ONE BALDWIN STREET
MONTPELIER, VT 05633-5701

SEN. ANN CUMMINGS, CHAIR
REP. MARTHA HEATH, VICE-CHAIR
SEN. DIANE SNELLING, CLERK
REP. JANET ANCEL
REP. CAROLYN BRANAGAN

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

SEN. JOHN CAMPBELL
REP. MITZI JOHNSON
SEN. JANE KITCHEL
VACANT
SEN. RICHARD SEARS, JR.

STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Monday, September 26, 2011

Minutes

Members present: Representatives Ancel, Branagan, Heath, and Johnson (conference call), and Senators Campbell, Cummings, and Kitchel.

Other Attendees: Administration, Legislative Joint Fiscal Office, and Legislative Council staff, and various media, lobbyists, advocacy groups, and members of the public.

The Chair, Senator Ann Cummings, called the meeting to order at 9:36 a.m. Representative Heath moved to accept the July 21, 2011 minutes as written, and Senator Kitchel seconded the motion. The Committee approved the motion.

A.1. Fiscal Update/Issues – Fiscal Officer's Report

Stephen Klein, Chief Fiscal Officer, Legislative Joint Fiscal Office, highlighted areas of the fiscal officer's report. The Education Finance Study has identified its case study schools: Montgomery Center Elementary, Colchester High School, and Brewster Pierce in Huntington. Additional schools may be added within the next month. A study on the transportation road conditions was on hold due to the storm-related damage to infrastructure. An analysis of Act 48 of 2011 on the single payer cost estimate was being reviewed, and a draft would be released before the November meeting.

2.a. Education Finance Study

Mark Perrault, Fiscal Analyst, Legislative Joint Fiscal Office, handed out two documents and provided the committee with an updated education fund outlook for FY 2012 and FY 2013. The preliminary analysis indicated that it would likely be necessary to increase base education tax rates by $0.03 under current law. *[An updated projection based on final estimates of the education grand list value indicates that the current-law increase may be only $0.02 or less.]* The Tax Commissioner will make a recommendation to the Legislature on December 1st.

Mr. Perrault explained the flood-related property tax abatement issue. Due to flood-related damage, homeowners hit by flood damage are seeking abatements of property taxes at the state and local level. Since the abatement process was developed pre-Act 60, municipalities have the authority to forgive both local and state property taxes; however, municipalities remain obligated to the state for the full amount of the education tax. The issue for the legislature is whether to reimburse municipalities for the education taxes municipalities abate.

Mr. Perrault estimated that the abatements could result in a $2 to $4 million loss of revenue to the education fund if the full cost of abatements was covered. In answering Senator Cummings' question on property tax abatements, Mr. Perrault suggested that the legislature create guidelines that would limit the state's exposure. Representative Ancel queried if there were other states with similar education tax systems, and Mr. Perrault replied that Minnesota had a statewide property tax but it did not raise the amount of revenue that Vermont's system collected. Representative Ancel requested the JFO to research whether other states had local abatement boards and inquired what officials were members of Vermont's boards. Mr. Perrault stated they included the town treasurer, the town clerk, the selectboard, the town listers, and the Justices of the Peace.

Representative Branagan queried how much time the legislature had to make the decision on whether to abate the education tax; and would it cover property, such as seasonal camps. Mr. Perrault stated it was at the board's discretion on what would be abated, and that there was time. Senator Cummings asked whether the Committee had the authority to approve guidelines for the abatement process. Mr. Perrault replied that it would require the action of the legislature as a whole. Representative Heath commented that the guidelines should be very specific because of the ramifications to the education fund.

b. FY 2013 Gap Analysis

Stephanie Barrett, Associate Fiscal Analyst, and Stephen Klein, Legislative Joint Fiscal Office, provided a handout and explained the FY 2013 budget gap analysis and explained the key assumptions used to determine the draft budget gap analysis. Mr. Klein cautioned that the gap analysis was very preliminary and subject to change. The analysis will not be published online until a consensus analysis was agreed upon with the Administration. Mr. Klein explained that the gap analysis takes into account the immediate budget pressures, plus additional funding for ongoing expenses for Irene-related issues. It was updated from an earlier version. It was not a final version, nor a consensus estimate.

