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STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, July 21, 2011

Minutes

Members present: Representatives Ancel, Branagan, Heath, and Larson, and Senators Cummings, Kitchel, and Sears.

Other Attendees: Tom Salmon, Auditor of Accounts, Senator Sally Fox, Representative Sarah Copeland-Hanzas, Administration, Joint Fiscal Office, and Legislative Council staff, and various media, lobbyists, advocacy groups, and members of the public.

Conference Phone: Senator Hinda Miller, Representative Dakin from Chester and others.

The Chair, Senator Ann Cummings, called the meeting to order at 9:36 a.m. Senator Kitchel made a motion to approve the February 9, 2011 meeting minutes and Representative Heath seconded the motion. The Committee adopted the minutes.

A. Special Briefing on Health Care Reform:

Robin Lunge handed out four documents, and gave highlights that included the Green Mountain Care Board's (the board) focus and work as it pertained to Act 48 of 2011. In responding to Senator Kitchel's question on a planning grant application, Ms. Lunge explained that the board was planning to apply for a one-year, million dollar federal grant, and that the grant could be reapplied for in future years (see handout). Nationally, Vermont is either in line or ahead in applying for the grant. The board anticipated the application to be submitted in September with a 45-day turn around, planning for a response in November. If Vermont receives the grant, the funds would assist in a gap analysis of information technology health care planning.

Ms. Lunge passed out a document listing the Act 48 Implementation Teams with the lead person/s who are responsible for reports due. Representative Ancel queried what the board role was on financing and how it related to the core teams. Ms. Lunge responded that the Secretary of Administration was responsible for coming to the Legislature with a plan in January 2013. When the plan is approved, the board would then have a role in following the plan but not for the creation or approval process. Anya Rader Wallack, Special Assistant to the Governor, offered that the board may have a role in a couple of areas of the financing plan in the benefit area and quantifying available federal funds, such as Medicare and Medicaid.

Ms. Lunge continued with the overview, explaining the current summer's work focus. She touched on the future timeline of the Blueprint for Health (Blueprint), and Ms. Rader Wallack noted that the administration anticipated that by the end of 2011, 50% of the state would be served by a Blueprint-participating primary care practice.

Ms. Lunge explained that the administration's public engagement strategy is based on existing boards where practical. State agencies, departments, and other organizations are encouraged to list all meetings on the Public Meetings Website, on the Department of Libraries site. Ms. Lunge added that the Blueprint for Health met its milestone this summer by engaging health care providers and Vermonters concerning the new health care model. There are now 53 recognized Blueprint primary care practices in Vermont, 250,000 people covered, and at least one primary care practice in every hospital in Vermont. A current proposal to further engage providers was to include incentives that included bringing specialists into the medical home model.

Ms. Lunge's enclosure explained that Act 48 required an RFP for a full assessment of the Health Information Technology (HIT), of which BISHCA has received several bids. Senator Fox inquired whether the new federal health care regulations specifically impacted this process. Ms. Lunge answered that the proposed 150-page regulations establishing the exchanges were just released the previous week and allowed for a 75-day response timeline for comments. She further added that the proposed regulations appeared to have nothing particularly alarming on preliminary read. The administration may submit comments on smaller issues, such as the medical homes criteria flexibility. Ms. Rader-Wallack added that the administration did submit comments on another set of regulations released on Medicaid waivers this past spring but have not received the final regulations yet. In answering Senator Kitchel's questions, Ms. Lunge explained that the federal government was due to release regulations around the health insurance market and expects those by November or December of 2011. Senator Sears inquired of the timing for the implementation of the board, and Ms. Lunge stated the administration was anticipating its first meeting October 1.

In response to a question from Tom Salmon, State Auditor, in the audience, Ms. Lunge explained that the RFP for the new MMIS was a new Medicaid claims process system that will be reissued as a result of Act 48 requirements and new federal IT guidelines. Ms. Wallack Radar added that the RFP was written prior to the health care policy was established by the new administration. Representative Heath asked what the new timeline was for the RFP, and Ms. Lunge replied that additional technical expertise had been hired to do a reassessment of information technology and give comments on the RFP before sending it out.

Senator Kitchel stated that the legislature had discussions of the board description and compensation during the session, and she queried why the hours are described in the notice of hiring. Representative Larson (also member of nominating committee for the board) explained that the nominating committee added the specific hours of work to provide clarity to candidates applying for the positions. He also announced that his resignation to the legislature would be on August 16, in light of his new position as Commissioner of DVHA.

