



**GENERAL ASSEMBLY**  
**STATE OF VERMONT**  
LEGISLATIVE JOINT FISCAL COMMITTEE

Friday, July 21, 2017

Minutes

Room 10, State House

Members present: Representatives Ancel, Donovan, Fagan, Lippert, and Toll, and Senators Ayer (by speakerphone), Cummings, Kitchel, Sears, and Westman.

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

Representative Janet Ancel, Chair, convened the meeting at 9:36 a.m. and asked for a motion to approve the minutes of November 14, 2016, and January 26, 2017. [*Minutes were approved at this meeting but due to a technicality, they were reapproved at the following August rescission meeting*].

**B. Medicaid and Agency of Human Services Updates – 1. Year-end Medicaid Update**

Stephanie Barrett, Associate Fiscal Officer, Joint Fiscal Office, distributed and summarized the annual report. She pointed out there was stability now in estimates for Medicaid caseload forecasts with a difference of 736 between the estimate and actual year-end totals. There was one area of note for New Adults Without Children that dropped from estimated 80% (of all new adults) shown in the January Emergency Board's adopted FY2017 numbers to 70% in the current actual numbers of the last two quarters. This drop in childless adults impacted the draw of federal match funds and a commensurate pressure of \$4.8 million in the General Funds (GF). Other reduced trends in the program covered the GF need in FY2017.

Senator Ayer asked what the possible reason could be for the decline in childless adults. Ms. Barrett opined that the decline could have been due to redeterminations of eligibility and experience of the Aged, Blind and Disabled (ABD) population. Representative Lippert noted that when viewing the actual numbers of the total caseload population, there was a decrease. He requested further analysis and an explanation at a later date. Ms. Barrett offered that Joyce Manchester, the Office Economist, had done an analysis of the Medicaid caseload adult population and found that the numbers were inflated due to the redeterminations of about 15,000 -17,000 people. Representative Lippert asked for more understanding of the fluctuation of the numbers from the Office.

Ms. Barrett stated that all Medicaid expenditures for FY2017 came in at \$32.1 million below gross federal and State fund estimates. The GF portion of this amount of underspending

was less than the average match as a result of several factors, including: the New Adult match issue already discussed, and a legislative mandate requiring that unused funding in Medicaid be returned to the caseload reserve, which resulted in a total of \$3.8 million being re-reserved. Also, the State Health Care Resources Fund was not able to meet its target revenue estimate by \$3.4 million. Finally a legislative mandate had required that \$1.25 million be held out of any unused carryforward in FY2018.

Ms. Barrett explained that also reported was the year-end Choices for Care program position that was now entirely funded through Global Commitment. This program, per Act 85 of 2017, required the first use of the available year-end balance to fund a 1% program reserve fund for FY2018. There was a \$1.1 million reserve balance which was short of the \$1.9 million needed for the 1% reserve level, so this program has an approximate 0.6% reserve.

In responding to Representative Ancel, Ms. Barrett confirmed that the Medicaid growth rate was .02% from actual FY2016 to actual FY2017. She referred to page 7 of the Medicaid year-end report and explained the cash position of the Global Commitment Fund (GCF). Act 85 utilized the GCF balance to meet the Medicaid portion of the new 27/53 reserve fund, where \$5.287 million was transferred to the reserves, leaving the FY2017 GCF balance with \$81.5 million. Legislation also allowed up to \$10 million of GCF to be used to offset FY2018 Corporate Tax GF revenue impacts (subsequent action did not rely on this \$10 million authority).

Ms. Barrett continued her review of the year-end Medicaid report referring to page 8, the State Health Care Resources Fund. She explained the difference between the FY2017 adopted January 2017 Emergency Board revenue estimate and the FY2017 actual revenue receipts was \$3.4 million. Areas that reduced revenue were: the Cigarette Tax at \$700k below expectation; and the Ambulance Provider Tax with 31 providers that had not yet paid the tax. Senator Ayer inquired what the repercussions were for an ambulance provider not paying the tax. Ms. Barrett stated the Office would get that information to the Committee. The Committee agreed with Senator Ayer that the intent of the ambulance provider tax was to enable the State to leverage funds to increase the amount all providers were paid. Representative Ancel offered that it was not surprising the tax was difficult to estimate since it was new to the Fund. Ms. Barrett explained that the hospital provider tax estimate was slightly off but the most difficult revenue amount to estimate was recoveries, which came from the Attorney General's Medicaid Fraud Fund.