Ms. Barrett explained how the JFO came to its preliminary FY 2013 gap analysis estimate of $57.4 million. She highlighted areas of adjustments to the FY 2012 General Fund base budget, including $3.3 million for the state hospital certification; $2 million unachieved savings in labor; and an ongoing baseline reduction in Medicaid of $10 million to be added back into the baseline budget. In the FY 2013 estimates, two expenditures will have a $10 million negative impact on the budget, an increase in the base Federal Medicaid Assistance Program (FMAP) and a federal Autism mandate. Some of the other areas that would require additional funding were the tobacco fund overspending and teacher retirement costs.

c. LIHEAP Update

Richard Moffi, Fuel Assistance Program Chief, Economic Services Division, Department for Children & Families (DCF), provided a handout showing the FY 2011 season summary, the FY 2012 projections for seasonal fuel assistance, and 2010-2011 fuel assistance statistics. He stated that the Low Income Home Energy Assistance Program (LIHEAP) would be substantially impacted by the levels of funding being proposed by the President as well as the House and Senate. The President's proposal reduces the overall national federal funding from the FY 2011 level of $5.1 billion to $2.6 billion. The House budget contains $3.4 billion and the Senate contains $3.6 billion. Under the President's proposal, Vermont would receive an estimated $11.6 million, compared to a combined block grant and contingency payment last heating season of $27.6 million. The Senate's proposed formula would result in an estimated $20.1 million for Vermont. The House proposal would result in an estimated $18.7 million for Vermont. We need to wait and see what the outcome of budget negotiations will be at the federal level.

Senator Cummings asked what the anticipated fuel costs will be for the season. Mr. Moffi responded that DCF was estimating that fuel oil number 2 would cost $4.00 a gallon, an increase of 8%

over last heating season. Mr. Moffi noted that DCF was requiring fuel dealers participating in the LIHEAP program to offer a 10 cents per-gallon discount to qualified families. Representative Heath confirmed with Mr. Moffi that the benefit reduction also reflects a legislative change enacted in Act 88 of 2010 that broadened eligibility for the program and, by doing so, reduced benefits for some. Senator Campbell inquired whether DCF had lost any data from the Irene-related flood damage. Mr. Moffi confirmed that some tracking data were lost but that the department had worked with fuel dealers to re-establish contracts, which were double checked for accuracy.

In responding to Senator Kitchel, Mr. Moffi explained that DCF would need a congressional decision by November 1 to set its benefit level and send payments by the second week of November to the 23,000 fuel liability households. If Congress does not finalize its deliberations before November 15, then many LIHEAP clients will be forced to go to their community action agencies for crisis fuel assistance in order to pay their fuel dealer contracts. Representative Heath inquired whether the legislature had authority to adjust the benefit level even though it did not know what the prevailing federal benefit would be. Mr. Moffi responded that the legislature could grant additional benefits that allowed for a relatively easy process of giving bonus benefits from borrowed weatherization trust funds or some other source of funds. He offered to keep the committee updated as the department nears the end of October. Representative Heath requested that the department give the JFC or Emergency Board enough lead time to react to funding challenges, and for the JFO to create a fiscal picture of the weatherization fund if it were necessary to transfer funds.

B.1. Administration's Updates/Issues – Disaster Recovery Update

Jeb Spaulding, Secretary, Agency of Administration, provided a handout of photographs of the state Waterbury Complex with the Irene-related flood damage. He explained that there **were** many staff from the Agency of Transportation attempting to document the damage at the local level, and there were many fiscal unknowns. It would take another week before the Federal Emergency Management Assistance (FEMA) necessary paperwork was completed to declare Vermont's disaster status. Senator Leahy has included language in a transportation bill that would allow the secretary to increase the cap for funding and the time-frame.

Secretary Spaulding explained that the former Waterbury Complex state employees were being relocated quickly but the issue of connectivity to computers and e-mail was an issue. Out of the 1,500 to 1,600 state employees that were displaced from the flooded Waterbury Complex, most of them had at least desks to work from, and 1,100 were actually connected and working as normal. An assessment was ongoing of the Waterbury Complex for options of the future of the site and its displaced workers.

