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# Joint Fiscal Office

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## MEMORANDUM

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

From: Stephen Klein, Chief Fiscal Officer

Date: September 8, 2010

Subject: September 2010 – Fiscal Officers' Report

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

1. **FY 2011 Revenues:** Revenues are tracking fairly close to targets through the first two months of the fiscal year
   a. General Fund – Through August, General Fund revenues are about $3.7 million ahead of target. This is due largely to a bank franchise tax settlement which was received in August. As you may remember, the Secretary of Administration reported that General Fund revenues in July were -$3.61 million, or -4.21%, off monthly targets. July income tax and corporate tax receipts were below forecast due largely to variances in processing. The Tax Department spent considerable time in June making education finance changes called for by the Legislature. Due to this additional workload on staff, refunds which might have been processed in June were processed in July. In August, even before the one-time bank franchise tax settlement, revenues exceeded forecasts by about $2 million. After two months, the fiscal year income tax revenues are on target while corporate tax revenues remain $1.7 million below forecast. After the end of the first quarter of the fiscal year, there should be a better indication of the trend in revenues.
   b. The Transportation Fund is on target with a slightly lower level of purchase and use taxes ($ -.7m) being offset by slightly more fee revenues (+$.8m).
   c. The Education Fund is $1.4 million below forecast with most of this related to lottery receipts, which are somewhat unpredictable. In addition, $.3 million of the shortfall is due to the purchase and use shortfall mentioned above.

2. **Revenue Forecasting Contract**: JFO will be recommending to the Committee that the Joint Fiscal Office complete negotiations on a new contract for Tom Kavet. While the proposal envisioned a two-year contract, JFO will be presenting the committee with an optional four-year proposal that involves

annual performance surveys. JFO would work with Mr. Kavet to develop performance thresholds. Attached you will find a memorandum detailing the RFP process and results. We will review this memorandum and our staff recommendations at the upcoming JFC meeting.

3. **The FY 2011 Budget Adjustment:** The FY 2011 budget adjustment pressures are still unclear. The identification of the full amount of "challenge" –related savings is expected to be the largest upward pressure. Costs in the Department of Corrections have been identified as a possible budget pressure. The July revenue forecast gave us about $4.7 million in "FY 2011 room" within the forecast to meet budget pressures. We also may have some room in the Medicaid budget to meet some of a potential shortfall. For example, 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. Commissioner Reardon will present a preliminary review of budget adjustment pressures at the upcoming JFC meeting.

4. **FY 2012, $112 Million Consensus Deficit:** The Joint Fiscal Office and the Administration have development a consensus estimate of the FY 2012 General Fund deficit that the state is facing. This deficit projection assumes that all of the Challenges for Change initiative savings are realized. In addition to the FY 2011 Challenges for Change savings, there is an FY 2012 target of $33 million in further savings. To the extent that these savings do not occur, the projected deficit will grow. The $112 million deficit is below the level estimated at the end of the legislative session, due to the improved July revenue forecast. Some projected increases in human services costs, and our assumption of no further erosion of the tobacco settlement funds, are countervailing upward pressures. A copy of the consensus deficit sheet is attached and available on the Joint Fiscal Office's website. Staff will review the deficit forecast at the JFC upcoming meeting.

5. **Health Care Developments:**
   a. Catamount Pricing - 33 V.S.A. § 1984(c)(2)(B) established a mechanism for which Catamount Health beneficiaries pay the difference between the premium for the lowest cost plan and the premium for the plan in which the individual is enrolled. Up until July 2010, premiums for both BCBS of Vermont and MVP Healthcare had been roughly the same. In July 2010, MVP premiums increased by $10 over BCBS. However, at the time, the Department of Vermont Health Access (DVHA) did not institute the increase to MVP beneficiaries because it was unclear if it would violate the maintenance of effort (MOE) provisions. In June, DVHA received clarification from the Centers for Medicare and Medicaid Services (CMS) that it would not violate MOE. As such, beginning in October 2010, MVP beneficiaries who hit their 12-month anniversary/renewal date will pay an additional $36 a month on top of their premiums. See attached memo that explains this in more detail.

b. Waiver Update - The Agency of Human Services is still awaiting word from CMS as to the status of the waiver renewal applications for both the Global Commitment 1115 waiver and the Choices for Care 1115 waiver. At this time, there is no indication as to when the status of these applications will be known.

6. **Federal Education Grant Update:** As you are aware, Congress recently enacted $19 million in assistance to Vermont to save or create elementary and secondary education jobs in FY 2011. In order to receive these funds, the governor must apply to the U.S. Department of Education and agree, among other things, to the following conditions:
   a. comply with maintenance of effort requirements for state support of elementary and secondary education;
   b. make awards available to school districts for use in FY 2011 (although under the Tydings Amendment, school districts may use these fund through September 2012);
   c. distribute funds either: (1) through the state's FY 2011 primary school funding formula; or (2) on the basis of the school district's share of under Title I of the ESEA.

