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GENERAL ASSEMBLY
STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, September 14, 2017

Minutes

Room 10, State House

Members present: Representatives Ancel, Fagan, Lippert, and Toll, and Senators Ayer, Cummings, Kitchel, and Sears.

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 10:04 a.m., postposed action on the August minutes, and requested a motion to approve the July 21, 2017 minutes. Representative Fagan moved to approve the minutes of July 21, and Senator Kitchel seconded the motion. The Committee approved the minutes.

B. Administration's Fiscal Updates: - 1. FY2017 Final Closeout

Adam Greshin, Commissioner, Department of Finance and Management, introduced the new Deputy Commissioner, Matt Riven. In addition, he announced that Rich Donahey was the new Director of Finance, and Chrissy Gilhuly was the new Administrative Assistant for the Department. Commissioner Greshin explained that the FY2017 final closeout was unchanged since the August rescission exercise. He recapped that during the August rescission exercise there had been $10 million of surplus funds. Of that amount, one-half went toward meeting the August rescissions and the other half was reserved for action during the FY2018 Budget Adjustment (BAA).

2. FY2018 Budget Adjustment Pressures

Commissioner Greshin listed possible FY2018 BAA pressures. The BlueCross BlueShield reconciliation requirement, as well as Dartmouth-Hitchcock's settlement, payment amounts were not yet known but discussions were ongoing. The downgrade of the Medicaid caseload consensus forecast of $25 million in August included $4.25 million in general funds, as well as utilization of funds from the FY2017 budget surplus for the August rescission, needed final approval in the BAA. Senator Kitchel asked if there was an update on Medicaid funding for Woodside since the FY2018 budget was built on the assumption of federal funding for the facility. Commissioner Greshin responded the State had been communicating with the Centers for Medicare & Medicaid Services (CMS), but no new information was available.

Commissioner Greshin addressed the federal disaster declaration for June/July 2017 for Vermont flooding. The rough estimate for the financial implication to the State General Fund was between $750k and $800k. However, the fiscal year those payments were due was uncertain since the federal rules dictated that states were obligated to pay when the project was completed. Tropical Storm Irene projects were close to completion with an estimated $1.2 million obligation that could be due in FY2018. Representative Ancel inquired of the status of corporate refunds. Commissioner Greshin responded that the Department was having active conversations with the legal staff at the Department of Taxes, and were confident that $16.9 million was the high end of the amount the State would owe. Representative Ancel expressed concern of whether the issue would continue into the FY2019 budget cycle. Commissioner Greshin stated that he was confident the issue would be resolved within FY2018.

<u>3. FY2019 Budget Development Process and Instructions</u>

Commissioner Greshin announced that budget instructions to departments would be sent the following week. There had been preliminary conversations with the Joint Fiscal Office (JFO) on the FY2019 budget that would continue until a consensus on numbers was reached. Senator Ayer asked if the Committee could see the instructions when they were released. Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, stated that the Office would forward the instructions and post them to its website when received from the Administration. Representative Ancel asked the Commissioner if there would be a recommendation from the Administration in FY2019 for the fee bill. Commissioner Greshin responded the Department was having conversations with departments on fee changes, and it would have a proposal for the revenue committees to review in the 2018 session.

<u>4. Management Savings Time Frame</u>

Commissioner Greshin explained that the Department had finished its recommendations for the Management Savings plan and report per Sec. B.1102 of Act 85 of 2017, and had forwarded them to the Governor for review and approval. The Department would inform the Committee of the plan once approved. Representative Ancel asked if the Committee would have the plan to review by its November 9 meeting. Commissioner Greshin confirmed the report would be ready in advance of the Committee's November meeting, and would be available to discuss at that meeting.

<u>5. General Fund 27/53 Reserves</u>

Commissioner Greshin distributed and reviewed the contribution schedule for the 27/53 General Fund Reserve funds. He explained the State would need to contribute just over $7 million in 4 years, and $1.8 million within FY2019 for each of the funds. Mr. Riven added that the Agency of Human Services (AHS) may have additional base budget adjustments due to a change in trends.

