

MINUTES

Joint Fiscal Committee Meeting of September 18, 2007

Senator Susan Bartlett, Chair of the Joint Fiscal Committee, called the meeting to order at 9:50 a.m. in Room 11, State House

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

Others attending the meeting included Representative Carolyn Branagan; Joint Fiscal Office and Legislative Council staff; Administration officials and staff; the Director of the Vermont Commission on Health Care Reform; and representatives of the Vermont State Employees Association and various advocacy groups.

APPROVAL OF MINUTES:

1. On a motion from Representative Heath, seconded by Senator Snelling, the Committee approved the minutes of the July 24 meeting with one correction (the spelling of Representative Branagan's name).

FISCAL OFFICER'S REPORT:

2. a. Fiscal Officer Stephen Klein introduced Nolan Langweil, who has replaced Steve Kappel as the staff's health care analyst. He then highlighted certain information contained in the written report distributed to the members in advance.

b. **Medicaid deficit update:** Associate Fiscal Officer Stephanie Barrett followed with current information on projected Medicaid state fund deficits for the current fiscal year as well as Fiscal Year 2009. Included in the agenda packets mailed prior to the meeting was her September 10 memorandum providing an update on Medicaid/Global Commitment, and at the meeting she handed out and discussed a sheet showing estimated figures, which reflected the July Emergency Board official projections. In the current fiscal year, the Medicaid deficit is projected to be slightly below \$1 million, but in FY 2009 it is expected to climb to nearly \$39 million with several key assumptions outlined in her memorandum. She told the Committee that only two years of data were depicted because she is still working with the Administration on the estimates for the subsequent three fiscal years.

Ms. Barrett also advised that the staff is working on breaking down Medicaid data for Fiscal Year 2007 in response to Representative Smith's request at the July meeting; however, that process is difficult and complicated by the two waivers for Global Commitment and long term care granted to Vermont by the Centers for Medicare and Medicaid Services (CMS).

Ms. Barrett replied to questions from various members about the Medicaid deficit situation and outlook. In reply to Representative Obuchowski's inquiry as to preliminary outlooks for the out-years beyond 2009, she estimated that \$25 million could be added to the projected \$39 million deficit for the following year, and about \$25 million per year thereafter.

c. Catamount Health update and issues: Jim Hester, Director of the Vermont Commission on Health Care Reform, briefed the Committee about an issue which has arisen with regard to the Catamount Health Plan. . He started with the reminder that if a patient uses a provider outside the network, the co-payments for medical care will be approximately double what they would be if the patient uses a provider within the network.

In essence, it recently came to light that the Dartmouth-Hitchcock Alliance has not signed an agreement to be a provider within the Catamount Health network. Community hospitals in the Alliance make their own decisions about whether they are going to participate in the Catamount plan, and some have opted to do so. Authority to determine whether Mary Hitchcock Hospital and the Dartmouth Clinic will be providers, however, rests with a contract committee. That group will make a final decision on September 25 as to whether those entities will participate in the program.

The members asked Mr. Hester many questions about health care in general. The Chair, referring to reports of increases in the cost of health care and insurance and in utilization, was interested in seeing a breakdown which would shed light on the reasons for these increases, including the kinds of health care being consumed; e.g. state-of-the-art treatment for infants, end of life care, etc. Mr. Hester reported that good information is available, such as cost per service, hospital visits, and cost per person for different kinds of physician visits. As for the large-scale drivers of costs, he named several contributing factors: the increase in the aging population, technology, and increasing incidence of treatable diseases.

The Director offered to prepare a summary of those major drivers for any particular population in which the Committee is interested. Representative Heath thought it would be interesting to see that information in terms of the age of the population as well as according to how people are insured. The Chair wondered about the percentage of bills that are not paid and the reasons for unpaid bills; e.g., Are they below cost reimbursement rates? Or are costs artificially inflated to take into account that some people don't pay their bills? He reiterated his willingness to prepare such information as Committee members would find helpful, suggesting a follow-up conversation to clarify just what that information would be.

Also of interest to Representative Heath was what she understands has been a significant change across the medical sector in cost shifting. Whereas it used to be true that the cost shift attributable to Medicare was much bigger in dollar terms than for Medicaid, according to one source the reverse is now true. After discussion of this issue and possible explanations, she indicated that it would be helpful to see that change

depicted in monetary terms. Mr. Hester thought the Vermont Association of Hospitals and Health Systems would have good information, whereupon Representative Heath said she would be interested for physicians as well.

