

# Joint Fiscal Office

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## MEMORANDUM

To: Representative Michael Obuchowski, Chair, and Senator Ann Cummings  
Vice Chair, Members of the Joint Fiscal Committee

From: Stephen Klein, Chief Fiscal Officer

Date: July 8, 2010

Subject: July 2010 – Fiscal Officers Report

What follows is an update on post-session developments – some of which will be part of the July Fiscal Committee meeting.

### 1. FY 2010 Revenues and Closeout:

- a. FY 2010 – Revenues - Very preliminary results indicate that Vermont closed the fiscal year with revenues exceeding the official January General Fund (GF) forecast by about \$7.3 million. The Transportation Fund is expected to be \$500,000 over target with the Education Fund over forecast by about \$1.1 million. The final General Fund surplus number will be adjusted by the actual direct applications received, which may be slightly higher than the estimate. It will also be adjusted by \$1.2 million in property transfer tax receipts.
  - i. The General Fund's relative strength is due largely to corporate tax revenues, which are up \$11.7 million over estimates. This is in part due to the unitary tax provisions which capture revenue from multistate corporations, indicating some returning strength to Vermont businesses. Tom Kavet will be asked to provide more detail on this development.
  - ii. In June, estimated income tax payments and withholding payments exceeded targets, the monthly income tax receipts were up \$3.5 million, but for the year, income receipts were down by about \$6 million.
  - iii. Sales, rooms and meals, and property transfer taxes came in just over target, and combined, are above the forecast by about \$3.2 million.
  - iv. Early revenue returns indicate the Transportation Fund will end the year up \$500,000 with strength in purchase and use receipts and weakness in fees.
  - v. The Education Fund is up \$1.1 million with sales and use and purchase and use revenues being the key contributors to the increase.

- vi. Revenues will continue to be counted for much of July and so changes may occur as the books are closed on the fiscal year.

- b. FY 2010 - Closeout:

With the FY 2010 revenue surplus, we anticipate an overall closeout of \$8-\$10 million which can be used to address waterfall appropriations. This will not be sufficient to meet all the demands of the FY 2010 waterfall which could have absorbed \$13.3 million (\$6.9 million for the Education Fund and \$6.4 million for information technology projects.) At the meeting, we will provide an update on where the closeout appears to be heading. Closeout will not be finalized until the end of July.

## 2. FY 2011 and Beyond - Revenues and Budget Pressures

- a. The FY 2011 revenue forecast revision will be available at the meeting. The revenues through June were positive and, coupled with improving economic conditions, could indicate a limited improvement on the current forecast, but the variation is likely to be small. As you are aware, we continue to operate in a time of economic uncertainty which creates a difficult environment for forecasting.
- b. Probably the largest area of uncertainty is the final disposition of FMAP funding. The Legislature built about \$9 million into the FY 2011 budget from the federal FMAP extension. Specifically, we were to use \$5.2 million for corrections challenge investments, \$2.1 million for a one-time long-term care payment, and \$1 million for a hospital rate increase. Additionally, there was \$22 million in capital expenditures that will not happen, including \$12 million for major IT expenditures and \$10 million for the Vermont State Hospital. The IT expenditures may be covered in part by the waterfall; however, failure to cover these expenditures raises an issue as we are relying on them to produce savings in future year's budgets. The final \$23.4 million of anticipated FMAP extension funds were intended to be carried forward into FY 2012 to support Medicaid and the education fund.
- c. We also enter FY 2011 with a need to address the \$1,600,000 shortfall due to the current use legislation veto. Based on the forecast revision, the FMAP resolution, and other factors discussed in the health care sections of this memorandum, once closeout is completed, we will develop a picture of FY 2011 budget adjustment needs and FY 2012 deficit projections.

## 3. Health Care Reform

The decision not to require repayment by the Medicare Part D clients of the \$250 for pharmacy benefits will have a negative budget impact of about \$590,000 for FY 2011.

#### 4. Medicaid

- a. FY10 Year End:
  - ii. Enrollment for the year appears to be on track with the targets adopted for FY10 by the Emergency Board in January.
  - iii. The Global Commitment fund appears to be on track to end FY10 meeting the anticipated \$43 million (gross) balance that was planned on when building the FY11 budget, with a potential for modestly exceeding the target. All the year-end budgets for departments are not yet closed. Final numbers will be available later this month.
  - iv. Revenues into the Catamount Fund are lower than anticipated. The plan was to close FY10 with a positive balance of \$750k. Preliminary indications are that the year-end balance may not show a positive balance. Lack of a carryforward balance from FY 2010 creates a shortfall in FY11 that may need to be addressed in the Budget Adjustment Act, if other offsets are not available.
  - v. As a result of cigarette taxes coming in higher than expected, the State Health Care Resources Fund is ending with a balance that is \$2 million higher than anticipated.
- b. FMAP Issues caused by lower unemployment:
  - i. If Vermont does not receive the two-quarter extension of the enhanced FMAP, freed up general funds from the Medicaid program, transferred to the Human Serve Caseload Reserve, will go back to the Medicaid appropriation. Investments (VSH, IT, DOC, EF) planned from the extended FMAP are not likely to occur, at least not from the FMAP funds. The Ed Fund allocation and some of the IT investments may be covered by the FY 2010 year-end balance. However, investment of funds in the Department of Corrections, long-term care, and hospital rates are not likely to occur. The Corrections investments, in particular, create a significant gap in the FY 2011 budget. The loss of FMAP will mean we do not have caseload reserves to create a higher Global Commitment rate assumption in FY 2011. Our hope was to do that and potentially generate carryforward. The lack of this resource will increase the FY12 budget gap, pending new revenue forecast levels.
  - ii. Additionally, the Enhanced FMAP that was calculated for the first two quarters of the fiscal year was based on the assumption that Vermont would be in the highest tier. However, our recent unemployment rate is lower than expected, moving Vermont down a tier. This shifts the calculation for the FMAP for the first two quarters of FY 2011, increasing the state share by up to \$7 million. This funding shortfall will need to be addressed in the BAA. However, a federal extension of the enhanced FMAP would alleviate this problem.