Senator Kitchel suggested that the Administration and the Legislature take a fresh look at other areas of the budget where there were future funding obligations, such as teachers' retirement and health care. She expressed concern that those obligations would have a substantial impact to the budgets similar to what was experienced with the 27/53 issue, and should be addressed sooner rather than later. Commissioner Greshin offered to discuss the Senator's thoughts and how to proceed. Representative Lippert added that he would like to review a general inventory of other unfunded liabilities the Legislature should be aware of within future budgets. Mr. Klein offered that there was an annual report, unfunded budget pressures [Act 172 of 2016] on unfunded obligations, and other areas that impact the budget if fully funded, such as child care and teachers' retirement.

The Chair skipped to the Fiscal Officer's Report.

<u>I. Fiscal Office Updates – Fiscal Officer's Report</u>

Mr. Klein highlighted key areas of his report. The three revenue funds, General, Education, and Transportation, for the first few months of the fiscal year were on target. There has been a stronger than expected withholding tax for September with Sales and Use Tax a bit weaker, while the Meals and Rooms Tax was stronger. Medicaid spending was showing an even lower than anticipated amount with a gross underspend of $14 million post-rescission. This was positive news since the small cushion could meet the needs of unanticipated costs.

Mr. Klein flagged that the Exchange had a shorter period of reenrollment, which could be an area of concern. Sarah Clark, Chief Fiscal Officer, Agency of Human Services, responded that the Commissioner of the Department of Vermont Health Access (DVHA) would send a memo updating the Committee on the Exchange. Representative Ancel stated that the Committee may require a report prior to its next meeting and invite the Commissioner of DVHA to the Committee's November meeting.

Mr. Klein continued his summary explaining the Office was watching the federal reimbursement changes. A tax group that included JFO staff, the "Garlic Group," was working on a consensus amount for the 2018 property tax rates letter that the Commissioner of the Department of Taxes sent out annually by December 1 to the Legislature. Currently, it was estimated that there could be a 6-8 cent increase in the next fiscal year that could create pressure in the FY2019 budget. He added that Mark Perrault, a Senior Fiscal Analyst of the Joint Fiscal Office, would give an update on the Education Fund outlook at the Committee's November meeting. Senator Ayer asked that the Education Fund update include if or by how much the merger incentives given to districts were creating an effect on the property tax rates.

Mr. Klein stated that in retirement, the assumed rates of investment asset have decreased, causing a $7.4 million State budget funding gap in FY2019 and an increase in amortization in the future of the fund. The Office has begun working on the issue. He also mentioned the Office's exploration of updating its website to integrate better with the Legislature's website and improve ease of use.

Senator Ayer inquired how many Tax Incremental Finance (TIF) Studies the Legislature has created, and if at the beginning of such reports, it mentioned the TIF history. Mr. Klein agreed to send her this information. Senator Ayer asked if the Office could explain the State of Minnesota's health insurance pool that attempted to address increasing health care rates that was posted in the New York Times on September 2, 2017. Mr. Klein stated that the Office would research it and possibly create an issue brief on the subject.

Representative Lippert requested that reports received by the Committee/Office be sent periodically by the Office to the entire Legislature in electronic form. Mr. Klein agreed to have the Office send out notifications to members on information. He then mentioned the Office could provide educational work on revenue and other areas of the budget to members during the session. The Chair added that educational opportunities may be provided on Friday afternoons during the legislative session. She added that she would survey members on whether sessions would be of interest and what subjects would be helpful.

D. – Federal Funding Update

Chris Saunders, Legislative Assistant, U.S. Senator Patrick Leahy's Office, Kathryn Becker Van Haste, Health Policy Director, U.S. Senator Bernard Sanders' Office, and George Twigg, State Director, U.S. Representative Peter Welch's Office, introduced themselves and updated the Committee on the status of federal funding. Mr. Saunders explained that Congress recently struck a deal to extend the current federal budget until December 8. Senator Leahy's office would send its usual request to the Congressional budget office to advance appropriate funds for LIHEAP for the heating season but it was unclear that request would be honored. Mr. Saunders explained that Senator Leahy thought it imperative, as Vice-Chair of the Senate Committee on Appropriations, to strike bipartisan deals on bills as they pass from his Committee. All bills passed out of Committee had been voted with unanimous support of a 30-0 vote. Congress has largely ignored U.S. President Donald Trump's proposed budget and moved onto its own decisions. There was cautious optimism on Congress's protecting programs within the Environmental Protection Agency (EPA) to continue work on Clean Water and other areas of concern. Mr. Saunders stated that Senator Leahy had expressed that Congress was headed to a better place than originally anticipated.