Ms. Barrett stated that there could be program pressures in FY2018, including overpayment of manufacturers' pharmacy rebates in the range of \$8 million; and the BlueCross BlueShield (BCBS) reconciliation process related to the Exchange not yet budgeted in FY2018 and could have an impact of \$8 to \$10 million. There were other possible pressures that were not known, such as built in savings targets, that may not be realized, and federal funding uncertainties.

Representative Toll asked if the reconciliation payments to BCBS were ongoing. Ms. Barrett referred to Cory Gustafson, the Commissioner of the Department of Vermont Health Access' memo to the Committee, dated July 21, 2017, and titled '2016 Qualified Health Plan

Reconciliation,' and then advised the Committee to hear from the Department on the payment methodologies. Senator Kitchel asked if there was an analysis between the old and new methodologies to estimate payments, and if so why was the decision made to move to the current methodology. She added that it had been several years of significant payments to BCBS. Sarah Clark, Chief Financial Officer, Agency of Human Services, stated she was not aware of an analysis of the past and future payment methodologies but would followup with the Commissioner for a response to the Committee. The Chair suggested the Department respond in writing and if the Committee had questions, it could invite Commissioner Gustafson to its next Committee meeting in September. Representative Lippert asked that the response include the rationale for changing the policy, and whether the contract mentioned in the Commissioner's memo had been signed and who was the independent third party mentioned in the memo. Ms. Clark explained that the contract had not yet been signed and the Department was still in its procurement process.

## 2. Other Agency of Human Services Updates

Ms. Clark distributed a memo from Commissioner Gustafson, dated July 21, 2017 with the subject of "Preparation for 2018 Open Enrollment," and then reviewed the Agency of Human Services (AHS) FY2017 closeout process using a presentation. The Agency spends roughly \$4 billion annually with \$5.6 million for administrative costs or 0.81% of the total budget. Per Act 85 of 2017, the AHS was required to carryforward -\$5.3 million in GF obligations. Of that \$3.7 million of GF was to be transferred to the Human Services Caseload Reserve. The Department of Vermont Health Access was required to carryforward \$200k by federal mandate for "the money follows the person program" Representative Ancel inquired how the Agency spends its budget. Ms. Clark explained that the Agency was the conduit between Departments for Medicaid funding, as well as other funding sources and programs.

Ms. Clark suggested that since the closeout information was preliminary, the Committee may want an update on federal receipts from the Agency at a later meeting. She explained that the Agency had a \$2 million federal deficit in FY2017. Reasons for this included: \$1.2 million deficit in DVHA for an annual reoccurring overspend in the CHIP administrative fund, which was capped at 10% at the federal level and the Agency decided to address in FY2017. The \$.09 million deficit in the Department for Children & Families (DCF) was primarily due to the Emergency Housing General Assistance Program. With an unanticipated increase in federal funds to the Agency minus the deficit, the Agency had a positive \$3.5 million in its budget.

Ms. Clark explained that the Department of Corrections had \$233k left on its bottom line in FY2017. The shortfall in DCF's Emergency Housing General Assistance Program was due to increased utilization and savings investments not meeting targets. The Agency found it had flexibility in its budget because of FY2017 estimates for the new Global Commitment Waiver and the 50/50 match on administrative funds that came in below targets. In addition, the increased match to the State was offset by the increased amount of funds to programs through enhanced matches. Ms. Clark promised to update the Committee when more information became available. The final impact to the State, whether it was positive or negative, would be included in the FY2018 BAA.

Ms. Clark concluded with a chart that showed a trend in AHS of declining general funds over time. She explained the Agency was aware of looming State rescissions and uncertainties at the federal level for funding. Senator Cummings expressed concern of the possible impact with federal uncertainties to Vermonters served by the Agency. She asked if the Agency had a plan to protect the most vulnerable population from federal funding rescissions. Ms. Clark responded that the Agency was paying close attention to Congress and would work hard to protect Vermonters if funding issues arose.

