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STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, November 15, 2012

Minutes

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

Other Attendees: 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 1:08 p.m. Senator Heath moved to accept the minutes of September 19, 2012, and Senator Kitchel seconded the motion with corrections. The Committee adopted the minutes as corrected.

A. Irene Recovery Updates – 1.a. FEMA, State Match; b. 2011 Spring Flooding grants.

Michael Clasen, Deputy Secretary, and Sue Minter, Irene Recovery Officer, Agency of Administration, introduced themselves and staff, and Ms. Minter gave a brief summary of enclosed reports on Tropical Storm Irene recovery and the 2011 Spring Flooding. She explained there were over 3,000 worksheets in the Federal Emergency Management Administration (FEMA) system of which 98 percent have been obligated. Mr. Clasen gave a brief update on the Administration's work with FEMA to resolve project worksheets on the state hospital and the Waterbury complex. The state was still gathering data on the temporary facilities for the state hospital and was hopeful the facilities would be eligible for federal funding. The new state hospital site in Berlin had been cleared by FEMA for environmental impacts. All eligible costs associated with the Waterbury complex repairs were being listed to maximize funding from FEMA and the insurance company. More information on the Waterbury complex will be available for discussion in the 2013 legislative session. Senator Kitchel asked if the Administration were feeling more comfortable with the direction and communication with FEMA. Mr. Clasen confirmed that communication and the overall work relationship with FEMA was positive.

2. Mental Health System Update

Patrick Flood, Commissioner, Department of Mental Health, explained that the state had a positive forward momentum with its mental health system. The state was still waiting for the Morrisville site to open in a few weeks to take the pressure off the system. The Brattleboro Retreat and Rutland Hospital were scheduled to have additional beds in March 2013. The additional beds at the Rutland Hospital would allow level one patients to have easier access to care in the future. The new state hospital was on schedule and the Certificate of Need was not anticipated to have any issues. A mobile crisis unit was expanding operations throughout the state and would be operating throughout Vermont soon. Senator Sears inquired about the Brattleboro Retreat news story on

layoffs of 31 employees and whether that would have an effect on its expansion. Commissioner Flood stated the Retreat was adjusting to a new world and he had confidence that the Retreat will follow through with its state contract; the Retreat assured the state that the changes would not affect patient care. Representative Heath questioned whether the issues with the new site in Middlesex had set the state back in its project schedule. The Commissioner responded that the appeal from a neighbor to stop the project in Middlesex had not changed the state's project schedule and that the state was planning to contest the appeal before the Environmental Board, because the state believed it had a strong case. Senator Snelling showed concerns for continuity in the mental health system with Commissioner Flood retiring his post. Commissioner Flood stated that he had the highest confidence in his deputy, Mary Moulton, and that she had a great deal of experience and compassion in her work.

Commissioner Flood gave an overview of the mental health budget and explained that additional funding would be proposed for the FY2013 Budget Adjustment, due to Irene Recovery costs for staff in the Springfield and Morrisville facilities.

Commissioner Flood asked Heidi Hall of his department to hand out an update on Act 79 of 2012 and he then gave an update on the inpatient rate review process. He stated that hospital rates were reasonable and accurate and the different facilities would be more aligned with each other once the no refusal law went into effect and there were dedicated beds in each facility for level one beds. Representative Heath asked what the daily rate was for the state hospital. The Commissioner explained that when the state hospital closed, it had an annual budget of \$22.5 million for 54 beds. Heidi Hall added the total bed cost was \$1,486 a bed per day, which includes some additional costs beyond the \$22.5 million. Representative Sharpe queried what the impact of the U.S. Affordable Care Act will have on Vermont's mental health system. The Commissioner responded that the department had not done an analysis on the act's impact but agrees it is an analysis worth exploring. He expanded on the question by adding that it was also important to explore how mental health would fit into the new health care system.

The Committee recessed.

B. Special Committee on Waterbury Complex

A special committee on the Waterbury Complex was convened that included Senator Hartwell, Chair, Senate Committee on Institutions, and Representative Emmons, Chair, House Committee on Corrections and Institutions.

Senator Hartwell explained that a joint committee meeting of House and Senate institutions committees occurred on October 19, 2012 that included a quorum of members. The joint committee approved a Modified Plan B for the Waterbury Complex on a 10-1-5 vote and recommended that the special committee approve the proposal. He then summarized the four changes from the original Plan B. Representative Sharpe inquired why it was necessary to bank some of the buildings. Representative Emmons explained that there were two buildings, Hanks and Weeks, slated for this because of concern in the Legislature that there had been substantial investments in the buildings and it was deemed important to save them. Michael Obuchowski, Commissioner, Department of Buildings and General Services, offered that there was the possibility of entering into a public-private contract on the buildings. Senator Kitchel asked how many

buildings were slated for demolition. Michael Stevens, Special Projects Administrator, Department of Buildings and General Services, responded there were 15 buildings planned for destruction. Representative Emmons explained the concerns and issues of her committee members who were not present at the time of the vote on the Modified Plan B.

