

STATE OF VERMONT
JOINT FISCAL OFFICE

MEMORANDUM

To: Senator Ann Cummings, Chair, Representative Martha Heath, Vice Chair,
and Members of the Joint Fiscal Committee
From: Stephen Klein, Chief Fiscal Officer
Date: November 8, 2012
Subject: November 2012 – Fiscal Officers' Report

What follows is an update on post-session developments, some of which will be on the agenda for the November Joint Fiscal Committee meeting.

1. FY2013 November Fiscal Update:

- a. Revenues – Through the first four months of the fiscal year, General Fund revenues are \$2.2 million or 0.5% below target. Within the General Fund, extra revenue in the corporate tax and the estate tax revenues offset some of the shortfall in the income tax which is 4.5% below target. At this point, the economists think the income tax shortfall is more a result of monthly targets being off than an economic issue. The Transportation Fund is \$1.1 million or 1% off target, and the Education Fund is \$400,000 or 0.7% off target.
- b. Emergency Board Action – The Emergency Board voted to transfer \$8.8 million to the Low Income Heating and Energy Assistance Program (LIHEAP) to fund a benefit level equal to last year's level. These funds are: \$7 million from the federal fund shortfall set-aside, \$900,000 from weatherization surpluses, and \$900,000 from corrections which will need to be replaced in the budget adjustment.
- c. Projected budget gap: We are still working with the Administration on the projected budget gap for FY 2014. At present, it is in the range of \$40 to \$50 million. We hope to have a consensus estimate in November.
- d. Public Hearings on Budget – The Administration has scheduled two public hearings to discuss the budget development process, revenues and expenditures. They are on November 13 and 19, 2012. In accordance with Sec. E.100.1 of Act 162 of 2012, public participation is required with the "development of budget goals, as well as general

prioritization and evaluation of spending and revenue initiatives.” Committee members are encouraged to attend. The meetings will be held at various sites around Vermont, through Vermont Interactive Technologies (VIT). For more information on VIT, including directions to sites, go to: <http://www.vitlink.org/>.

- e. Education Outlook – Mark Perrault of the Joint Fiscal Office (JFO) and the Administration are working on the Education Fund outlook for the December 1, 2012 estimate announcement. Initial numbers do not look good, and the continued decline of the grand list, increases in health care costs, and special education cost increases are all factors impacting the fund balance. Initial estimates indicate a \$0.03 to \$0.05 tax increase to maintain 5% reserves.
- f. Medicaid – JFO and the Administration have discussions underway to develop base Medicaid estimates for use in budget development. Baseline caseload projections are nearly complete. Utilization estimates are underway as well as discussions on the changes that implementation of the health care exchange will have on the FY 2014 budget. We expect some modest growth for Medicaid overall and continue to refine the projections. The staff will provide a brief update at the meeting.
- g. Pensions – Pension funding numbers are in, and the actuarial funded level for the state and teachers’ systems both declined this year. The state teachers’ and state employees’ pension funds have an FY 2012 funded ratio of 61.6% and 77.7% respectively. Both ratios are slightly below FY 2011 ratios (63.8% and 79.6%). In recent years, the highest funded levels were the teachers’ fund in 2005 at 90.7%, and the state employees’ fund in FY 2007 at 100.8%. The market declines have been a major factor in the reduced funding ratios.

2. FEMA Update:

- a. An update on the status of the Federal Emergency Management Agency (FEMA) funding will be made at the November 15, 2012 meeting. The state and FEMA are still engaged in discussions. Reports are that progress is slow, and that the amount of funds the state is hoping to receive may be difficult to achieve without appeals.
- b. Commissioner Flood will provide the JFC with a brief update on the mental health system transition at the November 15, 2012 meeting.

3. Waterbury State Complex Revised Action Plan:

The Senate and House institutions committees met and voted to approve a recommended revision to the development plans for the Waterbury complex. The recommendation will be up for consideration

by a special committee consisting of the Joint Fiscal Committee and the chairs of the House and Senate institutions committees at the November 15 JFC meeting. Materials relevant to this vote are in your packets.