- c. Global Commitment and Long-Term Care Waiver renewals:
  - i. At this point, it looks as if the state's approach to the Global Commitment waiver expiration and the long-term care waiver will be proposals for straight extensions with minimal changes.
  - ii. The extension period is generally three years; trend rates will be the main area of discussion in the extension negotiations. However, how these waivers interplay with federal health care reform remains an area of uncertainty.

**5. Catamount:**

- a. Present indications are that there will be no premium increases until January, at the earliest. This represents a small savings for the Catamount budget. It says little for long-term costs. Again, federal health care reform hangs over all of these programs.
- b. We remain concerned that the health care reform initiative respect existing waivers and allow for extensions of waivers for a limited period. It is likely that federal health care reform will be implemented over time. The ability to extend our current waiver would give Vermont time to make necessary adjustments.

**6. Department of Information and Innovation request**

The Department of Information and Innovation has developed the concept of an e-procurement site which should allow for faster and more economical purchases by the state by using a reverse auction approach to procurement pricing. Bidders would be able to submit competing prices that the state could use. A letter concerning this proposal and the relevant statute is in the mailing. Under the law that existed prior to July 1, 2010, such a proposal, and the related fees would require approval of the Joint Fiscal Committee. Under new law, the Joint Fiscal Committee would have the option of voting on the submission, a process similar to the one used now for grants. Given that the proposal was signed by the Governor on June 18, 2010, and submitted to the Joint Fiscal Committee on July 7, we have added it to the agenda for a vote of approval in order to avoid any uncertainty over the approval process.

**7. Legislative intent:**

The legislative intent document for the budget has been circulated and is available on our web page.

<http://www.leg.state.vt.us/jfo/Appropriations/Act%20156%20of%202010%20%28FY11%20Budget%29%20Statement%20of%20Intent.pdf>

**8. The Entergy Nuclear Vermont Yankee relicensing update:**

Our ENVY contracts are all extended through January 30, 2011, but we are not drawing on them. Arnie Gundersen will continue his monitoring work, but barring an unforeseen event, there will be limited activity until the next legislature provides guidance.

## 9. Education Fund Stabilization Reserve review:

16 V.S.A. § 4026(e) requires that the Joint Fiscal Committee review the education fund when anticipated reserves fall below 3.5%. It is expected that FY 2011 reserve levels will be close to this level, with FY 2012 estimated at 3.9%. Again, more will be known when closeout is finished.

## 10. Legislative Budgets:

- a. The Legislature's budget will close FY 2010 with an unallocated surplus of just under \$100,000, although the gross surplus (before anticipated obligations) will be closer to \$400,000. The Legislature's FY 2011 budget request included a deficit of \$250,000, with the understanding that we would work to achieve the necessary carryforward. Thus, the first \$250,000 of carryforward is dedicated to closing the FY 2011 legislative budget deficit. Additional obligations include outstanding FY 2010 invoices, and additional funding for the Challenges for Change work. The Legislature's FY 2011 budget, as is the case for all legislative department budgets, does not include any salary increases for employees. Those earning more than \$60,000 will continue with current furloughs.
- b. The Joint Fiscal Office ended the budget year with an unallocated surplus of just under \$70,000 and a gross surplus of about \$215,000. The largest part of the obligated funds pertains to the Tax Commission. The Commission's carryforward is \$145,000 which it is budgeted to spend over the next 14 months. The Commission received one-time funding for two or more years of work. It is anticipated that the current Tax Commission appropriation will last through FY 2011 and enable the Commission to take on the new responsibilities that it received regarding Education Finance in the Miscellaneous Tax bill.<sup>1</sup>
- c. The Legislative Council, the Sergeant at Arms, and the Information Technology departments all met or exceeded their carryforward targets. Furloughs will be continued, and there are no planned salary increases. The budgets will be managed with an awareness of FY 2012's tight budget environment.
- d. Work will continue with other staff entities on Legislative budget development and preparation. Nathan Lavery continues to be extremely helpful in working with all legislative departments on budget issues.

