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SEN. SUSAN BARTLETT

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

STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Tuesday, August 18, 2009

Minutes

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

Other Attendees: Representatives Branagan, Greshin, Jerman, A. Miller, Pugh, and Joint Fiscal Office, Legislative Council, administration, and VSEA staff, various media, lobbyists, and advocacy groups, and members of the public.

The Chair, Representative Obuchowski, called the meeting to order at 12:30 p.m. and outlined the rescission process. The Administration officials were requested to answer questions posed at the Legislative Joint Fiscal Committee (JFC) meeting of August 5, 2009.

Response to Questions Posed to Administration's FY 2010 Proposed Budget Reduction Plan

James Reardon, Commissioner of the Department of Finance and Management, and James Giffin, Chief Financial Officer of the Agency of Human Services, directed the Committee's attention to a written response from Joan Senecal, Commissioner of the Department of Disabilities, Aging, and Independent Living (DAIL), to questions from the JFC August 5 agenda item, Choices for Care. Senator Bartlett asked for clarification on the three risk groups. Mr. Giffin explained that the highest level of needs group is for individuals requiring 24-hour assistance and therefore in a nursing home. The high needs group have medical needs but not the severity to require nursing home care. The moderate needs group receives adult day care or home health care.

Mr. Giffin responded to Senator Bartlett's question that the DAIL nurses working in the community assess the needs of individuals to determine level of care. Senator Bartlett then queried how long individuals waited for an assessment and whether that timeframe and the assessment criteria varied around the state. Commissioner Reardon explained that there were some issues with counties using different assessment criteria and, therefore, evaluations were different and lagged in some areas of the state. He agreed, on behalf of the administration, to work with the legislature on the Choices for Care issues.

Representative Heath suggested appointing a JFC subcommittee to work with the administration on addressing issues in the Choice for Care program. She commented that she had been informed that some individuals in the program were released from nursing homes

without a plan for services. Senator Bartlett noted that a specific issue with the PACE program should also be addressed by the subcommittee.

Commissioner Reardon commented that the administration would reevaluate the source of funds for the rescission in the Adult Education and Literacy Program that achieved savings of \$1.8 million. He offered that state revenues were at 2005 levels, and that all areas of funding should be considered for addressing budget shortfalls, including the Education Fund. Senator Sears inquired if transferring education funds to the General Fund required legislative action. Commissioner Reardon responded that JFC could approve the rescission but a statutory change that included a notwithstanding phrase would need final approval from the legislature. Senator Sears explained that he was uncomfortable with how the legislature would react to the transfer of education funds and suggested there be further conversation before the 2010 legislative convened. Representative Heath clarified that if the legislature did not agree with the JFC actions, it could counter with a different reduction proposal during budget adjustment discussions.

Senator Bartlett highlighted concerns about the Vermont Health Access Program (VHAP) long-term care Medicaid Waiver base reduction not being reinvested. Commissioner Reardon responded that the reduction creates no adverse impact on seeking a renewal of the waiver. Representative Ancel asked if there were additional areas in the proposed rescission plan requiring legislative action. Commissioner Reardon directed the Committee to the impact statement section of the rescission plan for explanation and offered to list those areas requiring action in the budget adjustment.

Representative Hube asked for a matrix of state labor force data on cost savings and on position elimination of the last three-to-four years. Senator Cummings requested additional information on the age and years of service of all people R.I.Fed during the 2008 - 2009 period. Commissioner Reardon agreed to provide the informational matrix. Representative Larson inquired whether the administration agreed with furlough days as a cost-savings measure for state employees. Commissioner Reardon stated the administration would consider all proposals but clarified the administration was willing to make some temporary fixes, such as furloughs of state employees, until long-term sustainable savings were agreed upon.

Senator Sears commented that there are an estimated \$300 million in private contracts within the state budget, and he queried whether the administration had considered including those in reduction exercises. Commissioner Reardon responded the administration has been investigating contracts since legislation passed during the 2009 session directed the administration to achieve \$1.3 million in savings through personal services contracts. Senator Sears inquired as to what the larger contracts included, and Commissioner Reardon gave examples of some of the significant state contracts: corrections mental health and health care, Medicaid electronic data claims processing, administration of state health insurance, and out-of-state beds in the Department of Corrections.

Representative Ancel asked whether the administration had a goal in mind for sustainable labor costs for the state. Commissioner Reardon reflected on the 2008 workforce cost levels when the revenue downgrade began. Representative Ancel noted that it may be more logical to

have a workforce at the same level as the level in place in 2005. Commissioner Reardon agreed it was a possible outcome. He added that in order to have an effective workforce, the state should invest more in information technology. Senator Snelling asked for clarification on the growth of revenues, and Mr. Klein offered that revenues have grown 2 ½% over the last 10 years but the office uses a 3.5% growth rate reflecting projections through the next four years. Senator Snelling commented that it seemed more sustainable to match spending with current revenues, and Commissioner Reardon agreed. Senators Bartlett and Snelling highlighted the newly charged Joint Legislative Government Accountability Committee as the engine for finding sustainable budget savings. Representative Ancel inquired about questions posed on taxes during the August 5 JFC meeting, and Commissioner Reardon produced a memorandum in response to those questions.

