

# MINUTES

## **Joint Fiscal Committee Meeting of July 24, 2007**

Senator Susan Bartlett, Chair, called the meeting to order at 9:45 a.m. in Room 11 of the State House.

Also present: Senators Cummings, Sears, Shumlin and Snelling  
Representatives Bostic, Obuchowski, Heath, Smith and  
Westman

Others attending the meeting included Representative Branagan; State Auditor Thomas M. Salmon; Joint Fiscal Office and Legislative Council staff; Administration officials and staff; representatives of the Vermont State Employees Association and of advocacy groups; and the news media.

### **APPROVAL OF PRIOR MINUTES:**

1. Representative Heath moved approval of the minutes of the meetings of November 9, 2006 and February 2, 2007. With the correction noted on page 8 of the November 9 minutes of "Senator Severance" to "Representative Severance, both sets of minutes were approved.

### **JOINT FISCAL OFFICE (JFO):**

2. Chief Fiscal Officer Stephen Klein elaborated on several topics covered in his written report. He then responded to inquiries about the Transportation Fund and the recently-reported purchase by the State of mobile units initially rented for temporary use by State office workers displaced as a result of health hazards associated with the State office building in Bennington. *[Note: See Item 8 below for a recap of the discussion pertaining to the Bennington matter.]*

Representative Heath brought up the continuing escalation in local education budgets and observed that municipal budgets also may have risen sharply. She asked if it would be possible to compile data on how much the latter have grown in the past few years, to which Mr. Klein replied that the Joint Fiscal Office will try to develop that history and post it to the JFO web site as an issue brief.

### **REPORT REQUIREMENTS IN 2007 LEGISLATION;**

3. At the Chair's request, Chief Legislative Counsel William Russell reported on legislative studies, both ongoing or carry-over as well as new ones mandated by the General Assembly during the 2007 session. He distributed a memorandum outlining cost estimates for meetings and projects in the current between-sessions interim, including a breakdown of each study with the number

of legislative members, cost per meeting per member, estimated number of meetings, and total meeting cost estimate for each. He noted that the estimates did not reflect any costs for staff time.

The total cost estimate for all the meetings and projects listed was \$178,566, an amount which has been allocated in the Legislature's current fiscal year budget. Ongoing or carryover studies from prior years are estimated to cost approximately \$92,206, while the recently authorized ones will cost approximately \$86,460.

The Chair explained that her reason for including this subject on the agenda is her concern over the burden on legislative staff of the large number of interim studies. She thought that as the 2008 session progresses, someone should keep track of how much work the General Assembly is generating for the Legislative Council and JFO staff, so that prior to adjournment a determination can be made as to what reasonable to accomplish and then set priorities.

**DEPARTMENT OF BANKING, INSURANCE, SECURITIES AND HEALTH CARE ADMINISTRATION (BISHCA) TRANSFERS:**

4. On behalf of the Commissioner, Deputy Commissioner Thomas Candon presented estimated final figures for fiscal year 2007 receipts available for transfer to the General Fund from the Insurance, Captive Insurance and Securities Regulatory and Supervision funds, as follows:

<u>Fund name</u>	<u>Amount</u>
Insurance Regulatory and Supervision Fund	\$12,986,944.17
Securities Regulatory and Supervision Fund	<u>3,452,352.05</u>
Total	\$16,439,296.22

As required in Sec. 382(a)(2) Act 65 of 2007 (fiscal year 2007 appropriations), the Commissioner of BISHCA certified in writing that the transfer of the unencumbered balances in these funds "...will not impair the ability of the department in fiscal year 2008 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners...."

Mr. Candon told the Committee that the total estimated amount of the transfers is slightly more than \$2.4 million higher than was expected at the time Act 65 of 2007 was passed.

The Committee adopted a motion by Representative Obuchowski to accept the Commissioner's certification relating to the transfer of the balances, with the understanding that if the amounts presented at this meeting were to change slightly, the adjusted figures would be relayed to the Joint Fiscal Office after the meeting and reflected in the minutes. [Note: BISHCA confirmed to the Joint Fiscal Office on August 22, 2007 that the figures submitted are final.]

**GENERAL FUND OUTLOOK:**

5. Associated Fiscal Officer Stephanie Barrett distributed and discussed a General Fund summary and outlook, comparing estimated actual revenues and appropriations for Fiscal Year 2007 with appropriations and projected revenues for Fiscal Year 2008 (assuming the Emergency Board at its meeting on this date adopts a new consensus forecast).

Also in the summary was a list of contingent or so-called "waterfall" spending included in Act 65 (Fiscal Year 2008 appropriations bill) based on the expectation of FY 2007 revenues exceeding the official forecast. In fact, those revenues exceeded the projection by \$27.4 million. After taking into account higher than expected direct applications and Transportation Fund receipts, the total General Fund revenue exceeded the target by approximately \$32 million.