## 11. Vermont Economic Growth Incentives (VEGI) Cap

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<sup>1</sup> Section 35 of the Miscellaneous Tax Bill mandated that Vermont's Blue Ribbon Tax Structure Commission examine the State's education governance and finance policies. The Commission is charged with identifying the five most important short-term goals and the five most important long-term goals for an education system, designing a quantifiable nonmonetary measure of whether schools provide a "substantially equal educational opportunity" for student educational achievement, evaluating Vermont's current education governance and finance system, and drafting proposals for new systems of education governance and finance. Furthermore, the Commission is tasked with determining the proper level of funding for education in relation to the State's overall revenues. The Commission is required to report its findings to the Legislature by September 15, 2011.

Early in the session, the Emergency Board adjusted the cap for the VEGI program for one calendar year from \$10 million to \$23 million. As of 7/22/2010, the program had used the additional \$13 million and about one-half its normal annual cap. The companies authorized for VEGI incentives with activity commencing in 2010 project the creation of 1,256 full-time qualifying (above wage threshold) jobs over 5 years (2010 - 2014). A one-page summary of VEGI cap usage is attached for your review.

**12. The Transportation Agency VTRANS submissions include two reports which are transmitted to the Joint Transportation Oversight Committee:**

- a. **FY11 Project Status:** This report summarizes significant changes to planned FY 2011 project spending. The change in spending could be due to a number of factors, including a change in a project's scope, contract bids coming in above or below estimates, or an acceleration or delay in the timing of projects. The purpose of the report was to flag such changes so that JTOC members could solicit from VTRANS more detailed explanations for projects of interest. Since VTRANS is no longer testifying, if members want the background story on projects, contact Neil Schickner at JFO.
- b. **Contract bid awards vs. cost estimates:** This report compares contract bid awards to project cost estimates. The good news here is that the trend of bids coming in below estimates is continuing. Of the 35 contracts listed, 32 came in at or below the cost estimate, resulting in aggregate budget savings of \$20.8 million. Key points:
  - i. The savings of \$20.8 million includes both federal and state funds so the approximate breakdown is \$16.6 million federal and \$4.2 million state.
  - ii. Most of the contracts cover a multiyear period, so the savings will be spread over FY 2011 and FY 2012.
  - iii. Ironically, the savings make it more difficult for VTRANS to comply with the ARRA maintenance of effort requirements. The legislature gave the department some flexibility to address this issue as the requirements impact spending prior to the end of the FFY2010, ending in September 2010.

**13. Joint Fiscal Office Updates**

- a. **Staff Evaluation -** We have completed our legislative evaluation of our office. For the first time we used the Internet to conduct the evaluation rather than stamped mailing envelopes. We received about 80 responses which is the best in the years of doing the evaluation. Overall, the JFO score in all areas combined was 3.71 of a possible 4.0, the second highest score in the 6 biennium's that we have done the evaluation. Among the specific areas of concern were timeliness and responsiveness, especially to non-money committee requests. 94.4% did not have concerns about minority vs. majority party service but the 6%, or four responses that did

have concerns represent the most concerns which we have received, so it remains an area for staff attention.

- b. Richard Reed will be leaving our staff at the end of October. He has taken the budget computer to the point where it is operational. Nathan and Jeremy will pick up the operational end of things. He stayed considerably longer than the two years we anticipated using his services, and we appreciate his work. He will be available as a consultant on an as-needed basis. We will not be filling the position and expect this vacancy to give us some room to address the fiscal exigencies of the tight budget year ahead.
- c. The Joint Fiscal Office will issue an RFP for revenue estimation services on July 16, right after the fiscal committee meeting. We hope to have a proposed vendor selected for committee consideration by the September 10 meeting.
- d. Small (generally under \$20,000) contracts with Steve Kappel and Deb Brighton are being negotiated. Deb Brighton's contract is shared with the Administration, and we have agreed with them to raise her pay rate to \$85 per hour, consistent with the rate we offer Steve Kappel.
- e. Steve Gold will be conducting the evaluation of the Vermont Training Program which was passed as part of the Jobs bill. Up to \$15,000 of the costs are reimbursable from the Vermont Training Program.

**VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM**  
**CALENDAR 2010 CAP**

**CAP AS APPROVED BY EMERGENCY BOARD, JANUARY 22, 2010:**

Revised VEGI Cap for 2010:		\$23,000,000
2010 VEGI Incentives authorized prior to start of 2010:	-	<u>\$ 4,913,838</u>
2010 Cap Balance:		\$18,086,162

**CAP UTILIZATION AS OF JULY 22, 2010 VEPC BOARD MEETING:**

Revised VEGI Cap for 2010:		\$23,000,000
2010 VEGI Incentives authorized prior to start of 2010:	-	<u>\$ 4,913,838</u>
2010 Cap Balance:		\$18,086,162
Applications Authorized January 28, 2010:	-	\$12,556,600
Application Denied January 28, 2010:	-	\$ 162,473
Applications Authorized March 25, 2010:	-	\$ 67,953
Applications Authorized May 27, 2010:	-	\$ 230,094
Applications on Agenda for July 22, 2010 (Estimate):	-	<u>\$ 701,372</u>
Cap remaining for applications filed Aug-Dec 2010:		\$ 4,367,670