#### C.1. Administrative Updates – 1. Unencumbered Balances

David Cameron, Business Manager, Department of Financial Regulation, distributed a memo on FY2017 receipts available to the GF from the Insurance, Securities, and Captive Regulatory funds. He reviewed the three funds and the ending balances, announcing a final total of \$31.4 million available to the GF. Mr. Cameron added that legislation during the 2018 session would attempt to adjust the up and down spikes of revenue between bienniums starting in FY2019 by holding 50% of the receipts for the following fiscal year.

Mr. Cameron pointed out that the Securities Regulatory and Supervision Fund was approximately \$4.6 million above projections due to an increased Broker Dealers Investment Fee receipts and there could be further adjustments in the FY2018 BAA. Senator Kitchel inquired how many broker dealers were impacted by the fee that were not licensed in Vermont but resided out-of-state. Mr. Cameron stated the Department had initial concerns about that issue as well but found it not to be a problem since Broker Dealers are licensed nationally. Representative Toll asked if Vermont was in line with other states with Broker Dealer fees or was there capacity to increase them further. Mr. Cameron promised to send a summary of the Broker Dealer fee experience but suggested the fees were at a good rate.

#### C.2 – Preliminary Close-out

Brad Ferland, Deputy Secretary, Agency of Administration, and Adam Greshin, Commissioner, Department of Finance & Management, distributed information on the FY2017 preliminary close-out of the State budget. Deputy Secretary Ferland referred to the Direct Applications, Reversions, and Transfers summary box and explained there was a \$10.3 million balance in the GF because of unanticipated revenue exceeding estimates. Deputy Secretary Ferland mentioned an issue with Corporate Refunds that were budgeted but did not get disbursed to businesses. In addition, the Budget Stabilization Reserve was fully funded at the 5% statutory amount for a total of \$74 million. New reserve funds that were added and funded included the Caseload Reserve and the 27<sup>th</sup> pay period and 53<sup>rd</sup> Medicaid Reserve. Excess funds from the Budget Stabilization Reserve of \$10.38 million spilled over into the Balance Reserve (Rainy Day Fund).

Representative Lippert asked what would have happened if the Administration had paid out the Corporate Tax Returns on time. Deputy Secretary Ferland explained that leading up to March, revenue estimates showed the State carrying an \$18 million surplus, and a projected \$16.3 million in additional Corporate refunds to pay. Those refunds were being reviewed but were still obligations from FY2017. If Corporate refunds had been paid at the end of FY2017, there would not be a GF balance of \$10.38 million since that surplus would have been used for those refunds. Representative Ancel added that Corporate refunds were not unusual to pay but unusual events caused the delay in them coming due. Deputy Secretary Ferland offered that the extraordinary tax refunds could be due to many different scenarios, such as an acquisition or a sale of a business. He responded to Senator Ayer that the corporations had filed for the refunds but the Department of Taxes had requested further information before paying out the refund in performing its due diligence. Senator Kitchel added that Act 85 of 2017 had language to address the monetary payment for the known refunds but the amount had not yet been determined. Deputy Secretary Ferland explained that later in the day, the Emergency Board would receive an updated consensus forecast that would include the \$16.3 million rescission.

### C.3 FY2018 One-time Corporate Tax Refund Plan

Commissioner Greshin distributed a FY2018 one-time Corporate Tax Refund Plan and stated the Agency attempted to create a plan that would have the least or no impact to Vermonters. Deputy Secretary Ferland explained that Act 85 of 2017 allowed the Administration two options for developing a one-time contingency plan in the case of extraordinary Corporate Tax refunds, including the use of \$10 million from the cash balance of the Global Commitment Fund, and up to \$5 million in special funds across departments. The Administration opted out of using the Global Commitment funds because of the federal budget unknowns. Deputy Secretary Ferland then reviewed the line items of the plan by first explaining that the plan would allow for the use of one-half of the GF Balance Reserve of \$5.19 million with Emergency Board approval and if the other half of the reserve were needed, it could be approved through the FY2018 BAA process. Representative Ancel asked about the statutory references for the reserve uses of the plan, and Deputy Secretary Ferland corrected the first notation that it would be approved within the BAA process rather than “no action required.” There were three Special Fund Balance Transfer reversions within the plan, including a SF for statewide accounting costs within the Department of Finance & Management; and two SF from the Department of Public Safety from registry fee, and hazardous chemical fees. In responding to Senator Sears, Commissioner Greshin explained that the registry fee was from Medical Marijuana. There was \$1 million from a renegotiated contract for supplies, and \$1 million for a one-time transfer from VHCB that was sitting on the bottom line of the FY2018 budget.

