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STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Wednesday, September 19, 2012

Minutes

Members present: Representatives Ancel, Heath, and Sharpe, and Senators Campbell, Cummings, Kitchel, Sears, and Snelling.

Other Attendees: Senator Hartwell, Administration, 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 9:34 a.m. Representative Heath moved to adopt the minutes of July 20, 2012 as written, and Senator Kitchel seconded the motion. The Committee approved the motion and adopted the minutes.

A. Joint Fiscal Office Updates/Issues – 1. Fiscal Officer's Report:

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office (JFO), summarized his report and invited questions but none was raised.

2. Education Fund:

Mark Perrault, Fiscal Analyst, JFO, distributed a revised education fund outlook for FY2013. He informed the committee that it now appeared FY2013 will end with a full stabilization reserve, and a surplus of roughly \$12 million for carryforward into FY2014. This is an \$11 million improvement over what we anticipated when the legislature adjourned last May. In addition, he stated that the property tax adjustment for FY2013 was overestimated by as much as \$10 million. This is not yet reflected on the revised education outlook, but would increase the FY2013 surplus to roughly \$22 million.

Mr. Perrault also told the committee that legislative and administrative staffers were working on a consensus education fund outlook for FY2014. This outlook will be the basis of the Department of Taxes commissioner's December 1 recommendation to the legislature for FY2014 education tax rates. Although the outlook for FY2014 has improved significantly, an increase of 2 to 3 cents will be necessary, assuming that school spending grows at the rate of inflation.

3. FY2014 Budget Development Update:

Mr. Klein and Stephanie Barrett, Associate Fiscal Officer, JFO, distributed information on the FY2014 Budget Gap (non-consensus), and summarized that there was modest growth in the FY2014 Medicaid budget. However, there were pressures in federal funding areas, such as the Federal Medical Assistance Percentages (FMAP) of 1% or an estimated \$22 million reduction, further reductions in the Low Income Heating and Energy Assistance Program (LIHEAP), and possibly in other programs.

Ms. Barrett stated that state retirement continued to be a budget pressure for FY2014, with the largest pressure in the teachers' retirement fund. Senator Snelling asked what resources are needed to break even on the retirement funds. Mr. Klein offered that the Treasurer's Office will be producing an actuarial report in October, and the JFO would then use the retirement data within the report to produce information on the issue. Mr. Klein agreed with Senator Kitchel there were three problem areas within the state retirement system. These include: the level of retirement funding itself; the payment of teachers retiree health care from the retirement fund rather than separately; and the general problem that the state has not addressed actuarial funding for retiree health care obligations.

Ms. Barrett finished summarizing the FY2014 budget gap issues. Mr. Klein mentioned that at the Vermont Debt Affordability Committee meeting, the Treasurer noted that Vermont received praise from the bond rating agencies, Moody's S&P and Fitch. The agencies noted that creating a Rainy Day Fund Reserve in addition to its Stabilization Fund Reserve contributed to improvements in Vermont's rating outlook.

B. Grant Approval - #2581: 23 limited service positions in DVHA

Robin Lunge, Director of Health Care Reform, Agency of Administration, and Dave Yacovone, Commissioner, Department for Children and Families (DCF), gave a brief summary of the position request proposal. The Agency of Human Services has a 30-year-old computer system to be replaced by an integrated system, known as the Health Services Enterprise System, funded through 90/10 federal funding. The agency's plan is to retrain its current staff on how best to utilize the new system. The agency was requesting 23 new limited service positions with the majority of those positions hired within DCF as information technology support to develop the new system.