FISCAL ISSUES UPDATE:

3. a. Human Services caseload reserve: As required by 32 V.S.A. §308b(b), Commissioner of Finance and Management James Reardon reported that in Fiscal Year 2006 there was no transfer to the Human Services Caseload Reserve. There was, however, other activity involving the reserve, as follows:

Reserve balance at July 1, 2006	\$ 8,454,751
2006 Act 91 §2, amending 2006 Act 84 §3(a) (Medicare Part D)	<u>8,525,426</u>
Reserve balance at June 30, 2007	\$16,980,177

In Fiscal Year 2006 a net amount of \$8,788,671 was transferred from the reserve To pay for pharmacy benefits for Vermonters that should have been paid under the Medicare Part D pharmacy benefit beginning January 1, 2006. By the end of Fiscal Year 2007, \$8,525,426 of that amount had been recovered, and in July of the new fiscal year an additional amount of approximately \$250,000 was collected. Approximately \$11,000 is needed to fully compensate the reserve.

Mr. Reardon commended the staff in the Office of Vermont Health Access, especially Patty Lorry Collins (*check her name*), for their outstanding work in recapturing the federal funds.

b. Budget instructions: Mr. Reardon's office sent budget instructions for Fiscal Year 2009 to all departments the week preceding this meeting. Departments were required to submit by October 9 level funded budget requests, including all special funds and payments to and from the Internal Service Fund. Requests for adjustments in current year appropriations also are due by October 9. Departments have been asked to identify fiscal problems as well as potential solutions.

Mr. Reardon's budget staff will meet with departments in October, after which Fiscal Year 2008 upward budget pressures will become clearer as will 2009 needs.

c. Budget pressures: In the transportation area, Commissioner Reardon identified several current year pressures: a revenue shortfall, town highway emergency funds, and money for the Emergency Relief and Assistance Fund (ERAF) which is used to match funds for Federal Emergency Management Administration (FEMA) dollars for federally declared emergencies.

In other areas, he pointed to the Low Income Home Energy Assistance Program (LIHEAP) and Corrections as candidates for possible funding adjustments. Although in August the Emergency Board authorized the transfer of \$6.4 million General Funds from Correctional Services to cover expected LIHEAP needs, money which will have to be

repaid, probably an additional \$900,000 will be required. Vermont did not receive federal contingency funds as hoped, although an estimated \$1.5 million may yet be forthcoming from authorized federal funds which have not been distributed. If not, the Legislature will have to address the shortfall in the upcoming session.

The Chair remarked that the State will not allow Vermonters to suffer from the cold due to a shortage of LIHEAP funds, and she reaffirmed that if sufficient federal funds are not forthcoming the issue will be addressed during the budget adjustment process. At this point Senator Sears strongly expressed his displeasure over the federal government's failure to live up to the states' expectations for helping their residents. Senator Snelling suggested that on a number of issues the federal governments has increasingly unreasonable assumptions regarding people's ability to save dollars month by month in anticipation of higher bills in the winter.

Senator Bartlett wondered whether the decrease in the significant amount of federal funds which flowed to the states for security purposes in the aftermath of the September 11, 2001 terrorist attacks means fewer positions are required in the Department of Public Safety. Commissioner Reardon said he intends to address that issue with the department.

An increase of as much as two to three million dollars is anticipated in the Corrections Department due to an anticipated increase in the per-bed rate charged for out-of-state incarceration of convicted Vermont offenders. Mr. Reardon also alerted the Committee that the department may be unable to absorb Pay Act costs.

Talking briefly about the Teachers Retirement system, the Commissioner anticipated that to implement the Governmental Accounting Standards Board (GASB) recommendations, the base would have to be adjusted by approximately \$35 million. Discussions on the issue are ongoing, but it is clear that resolving the situation will require a multi-year effort. Failure to resolve it means that the liability will be reflected on the State's balance sheets and ultimately may affect the State's bond ratings.

Referring to discussion at the September meeting about state government's position pool, Commissioner Reardon described his interest in having departments accurately reflect the pool concept in their budgeting practices.

d. Pay act funding levels: After reporting that he has informed departments that they will be allowed to carry forward Fiscal Year 2007 funds into the current year, the Commissioner said that in cases where those funds are substantial he has suggested the departments use them to cover the Pay Act.