Secretary Spaulding offered that the Vermont National Guard had spent roughly $10 million in its efforts to assist in the Irene-related flood, and anticipated a 75/25 split of funds from the federal government. The Emergency Board approved $5 million for the Emergency Relief Assistance Fund (ERAF) that has covered some of the military over-budget expenses. The Administration has also expedited the timing of payments out to municipalities, such as education, current use, and PILOT payments, in order to address their cash flow issues. It could be a matter of months before the outcome of funding for FEMA is resolved through congressional debate.

Brian Searles, Secretary, Agency of Transportation, distributed a handout from the September 13th JFC briefing on flood-related damage to transportation infrastructure. He acknowledged and thanked the organizations, the Vermont Leagues of Cities & Towns, the Vermont Planning

Commissioners, and the Associated General Contractors, who have helped at the local level in assessing the damage. The agency was transitioning from emergency mode into winter preparation.

Senator Kitchel asked if there was a preliminary estimate of the town costs related to flood damage. Secretary Searles stated the local costs were hard to quantify; those numbers should be available soon. Representative Heath asked that when there was a sense of the costs, the information be sent to the committee.

Secretary Searles responded to Representative Ancel's question that there was a threshold of $79 million of total damage to FEMA-related infrastructure that had to be reached in order to increase the funding match to 90/10. Secretary Spaulding added that it was an annual cost that would include the Spring flood damage after insurance estimates.

Secretary Spaulding offered that concerns have been raised that reallocation of budget funding and redirection to flood-related areas was possible but most budget items were necessary and could not be redirected. There were capital funding areas that could be slowed to free up funds now. He added that if there were ideas of funding for the flood-related costs, the Administration would look at those as long as it was within its authority. Senator Campbell stated that although the legislature was committed to the efforts of the Vermont Housing & Conservation Board (VHCB), affordable housing seemed the appropriate investment at this time and not additional land conservation investments. Secretary Spaulding responded that the Administration recently requested that VHCB review and consider any possible reallocation of funds to flood-related projects. There were some VHCB projects that have moved forward that were preapproved affordable housing projects, and others for the preservation of farms that would otherwise have been lost to the agricultural community. Representative Branagan agreed that the collaboration between VHCB and the agricultural community has been important.

Representative Branagan queried whether the Administration would be proposing an additional gas tax to offset flood-related infrastructure. Secretary Spaulding responded that the Administration had not planned such a proposal at this time but was not opposed to the concept or any other proposals to fill the budget gap if necessary. Since the vast majority of flood-related damage had occurred to the state's transportation sector, those funding areas would be considered if the need arose but the costs were still unknown. A potential special legislative session was not out of the question but the Governor would not consider it until all the fiscal information from the impacts of tropical storm Irene was collected.

Representative Ancel asked what the committee should expect for a time line on a decision for the Waterbury complex fiscal situation. Secretary Spaulding responded that the administration was scheduled to update the Committees on Institutions in late Fall and then come up with a consensus plan to propose to the legislature. It was possible that stand-alone legislation would be proposed at the start of the session to facilitate legislative consideration. Senator Snelling inquired about the pros and cons being considered for the state hospital patients moving back into the Waterbury complex. Secretary Spaulding stated that the Governor did not like the concept of sending any patients back to the state hospital building but it was not out of the question at this time. It could be up to a year or two before a facility was established. Representative Heath thanked the Administration and all the state employees for their efforts that were made to deal with the Irene disaster, and with the quick and positive response to the emergency situations.

Senator Cummings queried who was monitoring the public infrastructure response at the local level. Secretary Spaulding explained that the Irene recovery officer, Neale Lunderville, was overseeing most of the areas, but the United States Department of Agriculture was working with Vermont's Agency of Agriculture, Food and Markets on things under its purview. The Administration's recovery office has entered into a short time-limited contract with a firm to help with the debris issues in disaster recovery efforts.

2. Report of Proposed Distribution of Justice Reinvestment Funds

Andrew Pallito, Commissioner, Department of Corrections, provided a handout of the distribution of reinvestment funds over two years, and explained that due to flood-related issues, he would have to return at the next scheduled JFC meeting to give complete data.