Representative Ancel asked who was impacted by the use of the VHCB funds, or were there any impacts to Vermonters from other redirected use of funds. Stephanie Barrett, Associate

Fiscal Officer, responded that the VHCB funds were never carried on the budget balance sheet, and, therefore never captured as additional money. Deputy Secretary Ferland added that the plan would be presented to the Emergency Board later in the day for action but no action was required by the Committee. Representative Lippert inquired where any unused funds would be used if the refunds came in lower than anticipated. Deputy Secretary Ferland responded the funds would revert back to the reserve.

#### C.4. FY2017 Cost Savings

Deputy Secretary Ferland distributed information and gave an overview of the Administration's FY2017 cost savings plan per Act 85 of 2017. The Administration's plan reduced 13 exempt positions to find the required \$550k in GF savings. In addition, a policy was implemented to disallow the future creation of additional exempt positions without prior approval by the Agency. The total exempt position GF saved was \$227,168 plus additional savings from the Department of Public Service and from the Pay Act appropriations that fulfilled the statutory requirements of the savings plan. Senator Ayer asked what the impact was to DVHA with the elimination of the two deputy commissioner positions. Deputy Secretary Ferland promised to get that information to the Committee later.

Senator Kitchel offered the historical context behind the policy decision for the cost-savings measures through the elimination of exempt positions. There had been a significant growth in exempt positions with each Administration change, and the legislation for the cost-savings allowed flexibility of how to find savings within the Administration. Representative Ancel inquired if all the eliminated positions were vacant at the time, and Deputy Secretary Ferland responded they were not. Senator Sears added that it allowed the Administration to find savings without the elimination of programs. However, he expressed concern for the impact on programs with the uncertainty of the federal budget. Deputy Secretary Ferland responded to members that the savings included benefits within the position savings.

#### C.4 – Transportation Fund Appropriation Reductions

Joe Flynn, Secretary, and Lenny Leblanc, Chief Fiscal Officer, Agency of Transportation, distributed the FY2017 Transportation Fund (TF) Appropriation Reduction Plan for \$6.3 million and reviewed it with the Committee. Senator Kitchel asked what the impacts to rail and public transit were with the rescission. Secretary Flynn stated that Senator Mazza, Chair of the Senate Transportation Committee and the Joint Transportation Oversight Committee had been apprised of the reduction plan. He then responded to the question that funds were appropriated for rail but not spent in FY2017 because the projects had been delayed. However, those projects that had earmarks would need monitoring in FY2018. The reduction to public transit funds should not have a direct impact to those providers, but would delay some vehicle replacements by a year.

In clarifying for Representative Lippert, Senator Westman explained that the reductions in transportation could slow projects down in FY2018. He expressed concern that the Administration did not provide an explanation of what projects may experience a slow down in FY2018 and how that would impact them. He hypothesized that the Vermont Western Corridor Rail Project (Middlebury Project) was where the impact would occur. Senator Ayer asked how the reductions would impact the Middlebury Project. Secretary Flynn responded that the reduction did not directly impact the Middlebury Project, and the Agency considered that project high priority.

The Chair interrupted the Committee agenda to allow Ms. Clark to return to testify on a memo submitted by Commissioner Gustafson. Ms. Clark explained that the memo gave an update on open enrollment for the Exchange and invited questions to be e-mailed to her or the Commissioner for a response.

D. Administration's Updates and Grant Approval – 1. General Assistance Housing Update of Anticipated Spending.

Ken Schatz, Commissioner, and Sean Brown, Deputy Commissioner of the Economic Services Division, Department for Children & Families, explained that the Emergency Assistance Housing Program was created to provide housing to Vermont's most vulnerable through short-term and very restrictive criteria as a bridge between other programs that would encourage recipients to move on to more permanent housing. Senator Kitchel referenced a memo from the Department on June 28, 2017, and the Commissioner explained that the memo went out to Housing and Homelessness Providers and Advocates to explain the Department's challenges it faced with the General Assistance Housing budget and its proposed decisions to address those budget issues. Commissioner Schatz announced that the Department had found ways with the help of the memo recipients to continue programs within its existing budget and without implementing the tough decisions it contemplated in its June memo.