Jesse Beck, President, Freeman French Freeman, explained the reason for the modified plan was due to a change in parking from under the building to above ground. Originally a topical chart of the historic core showed feasibility for the underground parking but after surveying and other assessments, it was evident that there would be additional digging of 8-9 feet further down for cars to park under the building. In addition, other issues around providing elevators or some type of access to deliver people from their cars to their work stations was discovered. Representative Ancel queried the number of employees to be housed at the new Waterbury site and if the Department of Health planned to collocate with the Agency of Human Services. Representative Emmons responded that the Department of Health would remain in Burlington and the Department of Vermont Health Access would move back to Waterbury.

Mr. Beck handed out a packet of information on the Waterbury State Complex revised action plan and explained the new flood zones and other factors shown on the design. The committee discussed the pros and cons of the new design and the financial and historical impacts.

Commissioner Obuchowski summarized the reasons for the Modified Plan B. Some modern concepts will accompany the new building, including 10% of the workforce teleworking. This is anticipated to save state funds and allow for greater efficiency of staff. Commissioner Obuchowski thanked the institutions committees for their motivation toward completing the plan.

Representative Heath moved to approve the Modified Plan B as presented and as approved by the joint House and Senate institutions committees and Senator Kitchel seconded the motion. The special committee approved the motion.

The special committee adjourned and the Joint Fiscal Committee reconvened.

C. Basic Needs Budget Methodology

Sara Teachout, Senior Fiscal Analyst, Joint Fiscal Office, distributed and summarized a proposal to adjust the Basic Needs Budget (BNB) methodology. The four calculation changes proposed included clothing and household expenses on a different indexing table based on family size; use of new data for telecommunications at the U.S. Census website; the use of the standard payroll tax rate, due to the uncertainty of the U.S. tax cut from an extension stimulus package. Senator Cummings asked if the Committee could give flexibility to the office depending on what was the federal tax policy change. Ms. Teachout offered that the Office would notify the Committee per a provision in the legislation for BNB stating that if there is a substantial change in any of the methodology, an interim proposal could be delivered to the JFC for possible change.

Ms. Teachout finished the summary with Health Care and a proposal to change the data source to Vermont data rather than a federal source. If proposals are adopted, they would be included in the January 2013 BNB report. Representative Sharpe asked for clarification on the table for the clothing and household expenses proposal. Ms. Teachout explained that currently expenses

were based on income but the new table would base expenses on the size of the family. Representative Sharpe commented that he considered basing the household expenses on family size was equally flawed. Ms. Teachout agreed there was no perfect answer to the estimate but this was a small piece of a bigger calculation. Senator Kitchel asked if advocacy groups had a chance to comment on the proposal. Ms. Teachout responded that an electronic communication was sent to various local advocacy groups and those groups did not respond.

Representative Sharpe moved to accept the proposed recommendations put forth by the Joint Fiscal Office to change the Basic Needs Budget and Livable Wage methodology and Senator Kitchel seconded the motion. The Committee accepted the motion.

D. Administrative Updates/Issues – 1.a. Tax Computer Modernization Fund Receipts

Mary Peterson, Commissioner, Department of Taxes, and Richard Boes, Commissioner, Department of Information and Innovation, gave an update on the special self-funding mechanism authorized in 2007 and reauthorized in 2011 by Act 63. The intent was to modernize compliance efforts to reduce the tax gap, and, as enhanced revenue is realized, the department would use that revenue to fund investments in the processing system. The Integrated Tax System (ITS) could integrate and seamlessly work across the tax system. Commissioner Peterson gave a brief history of the tax system implementation. Because of the risks involved to the state with this type of software, the department planned to hire a project manager and business analyst to assess the current system. The business analyst would work on updating the departments' business requirements and possibly find an off-the-shelf product to fulfill its needs. The plan is to go out to bid by March of 2013 and have a contract in place by June the same year. The department realizes this is an aggressive schedule but would slow down if it became an issue; the goal was to minimize the amount of time the department continues to use the current ETM system. The target year to have the new system in place was 2015.

Representative Sharpe agreed with the concept of buying an off-the-shelf software but suggested the department have sufficient penalties for information technology (IT) disasters as part of those contracts. Commissioner Peterson stated that the state paid a low price for the current system and believes it got what it paid for. Commissioner Boes added that there have been issues over the years with holding vendors accountable for IT failures, but legislation was passed in the previous session to accomplish this goal. He added that it was difficult to hold a vendor accountable if a solution for software was not specifically outlined in the contract.