B.1. – Fiscal Office's Update/Issues - Fiscal Officers' Report

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, highlighted areas of the fiscal officers' report. The Lawrence O. Picus and Associates contract was in the process of signature. Picus' Team was scheduled to meet with the special [education finance] Committee on August 3, at 3:00 p.m. for introductions. A list of references for Picus and Associates was available upon request. The references were positive. In Washington State, Mr. Picus had a policy-based difference of opinion with another education finance expert on whether education funding was important to educational outcomes. Mr. Picus holds the belief that funding does impact education quality.

A performance evaluation of Tom Kavet (Legislative Economist) was sent out to members and staff. A new evaluation of forecast numbers versus actual numbers will be sent along with the final annual performance evaluation on Kavet in a few weeks. JFC is scheduled to meet the last week of September (date to be determined) and November 8. There may be a Legislative Briefing on November 10 to all members.

B.2.a. – Education Fund Update

Mark Perrault of the Joint Fiscal Office gave an update of the status of the education fund. At the end of the session, the operating statement was \$600k short of a full education fund reserve (4.9%). Due to stronger than anticipated revenue increase, the reserve fund will be full (5%) with a surplus of slightly more than \$3 million. The revenues responsible are the purchase and use tax, the lottery, and the sales tax. Final numbers for FY 2011 have not been calculated so are subject to change.

B.2.b. – Medicaid Update

Stephanie Barrett of the Joint Fiscal Office handed out and summarized the contents of the report on Medicaid for Fiscal Year 2011 (year-end). The most important areas were explained to the committee. Fiscal Year 2011 Medicaid enrollments were below estimates, causing expenditures in Global Commitment and long-term care to come in lower than anticipated. In total, expenditures were lower than expected, about \$80 million of funds were unexpended Global Commitment, but the FY 2012 budget estimate anticipated around \$48 million of this already. The unallocated amount for Global Commitment was \$31 million, of which about \$10 million is state funds.

The State Health Care Resource Fund and the Catamount Fund for FY 2011 and FY 2012 are anticipated to have modest positive balances. This is primarily due to cigarette tax coming in slightly above estimates, and the employer assessment up \$1 million above estimates. JFO and administration staff suggest combining the two funds, while still tracking expenditures by program, on a monthly basis.

Senator Campbell inquired whether there would be an economic impact to Vermont from New Hampshire's action to defund Planned Parenthood. Ms. Barrett responded that no impact was included in the FY12 budget as passed, and if there is an impact to Vermont, the budget adjustment process would be where this type of issue would be presented. Commissioner Reardon offered to make an inquiry to the Agency of Human Services to track possible issues from New Hampshire's action.

C.1.a. – Administration – Financials – BISHCA Transfer of Unencumbered Balances

James Reardon, Commissioner, Department of Finance & Management, and Sandra Barton, Business Manager, Department of Banking, Insurance, Securities, & Health Care Administration (BISHCA), explained that information sent previously to the committee showed an excess of \$53k over forecasted amounts in FY 2011, which was transferred to the General Fund.

C.1.b. – Update on Surplus Lines Compact

Susan Donegan, Deputy Commissioner of Insurance, BISHCA, handed out a summary sheet and gave background information on Act 49 of 2011 and a status report of the surplus lines multi-state compact. The New England Insurance Compact (NEIC) agreement was created after the Dodd Frank Wall Street Reform and Consumer Protection Act (H. R. 4173). There has been no

fiscal impact to Vermont from the compact so far, but once the compact is fully operational, the fiscal impact will need to be reassessed. BISHCA will continue to collect surplus line tax until the compact is up and running.

Ms. Donegan further explained that surplus lines include non-admitted and non-licensed insurance policies outside Vermont's borders that make up Vermont's gap of casualty insurance. The tax collected from these policies has been just under \$1 million, and when the compact is operational, Vermont would lose about \$200k a year.

C.1.c. – Base Reductions: FY 2012 Status Report

Commissioner Reardon gave the committee a handout and explained that \$5 million was allocated to departments, and that amount should be returned through labor savings. Five million gross (\$2 million General Funds) of the labor savings would be achieved through the Vermont State Employees Association's contract that allows the state to increase the employees' portion of retirement savings. An estimated \$2 million in savings are anticipated in health insurance and about \$250,000 in voluntary reduction of work hours.

Representative Ancel inquired whether there was an issue of supervisors making it difficult for employees to take the voluntary reduction of hours. Commissioner Reardon stated that around 100 employees were approved, but he did not have a count of how many applied. He offered to forward the question to the Commissioner of Human Resources for a response.

Commissioner Reardon stated that it was unlikely that the state would achieve the \$12 million in savings, but would be ready to give another update at the September JFC meeting. The administration will continue to try and find as much base savings as possible.

