

ONE BALDWIN STREET  
MONTPELIER, VT 05633-5701

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SEN. SUSAN BARTLETT



PHONE: (802) 828-2295  
FAX: (802) 828-2483

REP. MARTHA HEATH  
REP. RICHARD HUBE  
REP. MARK LARSON  
SEN. RICHARD SEARS, JR.  
SEN. PETER SHUMLIN

**STATE OF VERMONT**  
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, November 12, 2009

Minutes

Members Present: Representatives Obuchowski, Ancel, Heath, Hube, and Larson and Senators Bartlett, Cummings, Sears, Shumlin, and Snelling.

Other Attendees: Representatives Branagan, Clarkson, and Komline, and Joint Fiscal Office, Legislative Council, and administration staff, and various media, lobbyists, and advocacy groups, and members of the public.

The Chair, Representative Obuchowski, called the meeting to order at 9:39 a.m. Representative Heath made a motion to approve the minutes of October 28, 2009 and Senator Cummings seconded the motion, whereby the minutes were approved.

**1. Fiscal Officer's Report**

Stephen Klein, Chief Fiscal Officer, Legislative Joint Fiscal Office (JFO), gave a summary of his report submission. Highlights included: the JFO budget submission is delayed due to an effort to coordinate legislative budget development and submission in light of the administration's request to implement an 8% reduction of all state budgets. Mr. Klein informed the Committee that due to the 2010 session demands on the current JFO and Legislative Council staff, the Blue Ribbon Tax Commission will be hiring its own staff person who will be funded by the Commission but operate from the JFO.

Mr. Klein submitted an article from the PEW Foundation on the fiscal rankings of all states nationally. The article ranked Vermont one of the lowest in state deficits. Possible reasons for this are that Vermont is able to handle fiscal challenges quickly, and in a bipartisan manner, and that Vermont does not allow for a citizen's referendum or two-thirds majority clause for budget revenue approval. Representative Hube asked whether Mr. Klein agreed with PEW's fiscal data for Vermont, and Mr. Klein responded that PEW overstated the positive aspects of Vermont's fiscal challenges, but did agree with the raw data. Representative Heath added that Vermont's low foreclosure rate may have also impacted PEW's determination for Vermont's positive ranking.

## **2. a. I. Medicaid**

Stephanie Barrett, Fiscal Analyst, JFO, reviewed correspondence with the Committee in August and September of 2009 on the rate setting from the Centers' for Medicare and Medicaid Services (CMS). Preliminary data for Medicaid's caseload were above initial projections; therefore, the state's Caseload Reserve would be dedicated to filling that fiscal impact. If caseload amounts continue to rise, then an anticipated carry forward for the FY 2010 Budget Adjustment Act (BAA) may not be available. The same outlook for FY 2011 is apparent, showing a caseload increase projection of 8%, with a \$20 to \$30 million pressure. Representative Larson inquired in what category of the Medicaid caseload was the increase developing, and Ms. Barrett stated it was in Aging, Blind and Disabled (ABD). She noted that an underlying base of the traditional categories such as the Vermont Health Access Program (VHAP) and Catamount Health Care was higher when projecting outward. She added that finalized data would be presented in January 2010 at the Emergency Board meeting.

## **II. Education Fund**

Mark Perrault, Fiscal Analyst, JFO, handed out a preliminary Education Fund Outlook for FY 2010 and FY 2011. The outlook indicated that education property tax rates will likely increase by 2 to 3 cents in FY 2011. This would be the first time that tax rates have increased since the implementation of Act 68 in FY 2005. The base homestead tax rate will increase from 86 cents to 88 or 89 cents, and the nonresidential property tax rate will increase from \$1.35 to \$1.37 or \$1.38.

Mr. Perrault also explained that the base tax rate on household income will remain at 1.8% in FY 2011. Although the *calculated* base tax rate on income will increase in proportion to the homestead tax rate in FY 2011, it will not exceed the 1.8% floor that was established in FY 2007. Consequently, the base tax rate on income will remain at 1.8% until the base homestead tax rate exceeds \$0.99.