Ms. Becker Van Haste explained that Senator Sanders was the Ranking Member on the Senate Committee on the Budget. This was important because of the heightened awareness of the Committee due to the attempts to repeal/defund the Affordable Care Act through reconciliation. Senator Sanders was currently working on the FY2018 federal budget resolution that included a current focus on tax change proposals from other members. Senator Sanders was also a Ranking Member on the Senate Committee on Aging, a special committee created from the Senate Committee on Health, Education, Labor and Pensions. There was a focus on CHIP reauthorization for the Children's Health Insurance Plan proposal to eliminate the bump in funding in 2021, and its possible impacts to Vermont. There were additional questions around how the proposal would interact with Vermont's All-payer Model.

Ms. Becker Van Haste stated that another area of concern of Senator Sanders was the impending Primary Care cliff that included funding for three programs: the Federally Qualified Health Centers, Teaching Health Centers, and the National Health Service Corps. Vermont would stand to lose about $14 million or have a 41% potential reduction in patient access to health care, if the cliff were to happen. The Committee asked for clarification on the three programs and the cliff. Ms. Becker Van Haste explained the Federally Qualified Health Centers (FQHC) and the National Health Service Corps (NHSC) that provides loan repayment benefits and education to individuals who are willing to serve in underserved areas of the Country. In Vermont, these include programs called the Area Health Education Centers (AHEC); and

Teaching Health Centers which allow for residencies at FQHCs where providers could train. The cliff would occur if the three programs were not reauthorized before they expired at the end of the federal fiscal year (September 30, 2017). There were about 1 in 4 Vermonters that utilize FQHCs, and according to the Vermont umbrella organization of these health centers, Bi-State Primary Care, the expiration of the authorization could lead to 9 out of 50 sites closing.

Senator Kitchel asked for clarification of the relationship between the Senate Committee on the Budget and the Senate Committee on Appropriations. Ms. Becker Van Haste responded that the Budget Committee's primary responsibility was to create a resolution that governs the operations within the Senate and House for the budget process for spending, revenue, and debt-limit legislation. The Senate creates the initial resolution that creates the areas of funding, and the House creates a concurrent resolution. The Committees are also where the majority of people get to state their priorities for spending. The two Appropriations Committees then divvy up the entire bucket of proposed funding to the various agencies and programs within those designated areas. Mr. Saunders added that the Budget Committee sets the limits or caps for the individual committees to stay under.

Mr. Twigg stated that the Budget Committees pass resolutions early in the calendar year to allow the Appropriations Committees to pass funding bills in time for the September 30 deadline. The budget resolution have been used as a vehicle to attempt to repeal the Affordable Care Act, and there was an expectation it would be used in the near future to set tax policy because this only required 50 votes to pass.

Mr. Twigg explained that the U.S. House of Representatives was currently passing its appropriations bills to have a better bargaining position with the Senate in December but none of the bills were voted favorably by Congressman Welch. There were many bills dead on arrival in the Senate, including the proposal to build a border wall between the U.S. and Mexico for $1.6 billion, defunding Planned Parenthood, a ban on insurance plans that provide subsidies for reproductive health coverage, and elimination of the grants used in Vermont to fund the Western Rail Corridor of $30 plus million. Mr. Twigg touted Congressman Welch's bipartisan success to restore funding of $4.5 million to the Lake Champlain Water Basin that President Trump and the House Appropriations Committee proposed to eliminate.

Mr. Twigg pointed out the biggest risk area to Vermont from federal policy/funding changes included the Affordable Care Act. Congressman Welch was also monitoring Executive Orders that impact Vermont's Exchange such as reduced funding for advertising for health care coverage. Congressman Welch has sponsored bipartisan legislation on health care to address areas of the individual market through reinsurance, write into law the risk corridor subsidy payments, and other modest changes to stabilize the insurance markets and produce conversations around more practical fixes within health care.

Representative Ancel asked if there would be tax reform legislation and if so, what would be included in it. Mr. Saunders responded that Senator Schumer was opposed to many of President Trump's suggestions, including the elimination of the states' deductibility of taxes, as well as the mortgage interest deduction. Representative Ancel confirmed that Vermont was mostly decoupled from federal tax. Senator Kitchel inquired whether not reauthorizing programs posed the greater risk to Vermont's federal funding or were they subject to the resolutions from the Budget Committees. Ms. Becker Van Haste responded that large programs such as the Farm Bill could take upward of a year or two to move a reauthorization bill through the process, and could technically continue without an authorization but it depends on the program. Mr. Twigg added that if funding were included within a budget bill, it effectively would authorize the program associated with the funding.