C.1.d. - Preliminary Closeout Report and Budget Adjustment Pressures

Commissioner Reardon, using the same handout as previously, explained that the FY 2011 revenue was \$40 million above the January 2011 consensus forecast that was approved by the Emergency Board. Revenues have gone up a total of about 11% over the past year, but are still below the FY08 level.

Commissioner Reardon explained that \$10 million was allocated and the remaining funds are placed in the human services caseload reserve in Act 63 of 2011. The Commissioner also explained that the UI interest payment estimate is now \$2.5 million lower than the previous estimate of \$3.6 million. Representative Heath inquired whether the federal government was still considering excluding states from paying back UI benefits. Commissioner Reardon said it was unknown but unlikely.

The administration has advised that all state agencies and departments draw-down any federal funds owed to the state by next week in case the federal government were to shut down for a time from stalled congressional talks on the debt ceiling.

Commissioner Reardon continued the summary of the FY 2011 preliminary closeout and added that the state's abandoned property funds may exceed estimates, but that number was not yet available. The \$11 million that was promised to higher education would be transferred to the Higher Education Trust Fund. The Global Commitment fund ended with a positive balance again and

review of the base levels of projected expenditures in that program will be reviewed by JFO and administration staff.

Projected FY 2012 upward pressures include the Sarcoidosis funds for claims which are funded on a pay-as-you-go basis and vary annually. The FY 2011 Renter Rebate program experienced an increase in applicants due to legislation mandating landlords' delivering rebate certificates to lessees. The program has an estimated request of \$1.2 million to the General Fund to cover this influx. The Commissioner requested that language be proposed in the FY 2012 Budget Adjustment bill to identify and permit the transfer of funds to the Tax Department to cover checks sent at the end of the fiscal year.

Commissioner Reardon admitted that placeholders for Spring flood relief to municipalities and individuals, and state litigation costs were only broad estimates. The litigation estimate could include court costs from the data mining case, the Entergy case, or others. The Commissioner updated the committee on the State Hospital recertification status, noting that the state would be reapplying for recertification in September. Because of the timeline for the post-application period for surveys and the period of assurances, Commissioner Reardon doubted the state would see recertification by January 1, 2012.

The Commissioner pointed out that the estimated revenues of \$1.9 million from federal prison bed rentals could not be fully achieved; therefore, the BAA amount of \$500,000 was added to the list of projected budget adjustment needs. Senator Sears complemented the commissioner of the department of corrections and others for the savings they have produced. There may also be an additional \$2 million upward pressure in the department but the commissioner of corrections was confident that an internal solution would resolve the issue.

The Commissioner concluded with a list of possible areas for one-time funding needs, including increasing the Budget Stabilization Reserve.

C.2.a. – VT Employment Growth Incentive Cost-Benefit Model Data Update

Fred Kenney, Executive Director, VT Economic Progress Council, referred to a previously sent packet and summarized the proposed methodology change in the discount rate used after the modeling by the council.

Senator Campbell moved that, pursuant to 32 V.S.A. § 5930a (d), the committee approve the model modifications outlined in the June 7, 2011 memorandum to the committee. Senator Kitchel seconded the motion and the committee approved it.

C.2.b. – Historic Property Stabilization and Rehabilitation Program

Michael J. Obuchowski, Commissioner, Department of Buildings & General Services, and Giovanna Peebles, State Historic Preservation Officer, Agency of Commerce & Community Development, handed out information. A pilot program has been established by legislation where the proceeds from the sale of state properties provide the seed funding for improving other properties. There are 19 potential sale properties with a total value of \$1 to \$2 million. There currently are 14 properties approved for improvement by the legislature. Mr. Obuchowski claimed that the greatest benefit of the program was for the state to gain a better stewardship of its state-

owned historic properties. Commissioner Obuchowski explained that in the initial legislation some properties were approved initially, but additional properties would need further legislative approval. Representative Branagan inquired where funds would be drawn for the \$100,000 Seed Fund. Ms. Peebles replied the Capital Fund of 2011-2012 had already supplied the funds.

Ms. Peebles stated that proceeds from state-owned property sales would go into the fund to continue to perpetually revitalize historic properties. Ms. Peebles gave the example of a state-owned farm in St. Albans that was currently being sold, and Commissioner Obuchowski added that the Redstone building could be a potential future site for sale. Ms. Peebles referred to the program as a real visionary concept to improve state assets, and suggested that other state agencies and departments may utilize the program if the pilot was successful.

Senator Sears moved that in accordance with Sec. 31 of Act 40 of 2011, after review of the proposal and the Institution chairs' recommendations; the committee approve the proposal as submitted. Representative Branagan seconded the motion and the committee approved it.