Senator Sears inquired whether this will have a positive or negative affect on other homeowners. Mr. Perrault responded that even income-sensitized property taxpayers might see an increase in their education tax bills in FY2011 because their homestead property tax bills will increase but their property tax adjustment, which is based on FY 2009 income and tax assessments, will remain the same.

Senator Bartlett asked for the average per-pupil cost, and Mr. Perrault stated it was approximately \$13,000 to \$14,000.

Representative Heath queried if school budgets grew by 0%, how that would affect education tax rates. Mr. Perrault responded he would need to do further analysis, and that he would send the results out to members.

Representative Hube inquired when estimated education tax rates by school district for FY2011 would be available. Mr. Perrault explained that for most school districts, budgeted tax rates would be available around Town Meeting week in March.

Mr. Perrault explained that some funding components for the Education Fund would not be available after FY 2011, such as \$38.6 million in stabilization [ARRA] funds and an additional \$40 million in Title I and Special Education Funds that have been or will be distributed directly to school districts. To the extent that school districts used these funds for other than one-time expenditures, loss of these funds may put additional pressure on school budgets after FY 2011. Representative Ancel offered that a legislative briefing on Education Fund issues, by conference call, had been scheduled for November 18. Representative Heath mentioned a memorandum written by Bill Talbott of the Department of Education explaining how schools were using the one-time ARRA funds (memorandum will be entered into the record).

### **III. General Fund**

James Reardon, Commissioner, Department of Finance & Management, handed out 3 documents. He explained that the first handout was in response to Representatives Hube and Heath's inquires of changes to state employee positions from the beginning of FY 2008 to October 10, 2009. The second handout was a revised preliminary outlook of "Upcoming FY 2010 BAA Pressures" that included: a lower than anticipated Sarcoidosis Benefit Trust Fund deficit of \$135,000 rather than the projected \$400,000; the Petroleum Clean-up Fund may not be able to sustain itself, and therefore may need an infusion of \$250,000.

Commissioner Reardon agreed with Ms. Barrett's earlier testimony on the Medicaid BAA pressures. He confirmed the administration would have updated figures for the House Appropriations Committee's scheduled meetings on December 15 – 17, 2009 for BAA testimony.

#### **b. Report on Allocation of Funds Contained in Annual Pay Acts**

Commissioner Reardon explained the third handout summarizing the FY 2010 Pay Act Allocations Report. Representative Heath referred to the first handout, and asked for the total reductions of positions in state government, after all the position cuts, reductions in force (RIFs), and retirements that resulted in lost positions, since FY 2008. Commissioner Reardon stated he would get that data for the Committee. Senator Sears referred to the third handout, and inquired who the COLA increase referred to. Commissioner Reardon explained that classified employees received about a 1.7% increase in July 2009. Representative Hube asked, in relation to Representative Heath's request for additional position reduction amounts, how many of the positions were actual people. Commissioner Reardon stated that about 80% of the positions were filled, and that most others were vacant positions.

Representative Ancel inquired whether there were alternative ways of saving money in the state hospital canteen such as reducing staff or raising prices of products rather than closing it altogether. She explained that canteen privileges had been used as a reward system for patients and showed concern for removing that positive influence. Commissioner Reardon stated the administration would be moving ahead to close the canteen because he had not found an alternative proposal that achieved the same savings without affecting patient services. Senator Snelling added that she also had concerns for patients and the closing of the canteen, and offered that the Department of Mental Health was investigating alternative ways to achieve the same savings without the closure of the canteen.

Representative Obuchowski voiced concerns on the Swine Flu [H1N1] vaccine management and distribution issues, and added he would explain those concerns further in writing to the administration.