Senator Sears asked whether the agency was clear that the requested positions were temporary. Senator Campbell echoed additional comments from Senator Sears that in the past limited service positions have been converted to permanent and then funded through all state funds. Representative Heath added that in order to be successful with a new system of this capacity, she expected up-front work to map out the agency's needs. Senator Campbell agreed the positions were a good investment but requested information on the total financial impacts over the next few years while the positions were in place. Senator Kitchel added that the agency's old Access computer system was a huge risk because of a lack of software support and the age of the system. She opined that the state had postponed as long as was possible and was in danger of the system failing. Senator Sears stated that he supported the positions as long as it was clear that the positions were temporary.

Senator Cummings asked whether the positions would be specialized. Ms. Lunge responded that some of the positions were specific to information technology and others were testers for the system in DCF. Commissioner Yacovone clarified that 14 of the positions were testers and 5 would be specialized in information technology. The remainder of the positions would be distributed between the Department of Vermont Health Access (DVHA) and the Department of Health to assist them with the implementation of the new system. Senator Snelling inquired as to the total number of positions to the agency, including the positions approved for the health care exchange system in the 2012 session, along with a summary of their job descriptions. Ms. Lunge and Commissioner Yacovone promised to send a summary of all the approved positions in 2012 to the committee. Representative Sharpe suggested there were issues with maintenance overtime from in-

house computer systems and that open source systems were more viable because any vendor could service them. Representative Ancel requested that the position summary information include how long the positions would be utilized. Senator Sears asked if the administration were in contact with other states that were involved in a similar change. Ms. Lunge responded they were very engaged with the states of Oregon and Massachusetts on their discovered learning curves and also with Centers for Medicare and Medicaid Services (CMS). Representative Heath moved to approve the 23 limited service positions in DVHA and Representative Ancel seconded the motion. The Committee approved the motion. Senator Kitchel requested that the information on the position details be sent to the JFO for distribution to the committee.

C. Administration's Updates/Issues – 1. Irene Recovery Updates – a. FEMA and b. Waterbury Complex

Jeb Spaulding, Secretary, Michael Clasen, Deputy Secretary, and Sue Minter, Irene Recovery Officer, Agency of Administration, explained that there had been recent FEMA staff changes but the agency was developing new relationships with the current FEMA staff to encourage a better understanding of Vermont's issues in the recovery of Irene. Secretary Spaulding advised that it could be months before actual funding amounts are known; within that context, the Governor made the decision to move ahead with the reconstruction of the Waterbury state building and the Vermont State Hospital.

Senator Sears raised the issue that individuals waiting for funds for an approved home buy-out had to wait for approval from FEMA before demolishing the house, which had been slower than anticipated. Ms. Minter responded that she knew of such situations, and the state recovery office was working diligently to move the paperwork faster. She confirmed Representative Sharpe's understanding that land within the buyout program had to remain undeveloped as a mandate of the program.

Minter stated that currently 3,200 project worksheets had made it through the FEMA approval process. Issues have arisen where FEMA has denied some municipal reconstruction costs based on state permitting standards. Minter explained that the state was taking the advocate role for municipalities by filing appeals to FEMA decisions.

Spaulding distributed and summarized a report on Federal Emergency Management Agency (FEMA) funding for Tropical Storm Irene recovery. He made it clear that the funding amounts in the report were just projections for FEMA public assistance, and were not final funding amounts. Spaulding responded to Senator Campbell's question regarding consultants by stating that the claims experts, Witt Associates, had been hired by the state and were part of the state team. He added that the Attorney General's Office and the Witt Associates were working to create a strongest case possible to the regional administrator of FEMA for a full replacement of the State Hospital and that it should be ready in October 2012.

Spaulding stated that the administration was confident that by moving ahead with the State Hospital, it would not jeopardize possible FEMA funding. He then provided a scaled master plan map of the Waterbury Complex. The architects estimated \$3 million savings in operating costs because of the energy efficiency of the new facility. There were opportunities for public – private relationships within the complex. The total price tag of the complex is projected at \$125 million. It

would reduce overall state lease costs from current temporary offices. It was possible to scale back the project by reducing the amount of staff to return to the complex (950). Other possible contingencies for funding the new complex were to sell the state building in Essex (#617), reprioritize the funds in the capital bill over the next couple of years, and transfer some unobligated funds at the end of the fiscal year toward the project.