3.a. Fiscal Updates – Revenue Shortfall Reserve Report

James Reardon, Commissioner, Department of Finance & Management, provided several documents, and explained that the Revenue Shortfall Reserve shown on handout B.3. had a balance of $3.9 million, the source was the estate tax revenue beyond expectation specified for this fund in Sec. 600.1 of Act 63 of 2011.

Commissioner Reardon pointed to a memorandum on the activity of the Human Services Caseload Reserve, and stated that the fund closed in FY 2011 with a balance of $60 million of which $29.5 million had been targeted for use in the FY 2012 budget. An additional $1.34 million would be transferred to the caseload reserve in FY 2012, per legislation in Act 63 of 2011.

b. Funds Status Closeout Report – Education, Transportation, and General Fund

Commissioner Reardon stated that there were few changes since the July JFC meeting and consensus forecast. The General Fund closed out in FY 2011 at $40 million above expectation from general revenues and direct applications from other funds. Contingent appropriations earmarked $10.6 million; $3.6 million for the Unemployment Insurance Fund interest payment to the federal government and $7 million for potential federal funding impacts. Transportation and Education funds closed out relatively on target of the July consensus forecast.

c. Report on FY 2012 Budget Adjustment Pressures

Commissioner Reardon explained that some of the FY 2011 server consolidation savings were not realized, therefore, funds from the Unemployment Insurance (UI) set-aside were used to balance the budget. Language in the FY 2012 Budget Adjustment Act (BAA) will need to be added in order to codify this transfer of funds from the UI set-aside.

Commissioner Reardon reviewed the list of other preliminary funding needs anticipated in the BAA on a handout. Global Commitment/Medicaid ended FY 2011 ahead of budget due to lower utilization translating into an expected budget reduction of $10 million. The BAA proposal anticipates at least a $2-million need from unmet savings in the $12 million target included in the budget. The Department of Corrections budget shortfall was due to more detainees than anticipated. The Transportation Fund shortfall was related to storm-related damage. There would be a shortfall to departments in recovery fees for space that were originally designated within the Waterbury complex. The Commissioner raised the possible issue of the state's inability to charge the federal participation program for federally paid employees that were not working or partially working due to a loss of office space. The Commissioner stated he would try to get more clarity on this issue for the December BAA meetings with the House Committee on Appropriations.

d. Report on FY 2013 Budget Development Process

Commissioner Reardon offered that the Governor's proposed FY 2013 budget would be available to the legislature on time but there would be substantial disclosures added for future federal financial audits in relation to Spring flood and tropical storm Irene damage.

4. High Risk Pregnant Women Assessment of Programs and Services.

Doug Racine, Secretary, and Melissa Bailey, Director of Integrated Family Services, Agency of Human Services; Breena W. Holmes, M.D., Maternal and Child Health Director, Department of Health; and Vicki Loner, Deputy Commissioner, Division of Health Services and Managed Care, Department of Health Access provided a report to the committee and summarized its contents. Ms. Loner stated that initial analysis showed a preliminary cost savings opportunity of up to $1.2 million but a more conservative amount of $400k would be recommended for budget savings, if enacted, since the program was new. The potential savings would come from coordinated care areas. Another area for future potential savings was costs associated with premature births.

Dr. Holmes explained that the study committee used a very broad definition of high-risk for cost and potential savings. The study committee found that within the behavior of pregnant women, there was a high population of smokers, especially within the Women, Infants and Children program (WIC). Smaller populations, but growing, are pregnant women with addictions.

Ms. Bailey stated that she was charged with integrating all the programs in Vermont that focused on treatment, intervention, and prevention for families with children that were prenatal through 22 years of age. There were 12 teams in each district administered across Vermont to develop Children Integrated Services (CIS). Senator Kitchel showed concern for the lack of progress in the rate of pregnant women smoking (36%), and asked how the new program and additional two positions integrate into the current delivery system of programs. Secretary Racine responded that the report was a list of recommendations and the additional positions would need the approval of the administration. Ms. Loner pointed to the last page of the report showing the integration of the different Medicaid divisions that deal in children services.

The committee adjourned at 11:59 a.m. on a motion from Representative Heath and seconded by Ancel.

Respectfully Submitted,

Theresa Utton-Jerman, Legislative Joint Fiscal Office