4. All Legislator Briefing/New Member Orientation:

- a. We are in the final development stages of preparations for the November 28, 2012 legislative briefing, and the November 28–30, 2012 new member orientation.
- b. Legislative Briefing – The full legislature briefing is scheduled from 10:00 a.m. to 3:00 p.m. in the Well of the House. Specific issues to be discussed have yet to be finalized, but likely topics include: health care reform, state budget and federal fund updates, and FEMA/Irene funding status.
- c. New Member Orientation – The new member orientation follows the full legislature briefing and runs Wednesday, November 28 evening through 5:00 p.m. Friday, November 30. Friday is fiscal day, and includes: an overview of the state fiscal process, a fiscal chairs panel, and a presentation by the JFO staff.

5. Joint Fiscal Office Updates:

- a. Basic Need Budget Methodology – The Joint Fiscal Committee will be presented several changes to the basic needs budget methodology. The changes are in the areas of clothing and household expenses, telecommunications, and health care coverage. We are also proposing to assume that the current reduction in payroll taxes does not stay in place. A memorandum explaining these proposals is in the mailed package.
- b. Traffic Safety Enforcement Costs Study Update – Neil Schickner of the JFO has been working on the Traffic Safety Enforcement Cost Study update which was designed to identify what amount of public safety expenditures from the Transportation Fund made sense. The Vermont public safety data have been hard to get in a clean form in part due to this summer's incident with state trooper records being called into question. The Department of Public Safety is reviewing its numbers. Mr. Schickner has been able to get some comparative numbers from other states, and will include information in the packets.
- c. The Committee on Transportation Funding [Sec. 40 of Act 153 of 2012] – The committee looking into transportation revenue options is in its final stages. It has identified an annual gap between basic needs and revenue ranges between approximately \$200 and \$250 million during the five-year period from 2014 to 2018. This funding gap is

significant relative to the typical Vermont transportation budget of approximately \$450-\$500 million.

- d. Results First Update – The Results First project continues and Nathan Lavery of the JFO will be making a presentation on initial findings about corrections programs at the meeting.
- e. JFO Budget System – The JFO budget system has been updated to be compatible with Office 2010. We continue to look at how the budget processing system should be designed for the longer term. This year, we are planning to have a more extensive set of links to Administration materials on our website.
- f. Legislative Council MOU – We have completed an MOU with the Office of the Legislative Council to formalize some of the offices' interactions. One of the values of this is a clearer expectation of confidentiality when the offices assist each other with projects. A copy is attached.
- g. Fiscal Note Policy Clarification – We have also added a policy clarification as to fiscal note preparation for non-money committee bills. Technically these are done on behalf of the Joint Fiscal Committee. This clarification supports the current practice of the release of the fiscal note when finished as opposed to at the behest of individual requesters. A copy is attached.
- h. JFO Records Retention Guidelines – Included with this report is a copy of an office records retention guideline. As requests for information grows, records generating from those requests increase in volume. Therefore, it became apparent that a records guideline was important to give direction on how this information is stored and for how long.
- i. Fiscal Analyst Titles – After internal discussions with staff, we are changing the titling of some our fiscal analysts. While there is no financial change, fiscal analysts with seven or more years of experience in the office or in comparative work will be made “senior fiscal analysts.” There is little room for advancement in the office and when our staff is working with those in other states, there is a sense that the fiscal analyst title does not reflect the experience they have. The change will impact Mark Perrault, Sara Teachout, Nolan Langweil, and Neil Schickner.

**10/12/2012/ JOINT FISCAL OFFICE AND OFFICE OF LEGISLATIVE COUNCIL
POLICY REGARDING THE LEGAL RELATIONSHIP BETWEEN THE JOINT FISCAL
OFFICE AND THE OFFICE OF LEGISLATIVE COUNCIL**

This policy is intended to clarify the legal relationship between the Office of Legislative Council (LC) and the Joint Fiscal Office (JFO) in order to: facilitate communication and collaboration between LC and JFO; ensure the confidentiality of communications between LC and JFO; and allow both offices to work together effectively to better fulfill their statutory missions.