He then gave a preliminary oral update about the status of Pay Act absorption across State government, in response to the requirement in Sec. 8 of Act 65 that he submit a preliminary plan at this meeting "on levels of funding for the pay act for fiscal year 2008 funding," said plan to "...outline the funds available and any additional offsets the commissioner is planning to offer to meet pay act requirements." Mr. Reardon

advised that a lot of issues have been raised regarding absorption of Pay Act costs and said he will present a full written report on the subject at the November meeting.

DEFERRAL OF WEB PORTAL BOARD REQUEST:

5. The Chair announced postponement until the November meeting of a request from the Web Portal Board for Committee approval of a transaction fee relating to online reinstatement of driver's licenses. The reason for the postponement was to allow Committee members additional time to learn more details of the request.

FEE-FOR-SPACE PROGRAM:

6. Gerald Myers, recently appointed Commissioner of the Department of Buildings and General Services (BGS), presented a report on the State's fee-for-space program. The requirement for "...an analysis of the fee-for-space program with the objective of determining appropriate rates to charge departments that use state-owned buildings..." and presentation to this committee of the analysis and any accompanying recommendations and proposed rates for Fiscal Year 2009 was set forth in Section 32(b) analyze the cost associated with operating state-owned, noncorrectional facilities in Newport, Rutland and Springfield.

Commissioner Myers distributed copies of a comprehensive document to comply with the Legislature's mandate, and he reviewed it orally with the members. (*The report is on file in the Joint Fiscal Office.*) A major point to which he returned several times during his remarks is that one of the top premises by which the State has operated for the past few years has been that rather than charge a department the actual cost associated with its occupancy of a given building, BGS has developed a district billing structure that reflects occupancy rates in a community or area. Thus, if there is a spike in costs, it is shared by all the State agencies or departments within a district. His report indicated that BGS cannot recommend a return to building by building rental rates.

The Executive Summary included in the report contained several recommendations, as follows:

- Retention of the current district wide billing structure;
- Retention of the current budgeting process and creation of the rental rate;
- Initiation of rates that reflect the lesser cost associated with storage space (as differentiated from office space);
- Invoice in real time on a quarterly basis; and
- Continued seeking of incentives to support energy conservation.

In the process of highlighting key areas of the document, Mr. Myers responded to specific questions about the fee-for-space program and costs associated with occupancy of specific buildings. Committee members were very complimentary about the quality of his report.

SCHOOL CONSTRUCTION UPDATE:

7. Catherine Hilgendorf, who is responsible for administering State aid for school construction in the Department of Education, gave an update on the status of that program in the current year. She distributed a spreadsheet reflecting new projects currently under suspension per Section 36 of Act 52 of 2007 (capital construction and State bonding).

Ms. Hilgendorf reviewed the information on the spreadsheet, which depicted by project category requests for funding in the current fiscal year; the State's outstanding obligations for school construction aid in FY 2009 that it has not funded; cumulative estimated needs for the subsequent five years; and carryforward balances for each of those years less an assumed annual appropriation of \$10 million. Estimates for unapproved projects were not reflected in the Fiscal Year 2009 outstanding obligations.

She observed that the process of paying off existing school construction obligations is a very slow process.

In response to an inquiry from Representative Heath about the true magnitude of the school construction funding problem, Ms. Hilgendorf said that the department regularly asks school districts for information about their long term construction needs. She was willing to provide the Committee with that information, although she cautioned that the results of the surveys are not very predictive.

REGIONAL ECONOMIC DEVELOPMENT CORPORATIONS:

8. Several individuals were present by prior arrangement to clarify the expectations regarding the following requirement set forth in the Commerce & Community Development-Agency of Commerce and Community Development-Administration appropriation (Section 218) in Act 65 of 2007:

- (a) The agency and the department shall present a report to the joint fiscal committee at its November 2007 meeting. This report shall include recommendations for potential changes to the current funding and structure of the state's regional economic development system. These may include expansion, elimination, or consolidation of regional development corporations.

The three individuals appearing before the Committee were William Noyes, Deputy Commissioner of Economic Development; Sam Matthews, Executive Vice President, Central Vermont Economic Development Corporation; and James Steward, Executive Director, Addison County Economic Development Corporation.