the initial application by the State must include projections of default rates and other criteria on the loans. In addition, the State must prove that for every federal dollar of investment, a private dollar was leveraged. Representative Kornheiser asked Ms. Polhemus for VEDA's response on the grants criteria for leveraging public funding to leverage private funding. Ms. Polhemus responded that in 2010, Vermont was in the top five states in the country based on

how much VEDA was able to leverage SSBCI funds through loan participation. The new grant guidelines were nothing new to VEDA or unachievable.

The Chair asked how the Department planned to meet the target of ensuring that all socially and economically disadvantaged areas of the State, under the federal guidelines of the grant, receive sufficient information and assistance to participate in accessing the funding. Commissioner Goldstein explained that the Department had planned for tremendous outreach across the State and applied for a new federal technical assistance component to states. There may be an opportunity for higher credit risk businesses to access funding with the federal government securing the loans. Ms. Polhemus added that VEDA was reviewing opportunities for leveraging funds in areas such as farm worker housing and commercial energy efficiency projects and understands from other agencies of the State how to leverage additional funding for these projects. VEDA had included in its mission its commitment to find ways to reach communities that it had not worked with in the past, planned to assist in its outreach to serve those areas of the State targeted through the grant, and hired a consultant to assist with the work of the loan program through its own funding. Commissioner Goldstein added that the Department planned to present to the Vermont Racial Equity Group for assistance on how to be successful in its outreach to the BIPOC community.

Representative Kornheiser asked if the loans could be used toward cannabis, and the Commissioner responded it could not. Representative Briglin inquired if any of the loan funding had a financial risk to the State. The Commissioner explained that 20 percent of VEDA funds, as the grant recipient, would be obligated for the loans and the State was morally obligated to financially back VEDA. The Chair requested the Department and VEDA continue to update the Committee on any application prior to its February 11 deadline and to focus on fewer-than-10 employee's small businesses under the federal disadvantaged criteria. Ms. Polhemus stated that with the 2010 program, the median business funding had eight FTEs.

Representative Fagan moved to accept U.S. Treasury funding for Vermont's allocation in the amount of \$57,947,977 to participate in the SBCI as funded in Section 3301 of the American Rescue Plan Act of 2021 to implement the SSBCI credit support program. The Agency of Commerce and Community Development (ACCD), as the State applicant for participation in the SBDC, shall delegate administrative responsibility for the program to the VEDA. VEDA, subject to U.S. Treasury guidance, will plan to use 50 percent of the funding for loans; and 50 percent for investment capital awards by contracting with one or more private investment capital managers selected through a public request for proposal (RFP) process.

The Committee included an additional request from the ACCD as follows: "ACCD shall submit to the Joint Fiscal Committee (JFC) for approval the final application prior to December 15, 2021. In addition, ACCD shall inform the relevant standing committees of the SSBCI plan on or before February 2022, and to report on the progress of this program annually for the duration of the program funding. Specific reporting of meeting the allocations allowed to small businesses with less than 10 employees and, as the allocation for socially and economically disadvantaged individuals and how Vermont BIPOC community is represented in rural and non-rural areas."

Representative Ancel asked for clarification on the motion with the word "accept" as opposed to "participate." There was a discussion on the motion and the wording because the funds and the grant were not available yet to approve. Catherine Benham, Chief Fiscal Officer, Joint Fiscal Office, commented that the federal guidelines requested legislative approval of the application.

The Chair summarized that the Committee would approve the participation in applying for the grant and the Department would send the application to the Committee electronically prior to the December 11, 2021, deadline for review and approval through electronic means. The Committee continued to wordsmith the motion. Jessica Hartleben, General Counsel, Department of Economic Development, confirmed the motion language would work for the grant application process.

Representative Fagan moved to amend his motion "to approve Vermont's participation in this initiative in order to access from the U.S. Treasury funding for Vermont's allocation, in the amount of \$57,947,977 in the SSBCI as funded in Section 3301 of the American Rescue Plan Act of 2021 to implement the SSBCI credit support program. The Agency of Commerce and Community Development (ACCD), as the State applicant for participation in the SSBCI, shall delegate administrative responsibility for the program to the VEDA. VEDA, subject to U.S. Treasury guidance, will plan to use 50 percent of the funding for loans; and 50 percent for investment capital awards by contracting with one or more private investment capital managers selected through a public request for proposal (RFP) process." Senator Westman seconded the motion, and the Committee approved it on a roll call of 8-0-2.

6. Fiscal Officer's Report

Ms. Benham highlighted areas of the report and pointed out that the Office was working toward producing a summary of the Federal Infrastructure Bill that was recently passed by Congress. The Joint Legislative Management Committee approved the Office's FY 2023 proposed budget. Ms. Benham informed the Committee that Mark Perrault planned to retire at the end of December and the Office was working through staffing his responsibilities until a replacement could be hired.

The Chair adjourned the meeting at 12:14 p.m.

Respectfully submitted,

Theresa Utton-Jerman, Senior Staff Associate Joint Fiscal Office

Link to recording: https://www.youtube.com/watch?v=XzG-YMoDBIM&list=PLbnqwN5CXkzmY7gWgrZ1dXI3XTC5bNuB0&index=30