Commissioner Schatz explained that the GA Housing Program was for last resort situations for housing when no other options were available. In FY2018, the Legislature reduced DCF's budget by \$150k with additional one-time funding for homelessness. In 2017, homelessness was increased in the State except for Chittenden County where it declined. The most significant factors for this include drug addiction, mental health issues, and domestic violence. Mr. Brown explained that the homelessness trends for Vermont included weather as a significant driver for 2017 which was colder than the prior year. This increased costs to \$1 million above the budgeted amount for FY2017 from increased stays and doubled the amount of anticipated recipients for the cold weather exemption. The number one cause for single adult usage of the GA housing vouchers was domestic violence.

Mr. Brown listed investments made by the State over the years that had a positive effect on homelessness that included warming sites and leased apartments through initiatives of domestic violence partners in Brattleboro, Bennington, and Rutland. However, there was continued growth of homelessness in Rutland and the Barre area. Senator Westman asked how far along was the Department in negotiating shelters in Barre and Rutland. Commissioner Schatz responded that the Department had preliminary meetings with those two communities and received positive responses. The Department could not confirm the shelters would be ready in time for winter of 2018. Senator Westman expressed disappointment for the lack of advancement toward the goal of shelters in Barre and Rutland because shelters are cheaper and a more positive place for housing than hotels. Families in shelters receive meals and some form of policing but families in hotels have none of those securities. Commissioner Schatz agreed but explained there were many challenges with siting and creating facilities in communities. Senator Kitchel added that the GA fund was never designed for what it was being used for today. She suggested that all resources for housing be reviewed for a more targeted system. Commissioner Schatz agreed that GA should only be used as a stop gap program, and added that the Department and the Agency are open to such a project.

D.2 - Grant JFO#2883: One (1) limited-service position within the Department of Health titled Compliance and Enforcement Advisor to be a part of the Department.

Paul Daley, Chief Financial Officer, and David Englander, Senior Policy & Legal Advisor, Department of Health, reviewed the grant packet for JFO#2883 for a limited service position, advisor, as part of the Department's existing Lead Accreditation Certification Program. Representative Ancel asked if the appropriate chairs of the standing Committees had responded to the grant request. Dan Dickerson, Fiscal Analyst, Joint Fiscal Office, responded that Representative Deen, Chair of the House Committee on Natural Resources, Fish & Wildlife gave his approval of the grant. Senator Ayer voiced her approval for the grant as the Chair of the Senate Committee on Health & Welfare.

Senator Kitchel moved to accept the grant, and Representative Fagan seconded the motion. The Committee approved the grant.

E. Revenue Update

Tom Kavet, the Legislature's Economist, distributed an Economic Review and Revenue Forecast Update as of July 2017, and reviewed the consensus forecast with the Committee. He explained that the TF was 1.2% below estimates primarily due to shortfalls in the yields for motor vehicle fees not producing as expected from the previous session, possibly due to some source data issues in estimates. The Education Fund (EF) was weaker than expected being one-half of a percent below estimates. Referring to page 4, Mr. Kavet stated that the U.S. was on track for the longest sustained economic expansion (recovery) on record with slow but steady



measured growth. Senator Sears asked why Vermont was experiencing a revenue downgrade if the U.S. overall was experiencing steady economic expansion. Mr. Kavet responded that growth was not as fast as expected which caused an unanticipated revenue shortfall. He referred to page 18 explaining that there were relatively small adjustments to the ledger. Senator Sears commented that with health care growing at 12%, it was tough to expand revenue even at 2-3%. Mr. Kavet added that revenue to the State, especially in the Transportation Fund was not growing at even inflation rates, which was due to the structure of the tax base that suggested a bigger conversation. The State was showing more volatility in tax sources than in the past, especially with its reliance on personal and corporate income. One event in these areas could cause a large revenue impact such as the current corporate refund issue.