Ms. Barrett estimated that \$10.45 million in unallocated FY 2007 funds will be available to fund FY 2008 budget adjustments and, if not all needed this fiscal year, FY 2009 spending.

**MEDICAID OUTLOOK:**

6. Ms. Barrett also gave a brief oral summation of the outlook for Medicaid. She said that forecasts on Medicaid enrollments and revenues would be presented for action by the Emergency Board today, although that body will be asked to postpone action relating to estimates for the Catamount Health insurance plan until next month, pending a federal government decision on a waiver pertaining to the percentage level of poverty it will cover. *[See also Item 9 below.]*

Among the information Ms. Barrett provided was that Medicaid spending in FY 2007 was approximately \$10 million below expectations, and that considerable work remains to close out the Global Commitment fund itself for that year. A report will be presented at the Committee's September meeting. In the meantime, she reported that it is likely the Global Commitment fund will be in balance for FY 2008, although there could be a small deficit overall in Medicaid. For the following fiscal year, however, the deficit projected overall in the Medicaid budget is \$39-42 million.

Representative Westman asked that the staff present at the next meeting an overview of overall Medicaid and the Catamount Health plan to enable the Committee to see how they funds flow among them. Ms. Barrett indicated that by September there will be a much better picture of the deficit situation. Responding to a comment from Representative Smith that it would be helpful to understand where in Medicaid the growth is occurring, she indicated that that has been an ongoing challenge but is becoming clearer and will be addressed in the next presentation on the subject.

## **FISCAL YEAR 2007 CLOSEOUT AND FISCAL YEAR 2008 BUDGET PRESSURES:**

7. James Reardon, Commissioner of the Department of Finance and Management, reported briefly on FY 2007 actual revenues as compared with the target figures for the General, Transportation, and Education Funds. He distributed a one-page summary which reflected that information and also cited expected budget pressures in the new fiscal year. In addition to the higher than projected revenues in the General Fund, he advised that the Transportation Fund experienced a \$3.03 million shortfall, or 2.36% compared with the official estimate. The Education fund was down about \$900,000, or .56% below target.

After commenting briefly on the FY 2007 performance of the major sources of General Fund revenue, he talked about known budget pressures for the current fiscal year. One is in the Transportation Fund, with an expected revenue shortfall and possible federal match requirements for town highway emergency funds required to ameliorate the significant damages caused by recent flooding in some Vermont communities.

Unknown is what the state will receive from the federal government for the Low Income Home Energy Assistance Program (LIHEAP), but Mr. Reardon considered it likely that funding for the program will be a significant issue for the state. Answering a question from Representative Obuchowski, he indicated that the Administration cannot defer developing a contingency plan for LIHEAP until there is federal action, because that would come too late.

Pay act funding across State government as well as medical inflation costs and the contract for out-of-state beds in the Department of Corrections are other areas of budget pressures cited by Mr. Reardon. In concluding, he made clear that he will scrutinize the FY 2007 year-end closeout situation in the Public Safety Department.

## **BENNINGTON TEMPORARY OFFICE UNITS:**

8. During both Mr. Klein's and Mr. Reardon's presentations, Senator Sears raised the subject of the recently-reported purchase of modular units to use as office space for workers displaced while unhealthy conditions in the State's Bennington office building are addressed. His concerns in essence were the lack of fore-knowledge on the part of legislators about the State's decision to purchase units originally intended to be rented, the cost and source of funding to buy them, and the wisdom of the purchase given that their intended use is relatively short term.

Commissioner Reardon was able to provide some information about the funding and rationale for the State's decision to buy the units. Senator Shumlin echoed Senator Sears' dismay over the fact that the Administration did not apprise legislators about this matter, and he asked for more details about the

decision and why it was made. Mr. Reardon said he would ask the Department of Buildings and General Services (BGS) to send a letter on the subject to the Committee. *[Note: BGS Deputy Commissioner Thomas Sandretto sent such a letter to all the members on August 10, and he attached a time line showing the progression of events, with dates, leading to the decision to purchase the units.]*

#### **MEDICARE PART D (PRESCRIPTION DRUGS) RECOVERY OF FUNDS – HUMAN SERVICES CASELOAD RESERVE ACCOUNT:**

9. Commissioner Reardon gave a brief update on the recovery from the federal government of State funds used to enable continued coverage of prescription drugs for senior citizens and others in need. Prior to the institution of the federal plan known as Medicare Part D, such assistance was funded through the State's Medicaid program. Originally the General Assembly authorized the borrowing of up to \$11 million from caseload reserve funds for this purpose, pending federal repayment of the amount expended by the State.