Senator Kitchel asked for confirmation that if funding were authorized for State Children's Health Insurance Program (SCHIP) but the program was not reauthorized by the end of the federal fiscal year of September 30, it could still continue. Mr. Twigg responded that Congress had approved short-term reauthorizations on the floor of Congress and not typically within committees. Ms. Becker Van Haste stated that the Budget Committee resolution could also include a short-term authorization for SCHIP, but she added that Congress was close to a deal for reauthorizing SCHIP. Representative Lippert asked if the repeal of the ACA through reconciliation did not occur before Sept. 30, that process would no longer be an option for Congress. Ms. Becker Van Haste responded that was correct.

<u>E. Agency of Human Services Updates - 1. AHS/DMH on implementation of Rate Increases to Designated Agencies</u>

Melissa Bailey, Commissioner, Department of Mental Health (DMH), Monica Hutt, Commissioner, Department of Disabilities, Aging & Independent Living (DDAIL), and Sarah Clark, Chief Fiscal Officer, Agency of Human Services, distributed two handouts, and Commissioner Hutt summarized the memo to the Committee "Implementation of Rate Increases to Designated Agencies (DAs)." The appropriation of $8.37 million for increased payments to DAs and Specialized Service Agencies (SSAs) was split between DMH and DDAIL. The DMH increased Medicaid rates at the DAs and the SSAs by 6.5%. Commissioner Bailey explained that payments to DAs and SSAs will be retroactive to July 1 and made through a rate for specific line items and budgets for each, to fund the directive to the DAs to raise wages to $14 per hour. However this mechanism does not align perfectly with the estimates of need as articulated by the DAs, this method results in some DAs rate increase amount being less or more than the cost of the wage increase.

Senator Kitchel offered that the Legislature had to be realistic about the amount of this increase in funding and the manner of payments, especially in acute mental health. She asked if DAs were able to get to $14 an hour after the distribution. Commissioner Bailey reported that funding models are not all consistent across DAs. Commissioner Hutt added that DS services agencies without mental health funding capacity received full funding from DDAIL to reach the $14 per hour, which was reflected in the spreadsheet distributed earlier. Commissioner Bailey stated that no DA has reported a need to reduce services to meet the $14/hour requirement.

Senator Ayer asked for clarification on the shortfall of funds and the imbalance that occurred from it. Commissioner Bailey responded that the allocated funding targets in the State Budget between Developmental Services (DS) and Mental Health services (MH) were not aligned with the actual percentage of DS and MH across the Designated Agency system. As proposed the rate increases maintained the budget alignment but would fall short on the DS side and go over on the MH side and most agencies would be whole in the aggregate. There were a small number of agencies (Howard and Lamoille most notably) where there remained a significant gap between funding increase projected by the rate increase and the DAs' cost of increasing wage. While AHS is being consistent on percentage rate increases to all agencies and they plan to then go back and see if alternate mechanisms can be used to close the gap for those agencies where the funding rate and cost gap remain.

Representative Lippert requested information on the DAs that were not able to afford their staff a full wage increase to $14 per hour, and by reallocating funds if those DAs could achieve the $14 to its staff. Commissioner Bailey responded that they were confident the departments could find resolution with the agencies but noted that there would still be capacity issues even with the higher wages. Representative Lippert inquired if an agency had a vacant position due to difficulty hiring someone, did that mean the agency would not receive the increased funding for the position. Commissioner Bailey responded that Medicaid requires a service in order to be compensated. Representative Lippert asked if the outcomes associated with the agencies' wage increases had been met. Commissioner Bailey stated that because the grants were not finalized yet and only timing-related funding has as yet gone to the DAs, there had not been enough time to measure the success of the wage increase. Representative Lippert asked to have the Committee updated at its November meeting and to include a spokesperson from the DAs.