Representative Sharpe requested information on other savings from the construction of the Waterbury Complex, including the savings from permanent leases. Representative Heath further requested that employees in leased spaces that were formerly at owned spaces should be included in the savings information. Senator Campbell suggested that the administration list the FEMA requirements prior to construction of the Waterbury Complex and State Hospital, and deliver this information to the 2013 legislature so members will better understand possible delays to the projects.

Representative Heath inquired what the range was for the insurance claim on the Waterbury Complex. Spaulding explained that the total insurance reimbursement from past and future amounts was estimated at \$50 to \$60 million, with \$25 to \$30 million for stabilization and abatement, and \$15 to \$25 million for costs going forward. Commissioner Obuchowski agreed with the secretary, and added that the amounts could potentially increase once FEMA tours the complex buildings and reassesses the damage. Representative Heath asked for the costs of the state hospital. Spaulding responded that the entire package of costs was estimated at \$45 million, which included the \$28.5 million for the new Berlin facility and all the other facilities being utilized and remodeled to accommodate additional beds throughout the state. Obuchowski added that the numbers were reflected on the administration's July 20, 2012 JFC meeting handout.

c. Mental Health System Update:

Patrick Flood, Commissioner, Department of Mental Health, distributed and summarized an update on the Act 79 implementation. He stated that the new state hospital facility in Berlin was moving on schedule, and that the emergency Certificate of Need (CON) would be prepared and submitted on time to allow for a possible ground-breaking by late November and opening the facility in January 1, 2014. Brattleboro Retreat was anticipated to be done with its renovations in February 2013 and Rutland by March 1 or February 28 of 2013. Another provision in Act 79 called for developing a 7-bed acute care secure residential facility, which has had the most delays due to a lack of a confirmed site location. Currently, the department is waiting on the permitting process of the site but anticipates completion of the permitting by Thanksgiving. Flood responded to Senator Snelling's inquiry on additional assistance to hospitals for emergency mental health care that his department would brainstorm ways to take the pressure off of the facilities until all the permanent facilities were ready.

2. Web Portal Board – Fee Request – Surplus Property

Ed Von Turkovich, Director, Government Business Services, Department of Buildings & General Services; Harry Bell, Director of Web Services, Department of Information & Innovation; and Jaime Gage, General Manager, Vermont Information Consortium, referred to information sent earlier to members and summarized the fee request. Senator Cummings inquired if the state had other similar payment card fees. Von Turkovich stated the Department of Motor Vehicles and the court system both had the same card payment fee structure. Senator Campbell asked the amount of

revenue anticipated from the state's portion of the fee. Von Turkovich stated the estimated reflected a minimal amount. Representative Sharpe mentioned the new federal banking laws on credit cards, charge backs, and retail transactions. Von Turkovich stated the department would post the fee prominently so that buyers understand the additional charge if using a debit card.

Senator Campbell moved to approve the fee request from the Web Portal Board, and Senator Kitchel seconded the motion. The Committee approved the motion and request with Senator Sears and Representative Sharpe opposing the motion.

3. Fiscal Updates and Rescissions – a. Funds Status Closeout Report for FY2012 – Education, Transportation, and General Funds.