Approximately \$8.8 million had to be borrowed against the reserve account, and slightly over \$8 million of that has been paid back by the Centers for Medicare and Medicaid Services (CMS). Accrued anticipated payments from CMS total over \$475,000, although the Commissioner was unsure as to when the State will receive that money. Taking that amount into consideration, less than \$300,000 in funds have yet to be collected for Vermont to recover the full \$8.8 million borrowed from the caseload reserve funds.

Mr. Reardon acknowledged that pressures on the reserve funds may occur depending on the outcome of CMS' response to Vermont's waiver request to enable the State to use federal funds to help subsidize Catamount Health assistance for families between 200 percent and 300 percent of the federal poverty level. He promised to provide a full update on the subject at the September meeting.

#### **EDUCATION FUND BALANCE UPDATE:**

10. Stephen Klein and Stephanie Barrett reported briefly on the status of the Education Fund and responded to an earlier inquiry from Representative Heath about \$750,000 which had been carried on the General Fund side during the past legislative session.

Revenues into the fund in the fiscal year just ended revenues were about \$900,000 below the anticipated level, as Mr. Reardon earlier reported. For the current year, they are now expected to be approximately \$2.1 million lower than estimated amounts, for a total of \$3 million less revenue in the fund this year. The reserve in that fund will drop to about 4.5 or 4.6 percent, which is slightly less than the maximum 5 percent reserve that is required in the Education Fund. Mr. Klein explained that the impact of the \$3 million may become apparent during the process of calculating available money in Fiscal Year 2009 for reducing the property tax rate. There may be offsetting changes in the fund.

Mr. Klein and Commissioner Reardon indicated more information about this subject will be available by the September meeting and that a complete report can be expected in November.

**REPORT ON STATE POSITIONS AVAILABLE IN POSITION POOL:**

11. Linda McIntire, Commissioner of the Department of Human Resources, accompanied by Molly Paulger, Director of Classification and Compensation, presented a report on total positions available in the State's pool of authorized positions. The requirement to present the report prior to the Committee's July and September meetings was set forth in Section 7(c) of Act 65 of the 2007 session, which also called for the Commissioner's recommendations to reduce the total authorized positions in state government.

As background, the Chair observed that the House and Senate Government Operations Committees have been asked to look at how the pool concept works. She went on to explain that the tradeoff for the flexibility the pool affords is that information such as the growth or shrinkage of positions and the kinds of positions transferred among departments in State government no longer is readily discernible.

Commissioner McIntire reported that as of July 8, there were 127 positions in the pool, with 18 position pool requests pending. One hundred nine (109) positions will remain in the pool if all those pending requests are approved. At this time the Commissioner had no recommendations to reduce the total authorized positions, although the position pool process will continue to be reviewed frequently to ensure the pool is managed in the most effective manner possible. Ms. McIntire further reported that her department and the Department of Finance and Management are assisting the office of the Secretary of Administration in examining the current process, which may lead to a more comprehensive review method for all future position requests and possibly a recommendation to reduce the total number of authorized positions.

In response to specific questions and requests from Committee members forwarded to her prior to the meeting, the Commissioner also distributed a document tracking historical trends in the pool over the past four years. (*This information, along with the original report, is on file in the Joint Fiscal Office.*) She and Ms. Paulger replied to myriad Committee inquires about the information in the handout and how the pool functions.

There was considerable interest on the members' part about such details as the various types and numbers of positions moved out of and allocated to the pool by department and type; e.g., managerial, exempt, etc. Commissioner McIntire and Ms. Paulger indicated that they can provide a breakdown of such details. Of special interest to Senator Sears was that seven positions were moved into the pool from State's Attorneys offices, while apparently four

positions were assigned to them. He wondered just what all these positions were and was promised that those details would be furnished.

In summary, the consensus was that the Department should identify by titles and types the positions in various departments that were moved into and assigned from the pool during Fiscal Year 2007. Additionally, Senator Sears asked that at the September meeting Commissioner McIntire try to recommend what an appropriate size for the pool should be.

Following up on questions from Representative Obuchowski about tracking position changes under the pool process, Representative Heath expressed the opinion that an improved mechanism should be established to readily enable the Appropriations Committees during the budget process to understand such changes within each department. She thought a meeting among the chairs of those two committees, JFO staff, and the Commissioner of Finance and Management could help clarify a means of better assisting the committees.

#### **REVENUES AND ECONOMIC OUTLOOK:**

12. Tom Kavet, the Committee's economic consultant and revenue analyst, distributed his "July 2007 Economic Review and Revenue Forecast Update" which he also would present to the Emergency Board at its meeting on this date. *[The document is on file in the Joint Fiscal Office.]*

He went through the various sections of that document, discussing areas of particular interest to Committee members. While the U. S. economy is in its sixth year of expansion, growth has slowed. The slowdown reflects the situation in the housing and residential real estate markets, with a dramatic decline in housing starts and a substantial increase in inventory of unsold homes.