Senator Kitchel clarified that if the AHS was not able to meet the goal for the pay increases through its complicated rate structure, it would use alternative methods of funding to address those areas, and Commissioner Bailey agreed. Representative Toll asked if the DAs were clear on how to disburse the funding, other than the few that still had issues. Commissioner Bailey responded that they had not heard of any issues from the agencies, and the process had not changed from other rate increases in the past. If there were any questions or concerns, the DAs should contact the departments' financial directors. Commissioner Hutt added that there was some confusion for Agencies in regard to auditing standards. Representative Toll asked for confirmation that all of the funding was used toward increasing wages of the workers in the crisis areas to $14 per hour. Commissioner Bailey responded it was except if an agency found after distributing funds to the outreach workers and crisis beds that it still had funds, it could increase the higher wage earners within its agency as a means to address compression issues. Senator Ayer inquired whether the Departments or AHS will have recommendations for additional legislation to address issues of this area, and Commissioner Bailey confirmed the Agency would suggest some language for the 2018 session. Representative Lippert asked that the DAs be included on the Committee's November agenda. Commissioner Hutt offered to share the Departments' letter sent to the DAs with the Committee that went out on August 29, 2017.

<u>2. LIHEAP Funding</u>

Ken Schatz, Commissioner, and Sean Brown, Deputy Commissioner of the Economic Services Division, Department for Children & Families, distributed a draft LIHEAP Funding & Benefit Stats Compilation sheet, and explained it was a draft since federal funding was not certain at this point. In addition, fuel prices would need further monitoring in light of the recent hurricanes in Texas and Florida.

Deputy Commissioner Brown updated the Committee on the LIHEAP program, including the expectation that the Department would receive a level-funded federal block grant from 2017 for the 2018 fiscal year. Additionally, he stated that the Department had adequate funds on hand to provide benefits to clients who heat with wood or wood pellets. These "wooder" benefits were to be released at the end of September. Benefits for clients who heat with other fuels would be released at the end of November.

Deputy Commissioner Brown reviewed the handout with the Committee, cautioning that the numbers were projections. The DCF was anticipating a federal block grant of $18.9 million. Federal regulations allow for 15% of the block grant to be transferred to the Weatherization Program, and, in turn, a like amount of State special funds would be transferred back to the LIHEAP program. These State special funds would be used to pay the benefits for eligible clients between 150% and 185% of the FPL, in addition to an administrative cost above 10% of the federal block grant. The LIHEAP program has FY 2017 carry-forward funds of $3.7 million from two main sources, refunds from the certified fuel dealers, and benefits issued to participants and community action agencies that were not utilized. When considering all funding sources, the LIHEAP program would have available $22.8 million for the coming heating season.

Deputy Commissioner Brown projected there would be 20,000 qualified households for the 2018 heating season, down from 21,800 the previous year. The caseload decrease was consistent with other major benefit programs such as 3-Squares and Reach-up. The Department was anticipating an average full season fuel benefit of $879 per household, which was an increase of $48 per household from the prior year. In addition, information from the Vermont Fuel Dealers Association was that the spike in fuel prices from the two recent hurricanes in Texas and Florida would not impact the heating season, and they were maintaining a similar price to the previous heating season.

In responding to Senator Ayer, the Deputy Commissioner stated that kerosene prices were the highest, fuel oil was in the middle, and propane was the cheapest. The prices reflected on the information sheet were from a blended fuel rate of all three fuel prices. Senator Kitchel commented that a news article she read had stated incorrectly that all LIHEAP funding was federal.

<u>E. Vermont Economic Growth Incentive Program (VEGI) – Model Update</u>

Fred Kenney, Executive Director, Vermont Economic Progress Council, and Ken Jones, Economic Research Analyst, Agency of Commerce & Community Development, distributed a memo explaining the proposed annual updates for the fiscal cost-benefit model for calendar year 2017, and also referred to a memo from the Legislature's Economist, Tom Kavet, who responded to the proposed model updates. Mr. Kenney explained that Mr. Kavet found issue with the portion of the model update that included the new Regional Economic Model, Inc. (REMI). It was decided that a piece of the REMI model would not be updated until the issue was resolved. Senator Ayer asked if projects that failed to meet its requirements were included in the model calculations for total investment. Mr. Kenney responded the model did capture that information. He also stated the Agency would rethink how the graphics of the annual VEGI report were displayed when printing in black and white, in light of Senator Ayer’s comments.

Senator Sears moved to approve the proposed fiscal cost-benefit model updates for calendar year 2017, and Senator Ayer seconded the motion. The Committee approved the motion.