James Reardon, Commissioner, Department of Finance & Management, distributed information on the final closeout results of the FY2012 state budget. He highlighted areas, such as \$11.33 million in available funds for the Waterbury Complex reconstruction as directed by Sec. C.205 of Act 162 of 2012. Representative Sharpe brought to light a typo in the handout in the Transportation Fund Revenue that should be written as -3.046.

b. General Fund and Transportation Fund Balance Reserves and Human Service Caseload Reserve

Commissioner Reardon continued into his summary of the FY2012 General and Transportation Fund Balance Reserves and the FY2012 Human Services Caseload Reserve found on page 2 of the previous handout.

c. Report on FY2013 Budget Adjustment Pressures

Commissioner Reardon summarized a list of possible FY2013 budget adjustment items compiled on his previous handout. Other possible areas of BAA could include additional revenue from Direct Applications/Reversions; additional funds to the Sarcoidosis Fund; possible loss of revenue from the Vermont Yankee generating tax because Entergy has filed litigation opposing the tax; additional funds to Federal Surplus Property—past amounts have been \$250,000; and additional funds to the Liability Insurance Fund for the data mining lawsuit that came in about \$1 million higher than anticipated. The administration was actively working with JFO on a consensus federal funding reductions analysis to place in the BAA item list. Reardon added to the list, possible corrections caseload issues, federal funding reductions to LIHEAP, and possible additional child care (STARS) program reimbursements. A positive BAA item is FY2012 showing an additional \$7 million surplus of General Fund in the Medicaid program than originally estimated.

d. Veterans' Home Update

Commissioner Reardon explained there were issues around the Vermont Veterans' Home federal funding because of a complication from compliance issue. Due to the compliance issue, the Veterans' Home could lose Medicare and Medicaid certification, putting it at risk of losing its federal funding (\$10-\$12 million). The administration was working closely with the Veterans' Home to bring it into compliance before the September 28 deadline imposed by the federal government. Senator Kitchel asked what the remedies or key elements were to correct the compliance problem. Reardon stated issues to be addressed included: a kitchen problem, the proper way to apply infection control bandages, and timely reporting of incidents. He suggested the facility do a better job of scheduling its staff, but the amount of staff was not necessarily the issue. Recently, an incident of a staff striking a patient occurred, which further exacerbated an already difficult situation at the

facility. Senator Sears commented that there was also friction between the Vermont State Employees' Association and the administration on staffing issues.

e. Report on FY2014 Budget Development System & Process

Reardon and Matt Riven, Director, Budget and Management Division, Department of Finance and Management, distributed and summarized information on the FY2014 budget development system (Vantage) and process. Reardon explained that the FY2014 budget instructions may be distributed to agencies and departments the first week of October.

Reardon explained that the budget development system was only open to the Department of Finance and Management staff at this time but the field staff would be completing their training over the next few weeks. There were many new features with the Vantage system that the department would delay using until it was more comfortable using them. Representative Sharpe shared his frustration of the inability to show trends of state programs with the current budget system and queried when the department would be ready to show that data using the new system. Riven responded that the data entry for programs had not been completed to allow for a FY2014 analysis but historic expense data should be more readable, and query abilities will allow for a faster response to requests for information. The Administration will also have public meetings on current service levels, and distribution of a schedule is planned for October 1, with meetings starting after November 5.

f. Mosquito Spraying Funding

Reardon distributed information and summarized the issue. For FY2013, \$164,000 was appropriated for mosquito spraying, but the department anticipates the need for an additional \$228,000. Part of the additional funds was from a misallocation for a federal audit in the Agency of Agriculture, Food and Markets. There was also a reduction in the federal funding for the West Nile Virus Program. After deducting excess revenue in agricultural programs from the deficit amount, the deficit was reduced to \$80,000. Representative Sharpe asked if there were funding available for combatting the Triple E West Nile Virus that claimed the lives of two Vermonters in 2012. Reardon explained that there were resources set aside to combat this issue as well. Reardon finalized his testimony by adding that the Emergency Relief Assistance Fund (ERAF) had a current balance of \$15 million, \$12 million of which was unobligated at this time.

g. FY2013 Transportation Rescission Plan

Brian Searles, Secretary, and Lenny LeBlanc, Assistant Director of Finance and Administration, Agency of Transportation, distributed a memo and spreadsheet dated September 11, 2012 from Secretary Spaulding. Searles explained the rescission plan was in response to a revenue downturn of \$4.9 million. He summarized the itemized list of estimated adjustments for FY2013. Representative Heath moved to adopt the FY2013 Interim Budget and Appropriation Adjustment Plan, and Representative Ancel seconded the motion. The committee approved the motion.