The severity of the national decline in the housing sector has been mirrored in Vermont, with a 44 percent drop in new residential construction starts since March 2006. The impact of the housing downturn, according to the report, is "a \$300 million economic downdraft that will affect jobs, income and spending throughout the next year and a half." Mr. Kavet's report also cautioned that the struggle of the Vermont economy over the past several quarters points to possible downside risks to revenues in the current fiscal year and in FY 2009.

Prominently mentioned by Mr. Kavet was the fact that participation and hence revenues associated with the new Streamlined Sales Tax Agreement (SSTA) have been substantially below expectations. Mr. Kavet observed that rarely does reality fall so far below even low-end expectations as has been true with the SSTA. Without federal action additional revenues will be limited.

A broad discussion focusing on housing and the overall economy followed Mr. Kavet's presentation.

**LIHEAP (LOW INCOME HOME ENERGY ASSISTANCE PROGRAM – PROPOSALS TO LEVERAGE MORE PRODUCT:**

13. Stephen Dale, Commissioner of the Department of Children and Families (DCF) presented a report in compliance with a requirement in Act 65 intended to maximize the State's purchasing power of fuel program benefits for LIHEAP recipients. Specifically, Section 142 of that legislation called for the Secretary of the Agency of Human Services (AHS) to propose to this Committee "...a margin over rack pricing agreement and a fixed price agreement for the purchase of heating fuel...."

The Commissioner, accompanied by Tina Wilder, manager of the fuel assistance program, said that Pam Dalley, the program's senior manager, could not be present because she was at an out-of-state-conference.

The document which Mr. Dale handed out was titled "Proposals to Leverage More Product." *[A copy is on file in the Joint Fiscal Office.]* Before reviewing its contents, he reported that this year the department has processed a record number of applications, doing so on an expedited schedule. He praised the work of Ms. Wilder and her staff for their outstanding work, whereupon Representative Obuchowski expressed the Committee's appreciation as well.

The report provided background dating to 2001 on participation of bulk fuel suppliers in the voluntary "summer fuel purchase program." Data was included which reflected the decline of dealers' participation over the years. While in 2006-2007 the State also offered an option whereby it agreed to a fixed price with individual dealers, as opposed to a cap price with downside protection, there was no significant increase in participation. For reasons explained in the report, the fixed price option led to a significant decrease in additional purchasing power leveraged from the program.

Three options for future consideration were outlined, accompanied by a summary of the benefits and/or deterrents of each: (1) fixed price; (2) margin over rack; and (3) continuation of the cap price with downside protection. Commissioner Dale reiterated AHS' recommendation in the report that for Fiscal Year 2008, the State should return to the cap price with downside protection. Although his department would take immediate action to implement this plan, he cautioned that such action would be contingent on the availability of funds for dealers prior to the start of the upcoming heating season.

The Commissioner also proposed that DCF establish a work group, the composition of which was set forth in the report, to further explore the various options and to develop a specific recommendation for Fiscal Year 2009.

Discussion and questions ensued, during which the Chair and Representative Heath expressed support for the idea of a work group. The latter



recommended that Maria Belliveau from the Joint Fiscal Office be included in the group.

The discussion ended with the Chair's observation that the Committee consensus appeared to support the cap price option recommended by DCF for the current fiscal year.

**PROCTOR CANNON:**

14. At the request of the Chair, Department of Housing and Community Affairs Commissioner John Hall was present to give an update on the status of a legislative mandate regarding the historic Proctor Cannon owned by the State. Language was included in Section 5a of Act 65 designed to resolve a dispute between State officials and Civil War reenactors over the safety of the cannon and to obtain an assessment as to its current value and condition.

The Commissioner told the Committee that in response to the legislative mandate, his department is negotiating a contract with a qualified expert for inspection and an assessment of the cannon. He also outlined his discussions with a representative of the Civil War reenactors over its possession and use.

Mr. Hall distributed information which supported his inclination that the re-enactment groups' firing of the cannon is unsafe and should be discontinued. He described in some detail the results of his research on the subject as well as the position of those who wish to continue firing it at Civil War reenactments. They have hired their own expert to examine the weapon and are awaiting his written report.

Committee members asked Commissioner Hall to forward to them copies of both evaluation reports.

**FUTURE MEETINGS:**

15. The following future meeting dates were set:

Tuesday, September 18

Tuesday, November 13.

The meeting was adjourned at approximately 12:40 p.m.

Respectfully submitted:

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Virginia F. Catone  
Joint Fiscal Office