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STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Tuesday, November 8, 2011

Minutes

Members present: Representatives Ancel, Branagan, Heath, and Sharpe, and Senators Cummings, Kitchel, 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 9:34 a.m. Representative Ancel moved and Senator Kitchel seconded the approval of the September 13, 2011 and September 26, 2011 minutes. The Committee adopted the minutes.

A.1. Fiscal Officers' Report

Steve introduced Luke Martland, the new Director of Legislative Council, distributed and highlighted areas of the fiscal officer's report. The Joint Fiscal Office (JFO) is currently computing and compiling the legislative budgets. The administration had requested state budgets decrease by 4%, but due to already big spending cuts in the legislative budgets, a goal of zero growth across all budgets was targeted. Because Hans Kastensmith was not rehired by the legislature or the administration to assist with the Health Information Technology fund, those funds saved from that contract were used to meet the administration's target for a 4% budget reduction in the JFO budget. Senator Snelling asked why Mr. Kastensmith was not rehired, and Mr. Klein responded that Act 48 of 2011 called for an administration-led approach to health care. The administration was developing its own independent review protocols.

Mr. Klein stated that the Joint Fiscal Office was moving toward a more program-based budgeting methodology. The Pew Charitable Trust had approved an initiative to work with Vermont (JFO) on an evidence-based budget pilot with a focus on criminal justice. The Government Accountability Committee endorsed the hiring of a consultant to assemble the data needed to create the program-based budgeting pilot. FY2012 carryforward funds from the JFO budget would be used to compensate consultants.

Mr. Klein offered that other possible aspects of the FY2012 JFO office budget could include additional funds for the Education Finance Study and the Health Care study. The Education Finance Study's next public hearing is January 9, 2012 with ten schools participating through the Vermont Learning Network. Senator Kitchel stated that her constituents commented that there was not as broad an audience as anticipated at the September Education Finance Study hearings. Mr. Klein responded that the turn-out for the hearings was low due in part to the Tropical Storm Irene (Irene) disaster, but it was anticipated that the January hearings would have a bigger turnout. Representative Ancel inquired how information for the public hearings had been advertised. Mr. Klein explained that

press releases have gone out through the commissioner of education and the Vermont Superintendents Association in addition to the legislative press process and notification of legislators.

Mr. Klein continued his summary explaining that two grants were approved under the temporary approval process. The first was \$63,000 for clothing and furniture. The second was for the International Business Machines (IBM) space grant from the Federal Emergency Management Administration.

2. Medicaid Update

Stephanie Barrett, Joint Fiscal Office, gave an update on Medicaid. Joint Fiscal Office staff met with the Administration fiscal staff to project the FY2012 and FY2013 Medicaid budget. A preliminary consensus was reached with caseload and projected expenditures. The FY2011 Medicaid budget ended significantly below expectation, and the caseload slightly below expectation. Newer data are anticipated prior to the administration-proposed FY2012 budget release. There may be some confusion due to Irene creating caseload figures that may not be trued up. Current projections show a relatively modest growth rate of Medicaid at just under 3% overall with caseload annualization from FY2012 to FY2013. The FY2012 Medicaid budget growth was decreasing.

Ms. Barrett identified all the areas of state Medicaid fund pressures. In addition to the FY2012 and FY2013 budget growth, there was an estimated \$20 million in Federal Medical Assistance Percentages (FMAP), and an estimated potential cost of \$10 million from the Autism mandate.

3. Education Fund Update

Mark Perrault, Joint Fiscal Office, gave an update on the Education Fund. He stated that the base education tax rates would likely need to be raised in FY2013 by two cents. He also explained that the FY2012 property tax adjustment was \$10 million less than initially projected since there were 4,000 fewer claimants in FY2012 than in the previous year.

Representative Ancel inquired as to whether the increased number of Vermonters renting their homes might have reduced the number of claimants for the property tax adjustment in FY2012. Mr. Perrault stated that he was unsure of the cause of the reduction, but that the department of taxes was investigating.

B. Fiscal Updates/Issues/Other – 1. Budget Building Process Update

James Reardon, Commissioner, Department of Finance & Management, affirmed that the administration was on target to deliver the proposed FY2012 Budget Adjustment bill (BAA) to the legislature on December 12, 2011. Possible areas that will be ongoing through the FY2013 budget process were the Irene recovery effort, including the Vermont State Hospital.

Commissioner Reardon set forth areas of budget pressures, including possible funding reductions to states due to decreased federal funding, Irene costs, and state employees' and teachers' retirement contracts. In addition, the General Fund portion of the Education Fund was proposed to increase by \$6.1 million. Due to the concerns from Irene, a financial team was meeting every two weeks on the costs associated with the recovery efforts and the development of good audit practices for anticipated federal audits. Senator Kitchel inquired of the estimated costs of auditing and whether some of the federal funding for Irene could be used to cover those costs. Commissioner Reardon

responded that the Federal Emergency Management Agency (FEMA) funding audit was estimated to cost \$50,000. The administration filed a claim to FEMA to include the audit as an allowable cost.