**c. Results of Administration's Tiger Teams**

Tom Pelham, Deputy Secretary, Agency of Administration, provided five handouts, and gave background information on the Tiger Team's activities and creation. The first handout included a list of the Tiger Team groups and its participants. The focus of the Tiger Teams' efforts to find state government savings was data driven. One area not on the list was the Department of Education (see joint letter from Commissioner's Vilaseca and Reardon).

Mr. Pelham referred to a handout from a contracted Medicaid Integrity Group (MIG) that reviewed Vermont's program for savings. He referenced a 50-state comparison web site, [statehealthfacts.org](http://statehealthfacts.org), linking to a data source from the Center's for Medicare and Medicaid Services (CMS) showing Medicaid payments from 2007. Since data lag at least a year behind, more current information was extracted from the Medicaid electronic debit system, EDS. Other data included a peer state review from Massachusetts, Rhode Island, Washington, Wisconsin, Maine, and New Hampshire on eligibility and payments for services. Mr. Pelham explained that data received last week from the Office of Vermont Health Access (OVHA) would enable profiling a specific population for additional revenue, such as access to a third party health insurer.

Mr. Pelham stated that further tracking object codes showed areas in which departments could find additional savings (see Brad Ferland e-mail handout). Representative Heath inquired as to what point the administration would have recommendations for savings in Medicaid. Commissioner Reardon explained those recommendations would be included in the Governor's proposed FY 2011 budget. Mr. Pelham further explained that detailed white papers with technical analyses would be included in budget recommendations. Representative Heath asked whether rejected savings ideas would be included in recommendations along with the reasons for those dismissals. Mr. Pelham agreed to include those components.

Representative Larson queried what the parallel was between the administration's Tiger Teams and the legislature's consultant's government accountability group, Public Strategies Group (PSG). Mr. Pelham explained that the administration would collaborate with PSG [legislature] to find budget savings, but Secretary Lunderville would make the final determination with the Governor and Commissioner Reardon as to which components would be included as a unified budget. Senator Snelling encouraged the administration to continue collaborating with PSG [legislature]. Representative Larson agreed with Senator Snelling and added that a collaborative approach to budget savings would enable a swifter and more unified state budget agreement. Senator Cummings asked whether the Tiger Teams will continue their mission into the future. Commissioner Reardon stated that the administration may want to engage the Tiger Teams in the future to identify savings ideas for out-year budget difficulties. Senator Cummings inquired whether the Tiger Teams focused on economic development tax credits as an area of savings. Mr. Pelham responded that they decided to leave those findings for the legislative committee, the Blue Ribbon Tax Commission, and instead focus on other tax credits, such as energy efficiency and conservation.

### **3.a. Chittenden County Pilot**

Barbara Cimaglio, Deputy Commissioner for Alcohol & Drug Abuse Programs in the Department of Health, provided a handout. She explained that since her last update on the Chittenden County Pilot project, Bill Young, Director of Maple Leaf Farm, has located a possible site for the new substance abuse program. After location of a possible site, the department received its budget instructions from the administration that included a 8% reduction for FY 2011, and, therefore, it became clear that, due to budget constraints, it would be difficult to proceed with the pilot. Commissioner Reardon agreed that any new projects, such as the Chittenden County Pilot, should be put on hold during the administration's budget reduction exercise for FY 2010 and FY 2011. However, he pointed out that there may be an opportunity in the Department of Mental Health to go forward with financing the pilot after the budget exercise had been completed. Senator Sears suggested directing a substance abuse program toward the nonviolent offenders that were incarcerated and in need of a substance abuse program. Commissioner Reardon agreed it was an area of concern. Senator Snelling stated that the pilot program was a critical piece in addressing a myriad of social problems, and she encouraged the administration to move forward with the pilot.

### **b. Choices for Care**

Senator Snelling (member of subcommittee) and Ms. Barrett reported on the subcommittee meetings and its conclusions. Senator Snelling stated that subcommittee conversations with stakeholders were very productive, and centered on multiple issues. The participants agreed there needs to be more cooperation and collaboration within the program. The group identified a number of questions regarding the state's ability to accomplish certain tasks, based on CMS' approval. Ms. Barrett stated there was a potential for administrative savings-reducing the burden on providers-by changing the structure of the program.