The Chair recessed the meeting at 1:20 p.m. and convened a Public Hearing in response to the administration's proposed FY 2010 rescission plan.

The Chair adjourned the Public Hearing at 2:40 p.m.

The Chair reconvened the meeting at 3:17 p.m. and asked Commissioner Reardon to respond to an outstanding question posed by Representative Ancel on the effect on revenues from hiring three compliance officers rather than four in the Department of Labor (DOL). Commissioner Reardon introduced Patricia Moulton Powden, Commissioner of the Department of Labor. Commissioner Moulton Powden responded that the original proposal of four compliance officers was estimated to generate \$1.2 million; and that estimate assumed that 50% of workers, misclassified by the DOL as independent contractors, were in fact employees of a business and paying no income taxes. Estimates of misclassified workers are based on filed 1099 tax forms and registered as businesses, and therefore, paying some sort of taxes. The logic of starting with three compliance officers instead of four was a means of saving a position in the Division of Workers' Compensation until revenue generation is known. Commissioner Reardon offered that if the administration finds that the current reduced amount of compliance officers in DOL and the Department of Taxes forfeits revenue, it will reevaluate those positions. Representative Ancel commented that additional money would be generated from the compliance officer positions in Unemployment Insurance, and Commissioner Moulton Powden agreed. Representative Larson asked where DOL was in the hiring process of the compliance officers, and Commissioner Moulton Powden responded that a previous R.I.Fed state employee had recently assumed the new position, and that DOL had received 30 applications for a second position.

The Chair reiterated the rescission process and then opened the floor for committee discussion. Representative Heath offered a proposal to include a statement with the proposed rescission plan, if approved (see proposal – addendum “Committee Modifications and Comments”). She explained that the proposal included a six-member subcommittee of four JFC members and two members of the Health Access Oversight Committee members. The subcommittee would be charged with investigating the evaluation process and criteria of the Choice for Care program and issues around the PACE program. Representative Heath moved the proposal with further changes, including that the subcommittee meet with the administration, and institutional, and home- and community-based long-term care service providers. She further

explained that the Choices for Care program base reduction of \$731.372 was a FY 2009 carry forward and will be treated as a reversion. Senator Bartlett commented that in response to concerns from the public, the subcommittee may help the legislature better understand why the carry forward was not spent in FY 2009 since a waiting list existed for services.

The Chair asked the Committee whether it had the motion from Representative Heath in mind, whereby the Committee approved the motion.

The Chair asked for further discussion on the rescission plan, and Senators Sears and Cummings made a motion to include a statement on VSEA and administration bargaining discussions for a targeted savings of \$7.4 million (see proposal – addendum offered by Senators Sears and Cummings). The Chair clarified that the statement was only valid if the proposed rescission plan were approved, and that the proposal would be worded as a request to the administration.

The Chair inquired whether the Committee had the motion in mind, whereby the Committee agreed to accept the motion.

Representative Ancel made a motion to include an additional statement on the \$7.4 million in state employee target savings in the proposed rescission plan. The statement requested savings by alternative ways, other than R.I.Fs, and that if a union agreement was not realized by September 15, 2009, the Committee may start a process for finding savings. She further proposed that the statement be contingent on approval of the administration's proposed rescission plan.

The Chair asked the Committee if it had the motion in mind, whereby the Committee agreed to approve the motion.

Senator Bartlett moved to amend the Choices for Care addendum by adding a statement on the Catamount health care reduction of funds and commented that the approval of the funding reductions was conceptual with the full legislature to approve in 2010. Representative Larson voiced concerns that JFC was overstepping its statutory authority, and that he would have more comfort with future plans not including statutory requirements.

The Chair asked the Committee if it had the motion in mind, whereby the Committee approved the motion.

Representative Heath moved the administration's FY 2010 proposed rescission plan as presented and that the actions of the Committee be transmitted to the Governor forthwith. Representative Larson stated he could not support the motion because of primary concerns of not having a specific plan to reach the \$7.4 million state employee contract savings. Senator Sears stated that he would support the plan because the reductions were important in balancing the state budget. Representative Hube commented that it was hard to reconcile figures such as \$300 million in contracts, but he would support the plan. Senator Cummings stated it was difficult to support the proposed reduction package with no clear plan for the \$7.4 million target savings. Senator Bartlett showed frustration for the state employees who had taken the brunt of all the

combined reductions since the 2008 rescissions began. She reiterated the message to the administration that the workforce savings be accomplished without additional lay-offs. Representative Ancel stated that she would support the plan with a great deal of reluctance due to concerns regarding the negotiations between the administration and the union. She strongly recommended that the legislature not allow itself to be between the union and the administration in the future.

The Chair asked the Committee if it had the motion in mind, whereby the Committee approved the administration's FY 2010 rescission plan.

Representative Obuchowski asked that all the recorded telephone messages to JFC on the rescission plan become part of the record and thanked the Committee for its hard work.

The Committee adjourned at 4:20 p.m.

Respectfully Submitted,

Theresa Utton-Jerman, Joint Fiscal Office