Commissioner Peterson distributed 2 documents and announced that the department would seek an amendment in the FY2013 Budget Adjustment bill. She summarized the tax systems budget since 2007 and stated that the proposed language speaks more to the information technology system instead of directly to the current ETM system. (There were no questions from the committee.)

b. Impact of Federal Legislation on State Remote Sales Tax Collection

Susan Mesner, Economist, Department of Taxes, distributed information to the Committee about draft federal language on a state remote sales tax collection. She gave the framework for how she analyzed the data within the handout. Senator Kitchel asked how vendor is defined in this context. Ms. Mesner answered that a vendor in this context was the seller and there would be software companies representing the sellers where the money would flow through. Representative

Sharpe inquired about the meaning of vendor compensation. Ms. Mesner explained that vendor compensation was a portion off-the-top of the sales that vendors kept for managing the tax receipts. Representative Ancel asked if the Legislature could address this topic prior to Congress passing the legislation. Ms. Mesner responded that the department had enough information to assist the Legislature to start work on legislation.

2. LIHEAP Update

Richard Moffi, Fuel Assistance Program Chief, Department for Children and Families, provided an update on the funding for the Low Income Home Energy Assistance Program (LIHEAP.) Vermont has received its first quarter block grant award of \$17.6 million, which is 90% of the maximum amount that the federal government is allowing states to draw down in the first quarter of the current year. Vermont typically draws 97% of its block grant allocation during the first quarter to enable the majority of the benefit to be sent to clients during the month of November. In addition to the Federal block grant allocation, the Emergency Board approved \$8.8 million of state funding to allow the average benefit to be \$900, the same average benefit as last heating season. The Department has changed its payment system for the program and has delayed sending payments out for a couple of days to further test the system's functionality. The LIHEAP funding assists approximately 21,300 families. Benefit payments will be sent directly to fuel dealers through an electronic payments transfer system. With the new system, clients can apply for assistance, be approved in the same day, and have a payment to their dealer by that evening. This new system should help to reduce the amount of claims to the crisis fuel program. Representative Heath inquired as to when the \$8.8 million would be disbursed. Mr. Moffi responded and noted that the funds would cover other things, such as the crisis fuel program and administrative costs.

3. Finance Updates/Issues – a. FY2014 Budget Building Process and Report on Open Meetings

James Reardon, Commissioner, Department of Finance and Management, discussed the Administration's first public hearing on the state budget and explained the process used for the open meetings. The next public hearing was scheduled for the following Monday evening. Issues raised included that the state analyze the amount of Vermont's needs and then raise revenue accordingly; and find ways to lower tuition rates for higher education to students. Senator Kitchel added that a comment at the hearing mentioned how the state was forgoing tax revenue that could fund the state more adequately than currently. Commissioner Reardon responded that the department planned to give a presentation at the next hearing on the subject of forgoing tax revenue.

Commissioner Reardon explained that the administration was currently meeting with departments and agencies on the budget building process for FY2014. The challenges for the FY2014 budget, even though revenues were slowly rebounding, were strong funding pressures within human services and retirement plans. Additional pressures were the increased usage of one-time funding for state expenses and the possible Sequestration cuts at the federal level.

b. Budget Adjustment Overview

Commissioner Reardon distributed information and explained the preliminary FY2013 Budget Adjustment (BAA) numbers and FY2014 budget gap. He suggested that the Legislature not rely so heavily every year on one-time monies to build the budget. There was a \$9 million gap in the current budget that would need to be addressed in the FY2013 BAA. Some budget pressure areas included the Vermont Veteran's Home that may require additional funds for a mold issue within the

facility; the Department of Corrections had an increased number of detainees that could be covered within the department's budget for BAA but may cause issues in the FY2014 Budget. Senator Kitchel asked if the Springfield prison's 28 beds were ready to be reoccupied since all mental health patients had been moved to other facilities that had opened after the damage sustained by Tropical Storm Irene. The Commissioner agreed with some of the Committee members who stated it was open. Representative Branagan inquired whether the state was seeing results from the infusion of funds into the Chittenden County methadone addiction treatment facility. Representative Heath clarified that the appropriation in the FY2013 budget was to increase the number of slots for people in the Chittenden County area but there were issues with moving the clinic to its new location. Commissioner Reardon chimed in that there were also issues with getting Rutland's facility up and running. Representative Heath added that the Department of Corrections had comparison data on transitional housing and information giving a snapshot of what occurs with drug addiction. Commissioner Reardon stated that \$900,000 was borrowed from the corrections budget for the LIHEAP program, which would need to be replenished through the FY2013 BAA process.