Mr. Kavet pointed out that Vermont's unemployment levels were the lowest in the nation. Representative Fagan asked whether Vermont may gain the new sales tax but lose local stores and hurt employment from the new Amazon-Sears deal. Mr. Kavet responded that the Sears addition to Amazon would affect New Hampshire more than Vermont as shown in a town level analysis between the two states on sales tax that he worked on with the Fiscal Office. The primary area of development for box stores has been on the New Hampshire side of the Connecticut River.

Mr. Kavet referred to pages 9 through 10 of the handout and explained that house prices increased in Chittenden County, but within the rest of the State, prices were stalled. Overall, residential construction was stalled within the State, shown on page 11 of the handout. However, more commercial activity was occurring with new construction of an \$80 million wind farm in Deerfield and other business-related activity that tallied to over one billion dollars.

Representative Ancel asked for a growth chart of the three major State funds, i.e.: GF, TF, and EF. Mr. Kavet referred to pages 23–25 of the handout and explained the charts look back 5 years and forward 2 years at the percentage of growth for each of the funds. He noted there was a \$9 million increase of funds, before transfers, between July FY2018 and January FY2019. One-half of this increase was due to a 1% or \$4 million formula change to EF from Sales & Use Tax that allocates 36% of revenue to the EF from 35% the previous year. Representative Ancel noted that the chart reflects that there was a 2% growth rate in GF from FY2017 to FY2018 and a projected 3.5% for FY2019. Mr. Kavet agreed with the rates but referred to the document's appendix for longer term rates.

#### F. Preliminary Discussion on Rescission Process

Mr. Klein and Commissioner Greshin distributed and reviewed the statutory language on rescissions. Representative Ancel reiterated there would be a consensus forecast to the Emergency Board for approval that afternoon. The Committee would need to meet on the

Administration's proposed rescission plan when it was released, and that date had not yet been set. Commissioner Greshin stated that the Administration planned to address the Corporate revenue downgrade through one-time funds immediately, and then to address ongoing reductions over the next few weeks. He requested the Committee extend the time for submitting the rescission plan by a couple of weeks in order for his staff to scrub the budget and to prepare for the rating agencies meeting on August 8.

A Committee discussion ensued on a possible date for the Committee to receive the Administration's proposed plan and for a public hearing on the plan. The Committee decided to meet on August 17 and reserved August 18 in case it was needed for the public hearing or an additional Committee meeting. Representative Ancel reminded the Committee that once a rescission plan was presented by the Administration, the Committee was required to have a public hearing before taking action.

#### G. Fiscal Office Update – 1. Fiscal Officer's Report

Mr. Klein distributed the Fiscal Officer's Report and introduced the Office's new fiscal analyst, Graham Campbell, whose focus would be on revenue. He would officially start at the office on August 8. Mr. Klein explained that the Minimum Wage Study Committee was being polled for its first meeting and it should start in August. He noted that State Employees and Teachers' Retirement funds returns exceeded estimates for FY2017. Also, the assumed rate or actuarial calculation was reduced from 7.9% to 7.5%. This will increase the funding obligation to the fund.

Mr. Klein explained that the Agency of Education (AOE) was working on the \$13 million recapture of health care savings from supervisory unions (SU) and school districts (SD). Representative Ancel added that on August 15 the SUs and SDs would receive notification from AOE. Mr. Klein explained there were a number of discussions on the implementation of the plan but additional conversations would need to ensue for more clarity, including working through a number of technical issues that had arisen.

Mr. Perrault distributed a preliminary Education Fund Outlook and reviewed the balance sheet for FY2017 and the FY2018 projections of the Education Fund. The Education Stabilization Reserve was projected at 3.6% for FY2018. Representative Ancel added that the Education Outlook review of preliminary data was a normal exercise to track the numbers. Mr. Perrault agreed and reiterated that the numbers were for a preliminary closeout of the fiscal year, and the next step in the Education Fund projections would be the process for estimating FY2019. He noted that the FY2018 budget reversions were not included in the current Education Outlook.

The Committee confirmed its next meeting dates as: August 17/18, September 14, and November 9. The Committee adjourned at 12:27 p.m.

Respectfully Submitted,

Theresa Utton-Jerman  
Legislative Joint Fiscal Committee