4. LIHEAP and Utility Discount Program – a. Utility Discount Program and Related Positions

Dave Yacovone, Commissioner, and Richard Moffi, Fuel Assistance Program Chief, Department for Children and Families, distributed and then summarized information on the utility discount program, and the 8 limited service positions requested to run the program. Commissioner Yacovone stated that the expectation was for the program to start December 15, 2012. He added

that the program allowed for the forgiveness of their electric bill upon entering the program, but cost estimates were not yet available for that portion of the program. Moffi explained the eligibility structure that Green Mountain Power and the Public Service Board agree upon for the program.

Senator Kitchel stated that advocacy groups were anxious to have the program up and running as another tool to counter the continual reductions in federal funding to the Low Income Heating and Energy Assistance Program (LIHEAP). She clarified that the program was a public-private partnership that was paid for through utility rates and that there would be expansion to gas through Vermont Gas. The requested positions were state staff but paid for by the utility-based program. Representative Heath moved to approve the request for 8 limited service positions for the Utility Discount Program, and Senator Kitchel seconded the motion. The committee approved the motion.

LIHEAP – Federal Funding Update, and Status of List of Cost Savings

Representative Sharpe asked if the Fuel Assistance Program was paying a higher price to fuel dealers than others in the state. Moffi responded that the statewide average for fuel was \$3.61 a gallon but program participants were able to shop around for a better price. Moffi referred to a report distributed to the committee earlier, “Report to the Administration and the Legislature -- Recommended Fuel Program Changes for Long-Term Sustainability per VT Emergency Board Resolution,” dated January 3, 2012, and highlighted the section that listed ways to reduce or make consistent fuel dealer pricing. Representative Sharpe then inquired if program participants were able to use Fuel Assistance Program funds to buy alternative fuels, such as pellets. Moffi replied that under the current rules, the client decides on the primary type of single fuel they will use that heating season, and then the funds they are eligible for would be sent to a fuel dealer of their choice.

Representative Ancel suggested that a broader and more expansive discussion occur in the future on how the Fuel Assistance Program could better supplement Vermonters’ needs. Representative Heath commented that it was her hope that the administration and the legislature would ambitiously heed the recommendations of the department from the March 2012 report since there were other states receiving better fuel rates than Vermont. It was obvious that Vermont should be tougher in negotiations with fuel dealers because of the inequities.

D. Burlington Tax Incremental Financing (TIF)

Miro Weinberger, Mayor, and Peter Owens, Director, Burlington Community and Economic Development Office (CEDO), and Eileen M. Blackwood, Esq., Attorney, City of Burlington, explained the current status of the Burlington TIF district. Representative Ancel referred to a briefing memo from Sara Teachout of the Joint Fiscal Office for the history of the Burlington TIF. Mayor Weinberger stated the city planned to initiate a competitive request for proposal process for the TIF site, along with other initiatives that would soon follow.

Senator Campbell expressed concern regarding the State Auditor’s recent report that found fault with the City of Burlington’s TIF administration, and the possible impact to the statewide Education Fund. Mayor Weinberger responded that the City of Burlington’s attorneys submitted a detailed response to the Auditor that explained why they did not agree with his office’s position and findings. He suggested that it would be helpful for the city to have some ambiguities clarified within

the TIF process, and his team would be happy to participate in such a process. Ms. Blackwood referred to some visual charts the city brought of the TIF district.

The Committee decided to meet next on Thursday, November 15, 2012 at 1:00 p.m., and then adjourned at 12:56 p.m.

Respectfully Submitted,

Theresa L. Utton-Jerman
Legislative Joint Fiscal Office