Ms. Barrett gave the background the creation and the charge of the subcommittee. She also explained the second component of its charge focused on the PACE program. In the Choices for Care Program there was a freeze on the moderate needs group by CMS, in order to redirect more funds toward the high needs group. Representative Heath (subcommittee member) emphasized CMS' rule change because of the new instructions to serve high needs groups before moderate needs groups, and it should be expected that a waiting list for moderate needs care will occur. She addressed another issue involving the department's finding a way to identify savings from serving people in the community rather than sending them to nursing homes. Ms. Barrett will continue to request information from the department to determine how many people are being served within communities, and whether savings are being achieved by pursuing this approach.

Senator Snelling reiterated her request to reconvene the subcommittee on Choices for Care before the next JFC meeting. Senator Bartlett showed concerns that Vermont's most vulnerable population was not getting the care it needed from the program.

#### **4.a. Electronic Systems for Filing and Paying Property Transfer Taxes Report**

Richard Westman, Commissioner, and Bill Johnson, Director of Property Valuation Review for the Department of Taxes, and Jamie Gage, Vermont Information Consortium, introduced themselves. Commissioner Westman explained that the department needed legislative approval to move forward with the electronic systems project. The department has worked extensively with town clerks and the legal community, and there appeared to be no negative feedback. The implementation date of the project was scheduled for January 2011.

Mr. Johnson handed out a summary of the online property transfer tax (PTT) return system, and explained a \$3 fee would be accessed on PTT returns to fund the project. He explained that the system not only reduces the paper required from town clerks and lawyers, but reduces costs for the department. Mr. Gage showed a PowerPoint presentation that demonstrated the project prototype. The Committee had no objections with the department proceeding with the electronic systems project. The department would need legislative approval for the fee.

#### **4.b. Current Use**

Representative Ancel (subcommittee member) gave an overview of the current use JFC [subcommittee] statutory language. Recommendations had been collected through a public meeting, and the subcommittee will continue working on those initiatives. Mr. Perrault handed out the subcommittee recommendation, and gave an overview of the five proposals. Representative Ancel mentioned that the subcommittee was working with the Department of Taxes on the proposals, but the administration had not given its feedback on the proposals. Representative Hube inquired if subcommittee discussion included: how many additional acres of land fell within current use guidelines; whether a cap should be imposed on the number of acres enrolled in the program; and if a cap on the subsidy of the program should be imposed. Darby Bradley, Vermont Land Trust, explained that there were approximately 2.1 million acres currently enrolled in the program (70% of eligible agricultural land and 50% of eligible forest land). There was a discussion on a moratorium or caps on the Use Value Appraisal, and reports on those discussions and others can be found on the Vermont Land Trust web site. Mr. Perrault offered that a more detailed report of the subcommittee proposals was available. Representative Ancel added that the proposals were being considered for draft legislation 2010.

#### **5. Revenue Update**

Tom Kavet, Legislature's Economist, provided a handout on the economic review and revenue forecast update. He stated that this was the first forecast within the last 18 months that did not include a downgrade. The stabilization of state funds was a result of the enormous federal fiscal and monetary policy, including the substantial federal fiscal relief of ARRA. Mr. Kavet indicated Vermont's financial recovery was still fragile. He explained that the positive news was that the bottom of the economic downturn probably occurred around August or September of 2009.

Representative Heath asked where the state fiscal risks were going forward. Mr. Kavet responded that the most notable area of state fiscal risk will be how the federal government handles the withdrawal of state support or possibly requests of additional infusion of federal support because states are so dependent on those federal funds. Deflationary prospects of

income and wages is another area of risk, and the challenges small businesses face trying to borrow in an already tight credit market gives concern.