Representative Heath queried whether the administration would submit an addendum to the legislature after the budget submission if there were a change in the revenue forecast. Commissioner Reardon stated that was the probable plan.

2. Disaster Recovery Update – a. General Update and b. Housing Issues

Neale Lunderville, Chief Recovery Officer, and Jennifer Hollar, Deputy Commissioner, Department of Economic, Housing & Community Development, gave an update on the recovery of Irene. Mr. Lunderville highlighted two main focuses in the recovery of Irene: the immediate needs of people and the recovery of the long-term needs for those individuals. Damaged state transportation infrastructure included 500 miles of closed roads at the beginning of the recovery effort, and now there were less than 10 miles to repair on Routes 106 and 107. There were originally dozens of closed bridges but currently only one is closed for repair. The town highway system sustained damage from Irene with towns reporting hundreds of roads closed at the start of the recovery and currently 66 are still closed.

Mr. Lunderville explained that after the infrastructure was made winter ready, continued finish work would follow in the out years. There are many issues with the rivers that the Agency of Natural Resources had been partnering with the Regional Planning Commissions to address through a survey. Mr. Lunderville stressed that it would be hard to predict how the rivers would react to the Spring melt and rains with the new dynamics of storm debris and their changed directions.

Mr. Lunderville stated that FEMA projected \$140 million in potential eligible costs to towns. While towns wait for federal funding assistance, the administration has been working with the state treasurer to expedite any state payments to towns and to be flexible in payments from towns to the state.

Mr. Lunderville announced early estimates for state- and town-eligible FEMA costs were \$175 to \$250 million. Representative Ancel inquired whether there was flexibility for the towns to delay paying its share of property tax payments. Mr. Lunderville responded that there were conversations on this issue within the administration, and a conclusion was anticipated this week.

Mr. Lunderville explained that the administration was working towards having the \$100 million federal funding cap in transportation expenditures waived by FEMA. In responding to Senator Kitchel, Mr. Lunderville explained that if unsuccessful, Vermont would have to find the difference of the \$150 million in damage to transportation infrastructure in the state. He further explained for Representative Sharpe's benefit that the towns were not subject to a cap and were set at a 75/25 federal transportation match. The state planned to split the federal match rate that towns would have to pay to further assist them with their financial burden. If Vermont met the \$80 million federal obligation threshold, it could then be eligible for a 90/10 match instead of the standard 80/20 match, and the same match would transfer to towns.

Representative Heath asked for clarification on how the state would pay for the estimated \$150 million if the waiver on the cap was not instituted. Mr. Lunderville explained that the options were that either the state raised the money or push back unrelated Irene transportation projects and instead focus

on the Irene-related projects. The latter approach would cause programmatic issues with the state transportation system due to delays in normal repair. In addition, a yearly draw of \$210 million from the federal highway funds toward normal repair would instead be used for Irene-related repairs.

Mr. Lunderville announced that the governor was poised to announce a long-term community recovery process. The administration planned to offer its own time and talent from its pool of state employees to develop future plans with towns. This would be by invitation only and towns are able to opt in at any time. Mr. Lunderville also pronounced that the deadline for FEMA registration for recovery funds was a week away for individuals. The state has received 6,800 registrants to date and FEMA has processed a total of \$20 million in direct aid to some of those individuals. The Small Business Administration has sent additional aid out to some applicants as well. Once the FEMA recovery application process is finished, other private resources would be offered to those individuals that filed. Currently, there have been 1,600 registrants for recovery aid. Senator Kitchel queried what the potential estimates of registrants would total, and whether all people affected by Irene would apply for recovery aid. Mr. Lunderville explained that during FEMA's rounds to Vermont neighborhoods to encourage individuals to register, they estimated 7,000 to 7,500 registrants but there are those individuals that may not want to apply.

Representative Branagan inquired what the long-term impacts were to Lake Champlain's water quality. Mr. Lunderville promised to have that information sent to the committee because of the complexity of many other factors, including the Spring flood and the effects on the Connecticut watershed. Representative Sharpe asked if the recent diverting of Vermont rivers to stem the flow of water through neighborhoods disallowed the eligibility of FEMA funding. Mr. Lunderville responded that FEMA was very particular about river management and cleanup after natural disasters but the administration was working with local people and FEMA to gain funding on the grounds that the rivers were threatening private property and public infrastructure. Senator Kitchel inquired about the details on Natural Resources Conservation Services (NRCS) funding for towns if FEMA funding was deemed ineligible. Mr. Lunderville explained it was match funding at a 75/25 split. The state has requested an increase in the match to 100%, and NRCS has stated it would mirror FEMA's match, which may allow for a 90/10 match.