Commissioner Reardon continued summarizing the remaining pressures to the FY2013 budget. Reach up and General Assistance were above what was estimated for FY2013. Judiciary may face a \$2 million shortfall in the budget but he cautioned that number had not been confirmed. Medicaid closed with a positive balance. Representative Heath asked about whether there would be a request for additional funds for mosquito control and the EEE issue in Rutland. Commissioner Reardon stated there would be a request for funds in the BAA but that amount was not known. Representative Branagan queried what the tax revenue line item of \$7 million on the handout included. Commissioner Reardon stated it was mostly due to personal income tax revisions.

Commissioner Reardon referred to a report on Pay Act allocations for FY2013 that was distributed prior to the meeting and explained there was a shortfall of \$1.1 million in the Executive Branch after the use of carryforward funds. An area of the largest shortfall came from the State Police's anticipated shortfall of \$1.3 million, which was due in part to an estimation issue in the transportation budget.

Senator Kitchel inquired whether all the special funds could be scrutinized and possibly consolidated. Commissioner Reardon stated that was done at one point in time but he agreed it should be done again.

E. Joint Fiscal Office Updates/Issues – 1. Committee/Office Policies Amendment – a. Fiscal Note Policy

Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, distributed the Fiscal Officer's Report and referred to the attachment that showed a proposed amendment to the Committee/Office fiscal notes policy. A clarification of fiscal notes requests must come from the JFC and that they became public documents once deemed ready for distribution. Senators Sears moved to accept the amendment presented by JFO, and Representative Ancel seconded the motion. The committee approved the motion.

b. Records Retention Policy

Mr. Klein referred to the proposed guidelines/policy of the Committee/Office for records retention attached to the Fiscal Officer's report. The committee discussed and decided that the

proposed policy would become unofficial guidelines for the office. Senator Sears and Kitchel suggested that the office be consistent with Legislative Council when it creates its guidelines for records retention. Representative Sharpe showed concerns for the guideline for website content as too vague “until no longer relevant.” Mr. Klein agreed and stated it was something the office would work to define.

c. Internal Policy Between the Joint Fiscal Office and Legislative Council

Mr. Klein referred to the policy attached to the Fiscal Officer’s Report and stated it was just an internal policy that allowed for the sharing of information between the two entities and sets out a working relationship. Representative Sharpe inquired whether the policy had been written by legal staff. Mr. Klein responded it was a cooperative effort that took about five months and included some fiscal committee chairs.

2. Education Fund Update

Mark Perrault, Senior Fiscal Analyst, Joint Fiscal Office, distributed information on a preliminary education fund outlook for FY2014 and explained that the Office and the Department of Taxes were working on a consensus for the FY2014 base tax rate, due December 1. Senator Kitchel asked what the contributing factors were for the increase in the health care premiums that led to spending some of the education fund reserves. Representative Heath explained that over the last few years when school budgets were tight and there was pressure for schools to spend less, they chose to spend reserves rather than ask for a rate increase. The schools now are in the process of trying to refill those reserves and are also in negotiation with the Green Mountain Care Board on rates. Mr. Perrault added that health care rates were the biggest driver for FY2014. He stated that there was anticipated to be a \$23 million surplus to the stabilization reserve for the end of FY2013.

Mr. Perrault stated that estimation revealed that due to the grand list dropping about 1.5%, tax rates would have to increase to keep pace with the previous fiscal year revenue receipts. The estimate for FY2015 shows that the grand list should be flat and start to increase out of previous years’ decline. The combined issue of revenue declining and education costs increasing, such as teacher salaries and special education costs, showed an anticipated rate increase in education tax rates for FY2014. Mr. Perrault informed the committee that this was the last year for the two-vote requirement to school districts spending over the statewide cap and school budgets would increase by 5%. Because of this, there could be a few schools that hit the trigger of the two votes for the first time, eliciting a 3.2% penalty to those schools.

3. Results First Update

Nathan Lavery, Fiscal Analyst, and Nancy Greenewalt, Intern, Joint Fiscal Office, distributed a document and gave an explanation and update on the Results First project. Mr. Lavery gave an overview of the goals of the project. Ms. Greenewalt explained the handout and its content. Mr. Lavery stated the expectation was to be further along in the project with the analysis, and to have more refined numbers by January 2013. Senator Sears queried whether the office was familiar with Max Schlueter’s study on this topic for Bennington County. Mr. Lavery stated that the office planned to evaluate any Vermont studies for information relevant to the project. Mr. Klein added that the office would analyze Mr. Schlueter’s study for information relevant to the project. In responding to Representative Sharpe’s question on whether the data were conclusive, Mr. Lavery explained that all numbers were subject to change while the department continues to refine its

numbers and the Office continues to have ongoing dialogue with them. Representative Ancel asked if within the numbers whether a person could be double counted because of enrollment in more than one program. Mr. Lavery confirmed that could happen.

The Committee adjourned at 4:05 p.m.

Respectfully,

Theresa Utton-Jerman
Joint Fiscal Office