F. Federal Single Audit Review

Doug Hoffer, Vermont State Auditor, Susan Mesner, Deputy Auditor of Accounts, and Karen Jaquish, Statewide Grants Administrator, Department of Finance & Management, introduced themselves, and Mr. Hoffer stated he was thrilled the Legislature was focused on Federal Single Audit Reviews, and assisting the State with solutions to repeat findings. He also announced that after 20 years with KPMG as the State contracted auditing firm, the State Auditor’s Office had decided to switch to CliftonLarsonAllen (CLA), who currently was contracted with five other states. Mr. Hoffer stated there could be some small transitional issues but CLA had experience transitioning states from KPMG to its firm. Representative Lippert asked if the contract with CLA was a multi-year contract. Mr. Hoffer responded it was a 3-year contract with 2 single years that allow the State to opt out of the contract at any time with a savings of about $200k a year. Ms. Mesner added that the first 3 years totaled $3.9 million.

Ms. Mesner explained there were considerable improvements since last year when the State received an adverse opinion within AHS. There was an annual report on internal controls regarding the financial report written by KPMG available that reviewed the findings of any audits within the State. Ms. Mesner suggested the Legislature review the annual Single Audit Report for awareness of audit findings, especially for serious ones. A shorter version of the report was also sent to the Legislature, called the Yellow Book, which included a cover letter from the State Auditor and a compilation of just the findings. Representative Lippert asked who received the full report when ready. Ms. Mesner responded that the Governor, Senate Pro Tempore, and the Speaker of the House received the report according to the old contract with KPMG but they could change those rules within the new contract with CLA. A discussion ensued on how members could receive the report. Mr. Klein suggested the Auditor’s Office and the Fiscal Office work out a list of recipients the report should be sent to in the future.

Ms. Mesner announced that the number of audited programs with findings had dropped to 16 in 2017, with 14 re-audits, which was the lowest number since FY2010. In comparison, the previous year had 21 programs with findings that triggered audits. Representative Ancel asked what the triggers were for an audit. Ms. Jaquish responded the federal uniform guidance has two findings that trigger audits: a significant deficiency and a material weakness. With the new uniform guidance rules, programs are audited every three years if they meet the federal threshold of expenditures. Programs with significant deficiency findings do not need to be re-audited, but those programs still need to do corrective action on the finding. The most serious finding was a material weakness of the program which triggered a re-audit.

Representative Fagan asked out of the 25 material weaknesses in FY2016, how many were remedied. Ms. Jaquish responded that not all were remedied. The Department just received an updated status report on the 25 audited programs, and 20 of them had been remedied. She would send that update along with additional information on deficiencies, the plan to get to remedy, and the projected date of remedy. Representative Fagan asked that the update include whether the findings were to do with outdated statutory language that the Legislature could address.

Ms. Mesner stated that some of the program findings were to do with outdated IT systems such as the AHS Access System that affects the Medicaid program. Representative Fagan inquired how the findings impacted the State's bond rating. Mr. Hoffer responded that the program audit findings did not impact the State bond rating but the Comprehensive Annual Financial Report (CAFR) did have an impact.

Representative Lippert asked how the audit process could help to target high profile embezzlement issues in State government. Ms. Mesner stated the Department of Finance & Management (DFM) had a lengthy self-assessment for internal controls in each department that was reviewed for inconsistencies. Ms. Mesner mentioned that some of the smaller departments/offices' explanations on findings were due to staffing shortages, and the ability to address internal control paperwork.

Ms. Mesner concluded that there were two material weaknesses in the FY2016 Single Audit Report in process for remedy. One was due to delays in verification of eligibility redeterminations. Ms. Clark was asked to comment for AHS, and she stated that there were ongoing conversations with the Centers for Medicare and Medicaid Services (CMS) on the issues surrounding mitigating the findings for the eligibility redeterminations, and the Agency would share that information next week with the Auditor's office. Ms. Mesner explained that the second material weakness was due to problems around reconciliation of payments. Both are known problems and the Agency has been working diligently on resolving them, but she further encouraged the Legislature to include program audit findings when reviewing department budgets each year.

<u>G. Clean Water Fund Report</u>

Susanne Young, Secretary, Agency of Administration (AOA), highlighted areas of the Clean Water Fund Report submitted by the AOA. The report focused on the impacts of federal funding and policy change impacts to Vermont. Since the release of the report, on September 1, the Administration had learned that Congressional legislation would most likely restore an amount of the Clean Water program's funding that was rescinded in President Trump's budget proposal. In addition, the Lake Champlain Basin's funding has been reestablished as well within both House and Senate versions of Congress' budget proposals.