It is the policy of LC and JFO that when LC provides members of the Vermont General Assembly with legal services, the attorney client privilege afforded members shall encompass communications between LC and JFO when such communications are made for the purpose of facilitating the rendition of professional legal services to the members of the General Assembly.

It is the policy of LC and JFO that LC may consult with JFO and seek advice on appropriate fiscal matters, including LC's budget.

It is the policy of LC and JFO that communications between JFO and LC regarding assistance, information, and advice and all information received in connection with fiscal research or fiscal drafting conducted by JFO under 2 V.S.A. § 502 shall be confidential until the party requesting the fiscal research or fiscal drafting designates the communication as not confidential. For the purposes of this policy, "fiscal research or fiscal drafting" includes fiscal notes, issue briefs, and fiscal reports. The Joint Fiscal Committee, in exercise of its powers and functions under 2 V.S.A. chapter 15, is the party designating that fiscal notes, issue briefs, and fiscal reports are not confidential upon release by JFO.

It is the policy of LC and JFO that JFO may consult with LC and seek legal advice and representation on appropriate issues. It is the policy of LC and JFO that LC agrees to provide to JFO legal services that arise independently of services provided to members of the General Assembly. When providing legal services to JFO independently of services provided to members of the General Assembly, an attorney client privilege shall exist between LC and JFO, and communications between LC and JFO shall be confidential unless JFO, after providing notice to LC, waives confidentiality.

It is the policy of LC and JFO that both offices shall respect the confidentiality of communications between the offices and the confidentiality of communications from and to members of the General Assembly. Procedures will be put in place, and training will be conducted, to ensure that staff is aware of, and respects, the confidentiality of communications.

LC and JFO staff leadership shall cooperate for the purpose of operating in a manner consistent with this policy. LC and JFO staff leadership shall educate their respective staff on this policy and shall make every effort to ensure that staff is working effectively together.

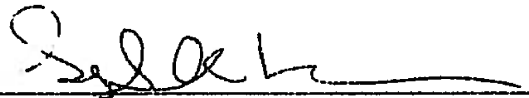
This policy shall take effect on the date of its last approval by LC or JFO. This policy may be revised by mutual consent. LC or JFO may terminate this policy by providing written notice to the other.

The Legislative Council Committee and the Joint Fiscal Committee each retain the right to terminate this policy.

The Office of Legislative Council ("LC") and the Joint Fiscal Office ("JFO") agree that until the Joint Policy Regarding the Legal Relationship Between the Joint Fiscal Office and the Office of Legislative Council (Legal Relationship Joint Policy) takes effect, LC and JFO shall communicate and collaborate according to the terms of the Legal Relationship Joint Policy.



Date 10/13/12
Luke Martland
Director and Chief Counsel
Vermont Legislative Council



Date 10/12/12
Stephen Klein
Chief Fiscal Officer
Vermont Legislative Joint Fiscal Office

LEGISLATIVE JOINT FISCAL COMMITTEE
and
JOINT FISCAL OFFICE POLICIES

1. The Joint Fiscal Office is established to provide independent, accurate, analytical, and clerical support for the appropriations and tax writing committees. Its functions and work assignments are subject to approval of the Joint Fiscal Committee and/or the Joint Fiscal Committee chair.
2. It is the intention of the Joint Fiscal Committee that the analyses and work products of the Joint Fiscal Office shall be completed in a factual, reliable, and timely manner to a professional quality standard as required by the Joint Fiscal Committee.
3. Assignments of responsibilities, studies, and work tasks to personnel of the Joint Fiscal Office will be through the Joint Fiscal Committee chair and the Joint Fiscal Officer, except during a session of the General Assembly. During sessions, professional and secretarial personnel will report to the chair of their designated committees for work and scheduling assignments relating to their committee activities. Regularly assigned tasks will continue to be supervised by the Joint Fiscal Officer.
4. The chair of the Joint Fiscal Committee shall assume the responsibility for public information in matters relating to the work of the Joint Fiscal Committee. The individual chairs of the four money committees shall be the principal spokespersons for matters relating to the work and interest of their committees. The Joint Fiscal Officer shall be responsible for information which concerns the operation of the Joint Fiscal Office.
5. Requests for services from legislators other than money committee members will be directed through the Joint Fiscal Committee chair or one of the money committee chairs. Requests for information or facts which do not require research may be addressed to the Joint Fiscal Officer.