Senator Sears asked for expansion on the comment about deflationary prospects for 2010 causing a possible double dip recession. Mr. Kavet responded that the income levels of workers could decline over time because of the slack in the labor market, which could then decrease purchasing power. Senator Sears inquired how the second home owners were being affected by the housing market. Mr. Kavet stated that property tax data indicated declining home prices, mostly vacation homes and secondary homes. Federal housing financial aid is targeted to primary homes, which shrinks demand for nonprimary homes, and creates pressure in that sector.

Senator Bartlett inquired as to what the range of possible future prices consistent with various assumptions and associated risks of oil prices. Mr. Kavet responded that oil prices are generally used as an inflation investment because of the projected weak U.S. dollar, and the markets need to invest in a viable commodity. Many of the more pessimistic scenarios he has reviewed from E.com, HIS Global Insight and EIA, have oil above \$125 per barrel in the next 2-5 years. . The \$120 figure cited comes from an EIA "high oil price case" scenario in which wellhead prices approach \$120 per barrel (current dollars) by 2011 and top \$125 in 2012. While the consensus forecast did not use this scenario in the current revenue forecasting models, it was considered in assessing forecast risks. Kavet offered that EIA's latest average calendar year estimate for West Texas Crude oil prices as \$62 for 2009, \$78.1 for 2010, \$88.2 for 2011, and \$97 per barrel for 2012.

## **6. Discussion of Process for Determining Background Growth Rates for the Vermont Economic Growth Incentive (VEGI)**

Representative Larson handed out an excerpt [page 38 – 39] of the auditors report on VEGI from June 12, 2008, and introduced the topic for discussion. He stated that there were concerns for incentivizing jobs through tax credits to businesses that may have expanded even without the tax credits. Due to the fiscal climate Vermont faces and the questions raised by the auditors report on VEGI fiscal inefficiencies, all programs should be subject for fiscal review.

Tom Salmon, Vermont State Auditor, handed out the report of June 12, 2008 in its entirety, and gave a brief overview of the report, and the state auditor's responsibility to find fiscal waste in state government.

Mr. Kavet recommended that the VEGI technical working group review the program in depth for inefficiencies, and then present technical options to the legislature.

Fred Kenney, Executive Director, Vermont Economic Progress Council (VEPC), provided a fact sheet about the background growth calculation and utilization, and gave a brief description of the VEGI program history. Because the program incents new start-up companies, historical payroll data are not available.

Jeff Carr, Consultant, VEPC, explained that the VEGI program was first developed in 1998 because of concerns of the Economic Advancement Tax Incentive (EATI) program fiscal inefficiencies. If VEGI's current model changed, the program's focus may then change from

incentivizing fast growing companies to larger, slower moving companies. Mr. Carr agreed that if there are concerns with fiscal inefficiencies in the VEGI program's outcomes, the technical committee should then review the program. He added that the VEGI program was instituted because there was no guarantee that the "but, for" from the VEPC [EATI] program would incentivize businesses that would have otherwise expanded anyway.

Representative Larson stated that due to the new state fiscal constraints, he encouraged the standing committees to review the program details for fiscal oversight and job growth opportunities. Representative Obuchowski clarified the request that the committees reviewing the program be the relevant committees for fiscal advantages. Representative Hube inquired how many businesses were participating in the program, and Mr. Kenney responded there were 30. Senator Sears showed concerns for making changes to the VEGI program when businesses are more fragile during the current fiscal climate. Senator Snelling agreed with Representative Larson's request to reexamine the program. Representative Obuchowski suggested the Committee request that the Senate Economic Development, Housing and General Affairs Committee and the House Commerce Committee review the program and its fiscal outcomes to the state. Representative Larson moved to request that the relevant standing committee reexamine the VEGI program with a starting point of the June 2008 auditor findings in mind. The Committee approved the motion.

Committee adjourned at 12:33 p.m.

Respectfully Submitted,

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Theresa Utton-Jerman, Legislative Joint Fiscal Office