Secretary Young gave an update of the Clean Water initiatives from the perspective as the Chair of Clean Water Fund Board. The Board was in the process of developing recommendations on funding of allocations to State Clean Water initiatives and projects. A draft plan was sent out for public comment and the Board made changes to the draft plan after reviewing those comments. The revised draft was recently sent out for a second round of public comments. After the Board reviews final comments, it will send final FY2019 budget recommendations to AOA in mid-October for purposes of budget development.

Secretary Young explained that the next reporting mandate for the Board required by the Capital Bill will be a report on all Clean Water initiatives and projects from FY2018, due to the Legislature by the end of November. Representative Ancel asked if the Clean Water Working Group was involved in the Board's recommendations. Secretary Young responded that the Working Group was a separate entity created in Act 73 of 2017, chaired by the Secretary of the Agency of Natural Resources, which has been tasked to create a long-term funding model for Clean Water. In addition, the Clean Water Advisory Council has worked to ensure that the Working Group will achieve its intended goals.

<u>H. Grant JFO #2888 – One (1) limited-service position tasked with working with team members within the Medicaid Fraud and Residential Abuse Unit.</u>

Jason Turner, Director, Medicaid Fraud and Residential Abuse Unit (MFRAU), Attorney General's Office, explained the mission of MFRAU was both to investigate and prosecute Medicaid provider fraud and cases of neglect and abuse of vulnerable adults within facilities of Vermont. The Unit had 8 staff with 75% federal grant funds and a 25% State match. All of the State funding within the last 5 years has come from penalties recovered from cases with over a $1 million returning to the General Fund in budget adjustments. The Unit retains 2-years' worth of funds in its special fund before releasing the unused portion of the funds to the State General Fund.

Mr. Turner explained that in the last 10 years, there has been an increase of 55% of State's Medicaid funds spent within the program and a recipient increase of 49% but no increase in positions within MFRAU. With the passage of the Vermont False Claim Act in 2015, the Unit has recovered large sums of funds from cases, including the largest recovery ever in Vermont of $6.7 million. In responding to Senator Kitchel, Mr. Turner opined that the MFRAU would not have been able to recover the $6.7 million without the Legislation. In addition, the Act was a deterrent to potential fraud, thereby increasing compliance. Senator Kitchel inquired if the Act changed the amount of recovered funds the State could keep in federal or multi-state cases. Mr. Turner explained that the Act allowed the State to retain 10% of the federal funds recovered. The ratio for Medicaid was 54% federal funds with a 46% State match. With the new Act, the State retains 56% of the recovered funds and returns 44% to the federal government.

Mr. Turner informed the Committee that the MFRAU prosecutes criminal and civil cases as well, with 70 current active criminal cases and 20 civil cases. Since the passage of the False Claims Act, the Unit's workload has increased 300%. Mr. Turner declared confidence that the Unit could deliver additional recoveries to the State without additional State funding. Senator Kitchel explained that her original intent to request the inclusion of the grant on the agenda was to ensure there was a net gain to the State as opposed to additional funding to MFRAU for a position. She then asked how much of the Unit's time was devoted to investigation and prosecution of abuse to vulnerable adults within facilities. Mr. Turner responded that 20% of staff time was devoted to vulnerable adult cases, and 80% to fraud cases. Senator Ayer inquired whether the Department of Disabilities, Aging, and Independent Living (DDAIL) had the same level of enforcement ability as the MFRAU. Mr. Turner explained that DDAIL did not have the ability to prosecute cases as did the MFRAU. Senator Ayer asked whether DDAIL referred cases to MFRAU for further investigation/prosecution. Mr. Turner responded to the question that the MFRAU received its referrals from the State Medical Examiner after the elder was deceased. Senator Kitchel asked if the Unit was limited to just facilities. Mr. Turner stated yes, but pending in Congress was legislation that increased the expansion of MFRAU's jurisdiction because of a shift from institutional care to home care that had occurred since the Units were created in the 1970s.

Senator Ayer moved to accept the grant, JFO#2888 and Representative Fagan seconded the motion. The Committee approved the motion.

The Committee then had a conversation with Mr. Turner on the Equifax breech that occurred earlier in the year.

The Committee adjourned at 1:53 p.m.

Respectfully Submitted,

Theresa Utton-Jerman
Legislative Joint Fiscal Office