6. Detailed analyses or studies which are contrary to established legislative, executive or judicial positions shall be subject to the approval of the Joint Fiscal Committee and/or the chair of the Joint Fiscal Committee.

7. The staff of the Joint Fiscal Office is encouraged to provide analyses and recommendations for improvements and/or alternatives to programs and appropriations for committee consideration.

8. Joint Fiscal Office personnel may serve on study or project task forces other than regular Joint Fiscal Committee work with the approval of the Joint Fiscal Committee or the Joint Fiscal committee chair. Work assignments may also be made as a result of legislation which authorizes or requires Joint Fiscal Office participation in studies and other projects.

9. Joint Fiscal Committee and Joint Fiscal Office records which are covered under the right-to-know statute shall be available to the public at reasonable times and locations upon request to the Joint Fiscal Officer.

10. Records, working papers, studies, and analyses which represent work in process for the Joint Fiscal Committee, the money committees, or individual legislator's services by the Joint Fiscal Office are not public documents and are not available for public inspection through the Joint Fiscal Office.

11. The Joint Fiscal Office shall develop a reasonably representative data base of information related to Joint Fiscal Committee interests and concerns. The information shall be maintained and made available to money committee members.

12. As part of its responsibilities under 2 V.S.A. 502 and 503, the Joint Fiscal Office produces fiscal notes on legislation, issue briefs covering general fiscal issues and a variety of fiscal reports. The Joint Fiscal Committee shall be considered the requesting party for these documents. The Joint Fiscal Committee authorizes the public release of all fiscal notes, issue briefs and fiscal reports produced by the Joint Fiscal Office, once completed and deemed ready for distribution by Joint Fiscal Office staff. [Proposed for 11/15/2012 action]

Office Guidelines for Records Retention

[Proposed for 11/15/2012]

A retention Guideline is created for management and cataloguing of the Joint Fiscal Office's (JFO) records.

- a.) Interagency Materials: received, including: state budget submissions and supporting material, and other required interagency submissions will be held in the JFO for 10 years, and then recycled.
- b.) Website Content: will be maintained on its website for 5 years, archived on its website until no longer relevant.
- c.) Joint Fiscal Committee (JFC): agenda's, minutes, motions and other materials will be held in the JFO for 10 years, and then retained at the public records division of the VSARA indefinitely. A copy of all JFC minutes and rules will be kept within JFO.
- d.) Interagency grant material: received, and JFC actions thereto will be held in the JFO for 10 years, and then retained at the public records division of the (VSARA) for 10 years.
- e.) Recordings and Videos: under the jurisdiction of the JFC/JFO, including and not limited to the House and Senate Committees on Appropriation, the Joint Transportation Oversight Committee, Special Projects and its [JFC] own recordings, will be held for 10 years and then destroyed.
- f.) Special Project Records: legislatively required material, including the Joint Transportation Oversight Committee (JTOC) will be held in the JFO for 10 years, and then retained at the archives division of the VSARA.
- g.) Contract Records: final Requests for Proposals (RFP), formal bid responses, and vendor contracts will be held in the JFO for 10 years, and then recycled or destroyed.

- h.) Personnel Records: including: employee folders, personnel files, and Employee Performance Evaluations, will be held in the JFO until an employee is terminated, plus 10 years, and then destroyed.
- i.) Operating Documents: listed below, will be held in the JFO for 5 years, and then maintained at public records division of the VSARA for 5 years, and then destroyed except where noted in the third bullet.
- Time Report Certification
 - Receipts for Funds to State Treasurer, Copies of Expense Vouchers, Purchase Orders, Payroll, Standard State Invoices, Travel Requests and Paid Invoices
 - VISION Records (including records in preceding bullet – in accordance with state rules from VISION Procedure #2, dated January 27, 2010. (Held until after state audit then 1 V.S.A. § 317(a) if after timeline noted in (i) narrative above).