C.2.c. – Report on Levels of Instrumental Activities of Daily Living (IADLs) for FY 2011

Ms. Barrett, and Camille George, Deputy Commissioner, Department of Disabilities, Aging, & Independent Living, referred to a Report on Medicaid (handout B.2.b., page 8) previously handed out in the meeting. Ms. Barrett explained that in the Governor's proposed FY 2012 budget, IADLs funding was to be reduced but the legislature bought back just over half of the reduction. In Act 63 of 2011 (Big Bill), the legislature had written in a provision that if the fiscal year ended with expenses below the appropriated amount, funds should first be used to fully fund IADLs, and the amount used to buy back the 50% of unfunded IADLs should revert to the Human Services Caseload Reserve. This was the case with FY 2011 year-end expenses coming in below expectations, allowing full funding of IADLs, transfer of \$1.34 million to the caseload reserve, and an additional \$471k of unallocated funds available within the long-term care appropriation.

Representative Heath stated that there was a concern that some IADL case managers were submitting incorrect case plans. Ms. George responded that case managers were in need of more training, and that was something the department was working to correct. Senator Cummings raised the issue that some recipients of the program came upon the obstacle of having no definition under a Medicaid protocol, and, therefore, were lumped under an RN supervision, which just added costs. Ms. George responded she would investigate the issue within the state's designation process. Ms. Barrett added that Act 63 requested that the department should report back to the legislature on the IADL program and its effectiveness and costs.

Ms. George concluded with additional news that due to the additional carryforward funds, the other reductions within the flexible choices program that would eliminate the 10% discount and the \$500 carryover would not occur. Instead, a letter to IADL clients would be sent within the next couple of weeks explaining that those reductions would not be going forward. Senator Kitchel asked whether there was still a waiting list for the program. Ms. George stated that currently, there was no waiting list for high needs, and there were people coming onto the list in the moderate needs category.

C.2.d. – Education – Adjusted Education Payment, Status of Grants

Armando Vilasecca, Commissioner, Bill Talbott, Deputy Commissioner, and Brad James, Education Finance Manager, Department of Education, distributed a handout with information on legislation history of the grants, a list of reimbursements, and effects of the grants. Mr. Talbott reviewed the legislation for the grants from the handout. If a school district consolidated into a Regional Education District (RED), then it could be reimbursed up to \$150k for its efforts. Two school districts studied but failed to implement the RED plan, but a third district was currently studying its viability as a RED. The Commissioner and Mr. Talbott referred to the map within the handout showing district financial activity of studies, totaling approximately \$80k if all districts approved their proposal. Mr. Talbott stated that the Windsor Southwest study was the only RED proposal at this time. Senator Kitchel stated that based on figures in the handout, amounts of possible funds owed would not be onerous for the department, and the Commissioner agreed.

Mr. Talbott explained that the current proposed plan for Windsor Southwest consolidated four districts, and also merged with to the Bennington-Rutland SU as one supervisory union to keep its school choice provision. Representative Heath asked for clarification of whether the State Board of Education could approve the merging of the two supervisory unions. Mr. Talbott and the Commissioner both responded in the affirmative.

D. – Revenue Update

Tom Kavet, Legislature's Economist, provided a handout of the revenue forecast for July 2011, showing that revenues were slightly above January 2011 projections, even though the economy in the past six months had worsened more than previously anticipated. One issue has been the spike in oil prices, causing an enormous drag on the economy. Another economic issue was the receding of the federal stimulus funds. Other economic factors include the Japanese earthquake and tsunami disaster that caused a slowdown in car sales and production, the European solvent debt crisis that has caused some economic rifts in the United States, and the national debt ceiling expenditure debacle. A re-forecast would be recommended if the national debt ceiling was not raised.

Mr. Kavet pointed out that the labor market has been sluggish, and, therefore, employment growth has stalled. Vermont's labor market has been similar to the national dilemma but in general has done slightly better. A lack of residential construction spending for second homes could have an impact on Vermont's education grand list. The education revenue estimates were done in October. Representative Branagan inquired about the disruption in the Corporate Income Tax. Mr. Kavet stated there were some one-time events that have caused the uncertainty in that market, but the overall switch to unitary taxation broadened the tax base, creating a higher floor and less volatility in corporate tax revenue. This would be a positive outcome for Vermont because corporations could no longer move money around to avoid paying taxes.

Senator Kitchel moved to adjourn the meeting at 12:21 p.m.

Respectfully Submitted,

Theresa Utton-Jerman, Legislative Joint Fiscal Office