   The application for these funds must be submitted by September 9, and the Administration intends to apply. Although school districts have the discretion to decide how to use program funds, the commissioner of education has suggested that school districts should be encouraged to retain their program funds and use them to meet the FY 2012 spending targets set last session. To meet the spending targets, school districts would have to reduce spending statewide by $23.2 million. If this approach is taken, it should be noted that the distribution of the program funds to school districts, under either permissible method, would not match the spending reductions required by the targets. A way to address this issue would be to ask the education department to revise the spending targets to match the distribution of program funds. The Administration is reportedly going to propose further reductions in FY 2011 that offset these funds. This approach would effectively force all school districts to use their program funds this year and would free up $19 million for other purposes. Although this would appear to be contrary to the intent of the program, it is likely doable; however, it would require legislative approval.

7. **Education Fund Stabilization Reserve review:** At this point, we have posted a September 2010 Education Fund Outlook on the JFO website, indicating that FY 2011 and FY 2012 reserves are expected to be at, or in excess of, the 5% required by 16 V.S.A. § 4026(e). For FY 2012, the Education Fund Outlook is built on an assumption that the Education Fund receive its full statutory General Fund transfer (less challenge for change savings) which represents a $47 million increase over FY 2011, and the Education Fund also receives $6.9 million in Special Education Medicaid receipts, which went to the General Fund in FYs 2009 and 2010.

8. **The Entergy Nuclear Vermont Yankee relicensing update:** There have been several developments involving ENVY.
    a. First, the State Auditor issued a report calling for more frequent reviews of the Decommissioning Fund. The Auditor concluded that the current requirement for the State to review the adequacy of the trust fund to meet all cleanup obligations every five years is not frequent enough. He said, "Given the speed at which the financial investment markets can turn these days and the possibility that other significant changes in circumstances might occur during the period between the State's reviews, we suggest more frequent comparisons of expected decommissioning costs and anticipated trust fund assets."
    b. Second, ISO-New England, the operator of the New England power grid denied Entergy's request to de-list (not be committed) for power year 2013-14. ISO said that Entergy is necessary to maintain reliability for the New England grid (based on an analysis done by ISO). ISO then said that its **reliability** determination has no bearing on whether VY gets its license renewed; the NRC will make that decision/determination.
    c. Third, *The Energy Daily Network,* a subscription-only online newsletter that covers the energy industry, was quoted in several Vermont news outlets as having reported several weeks ago that Exelon Corp. and NRG Energy Inc., have expressed an interest in buying the Vermont Yankee nuclear power plant in Vernon. Entergy declined to comment on this, but Mike Burns of Entergy did say "we have said that as part of Entergy's ongoing point-of-view-based strategy, we would consider buying or selling any asset or business depending on what option creates the most value." If they were to sell the plant, they would have to notify the Public Service Board. The Board would open a docket, and such a sale would be subject to approval.

9. **Capital Debt Affordability Committee Recommendation:** The Capital Debt Affordability Committee recommendation for FY 2012 will be constructed to allow a legislative option of one of two approaches. The first approach would be a traditional annual bill capped at $87,130,000 – an increase of more than $15 million from last year. The second option will allow the Legislature to make a two-year appropriation, not to exceed $159,290,000. Details and the formal recommendation are still being developed. The two-year option would enable the Legislature to address some major projects which could be moved forward with a two-year authorization. It may also allow the State to take advantage of the current interest rate and cost bid environment, which is very favorable.

10. **Vermont's Blue Ribbon Tax Structure Commission:** The Commission's charge is to create clear, principle-based concepts to improve individual tax types and the entire tax system. Currently, the Commission is developing specific reform models for Vermont's personal income tax, sales and use tax, and other tax types. It is anticipated that the Commission will have preliminary reform ideas by October, and engage in a public input process late this Fall. The

Commission intends to release its final recommendations before the next legislative session. Michael Costa, the Commission's Staff Director, will be invited to the November JFC meeting and will provide an update on the specific directions the Commission is taking.

11. **Joint Fiscal Office Updates:**
    a. Web page – The Office is in the process of revising its website to make it more user friendly and increase information accessibility. The completion target is October or November.
    b. Enclosed with this report are two support letters received for the Department of Information web proposals. The International Truck Transit Registration letter from Senator Mazza, and the Property Transfer Tax Automation letter from Ellen Tofferi, the acting Commissioner of the Department of Taxes. These documents are referenced under the Web Portal Board section of the enclosed JFC agenda.