Ms. Hollar highlighted the areas of Irene impacts in her other role as the Chair of the Irene Housing Task Force. There were 225 municipalities that were impacted by Irene with 45 severely impacted. More than 1,400 residential properties were affected by Irene. This number was determined by FEMA's data of total number of registered applicants (1,350) that were eligible for rental assistance. Another source of data was collected by the Department of Taxes through reporting of residential property damage (1,400). Senator Kitchel inquired about funding for mold issues within houses that experienced flooding. Ms. Hollar emphasized the importance of individuals to register for recovery assistance by the deadline.

Ms. Hollar remarked that the hardest hit counties for housing were Washington, Windham, Windsor, and Rutland with 70% of Vermonters impacted being homeowners, and 40% within the lower to moderate income range. A total of 433 mobile homes were significantly damaged or completely destroyed. Representative Sharpe offered that a destroyed mobile home park in the Town of Bristol was bought up by FEMA, and he asked whether there was an effort to make towns aware of the benefits from participating in the federal flood mitigation insurance. Ms. Hollar responded that the task force was communicating the benefits of applying for the insurance and that it was retroactive to the

application process. Senator Kitchel offered that the Vermont League of Cities and Towns was actively communicating with nonparticipating insurance towns about this opportunity.

Ms. Hollar stressed that the task force preferred individuals not relocate to flood plains but has challenged the state to find housing quickly in alternative areas. Representative Branagan showed concern for individuals found homeless due to Irene. Ms. Hollar offered that there was a variety of outreach campaigns to find those folks and settle them in temporary housing. Senator Cummings inquired whether there was a population that still needed resources. Mr. Hollar responded that there was no one broad area of need but rather case-by-case situations. Case management and flexibility were ingredients to recovery. Rental assistance from FEMA was provided for a couple of months at a time but an individual plan for permanent housing was required. Mr. Lunderville added that a task force designated by the legislature met the previous week for the first time and identified many key issues and some solutions to complex problems. It was anticipated that the task force would continue, and find even broader solutions to issues. Representative Ancel inquired where the case managers were delegated from. Mr. Lunderville responded that they came from many areas, such as the Community Action Program (CAP) agencies. Ms. Hollar finished by stating that there were existing and developing local task forces at the municipal level to identify and address any unmet needs.

3. FY2013 Budget Gap Projection

Mr. Klein distributed a printed PowerPoint presentation “FY2012 & FY2013 Vermont Budget Development Context,” and gave a brief summary of the first part of the presentation. Ms. Barrett summarized the section of the presentation on the FY2012 Budget Adjustment Act. Commissioner Reardon in giving his presentation of the FY2013 budget gap projections cautioned the committee to view the figures as best estimates in a point in time and that they were subject to change. Representative Heath queried if there would be one-time funds in FY2012 for the FY2013 budget. Commissioner Reardon emphasized that due to the Irene recovery costs and the volatile federal budget discussion, one-time funds may be needed to support future budgets past FY2013.

4. Status Report on State and Teachers’ Retirement Funds

Beth Pearce, State Treasurer, first complimented the administration for its work with communities, and for the banking community for inserting itself in the Irene disaster by offering loans in the 1% range. She then referred to the presentation from the gap projection testimony previously submitted and summarized the pension and retirement estimates.

5. a. Tax Related Issues – Tax Computer System Modernization Fund Receipts

Mary Peterson, Commissioner, Department of Taxes, and Richard Boes, Commissioner, Department of Information and Innovation, provided a handout. Commissioner Peterson summarized the submission. Commissioner Peterson stated the next steps for retiring the Legacy tax processing systems would be presented to the legislature in the 2013 legislative session.

5. b. Tax Abatements

Commissioner Peterson provided a handout and summarized its contents. She added that the House Committee on Ways & Means met and approved legislation for an abatement process to reimburse individuals affected by the Irene and/or the Spring flood of 2011. She anticipated the cost at the low end of \$2 to \$4 million. [Editor’s note: the final cost of the tax abatements was about one-half of a million dollars.]

C. Administration Updates/Issues – 1. Low Income Heating & Energy Assistance Program (LIHEAP) Update

Richard Moffi, Assistance Program Chief, Department for Children & Families, provided a handout and summarized its contents. He explained the different scenarios of President Obama's, the U.S. House, and the U.S. Senate-proposed budgets. Commissioner Reardon inquired whether the Senate version would include additional funds due to how benefits are calculated. Mr. Moffi agreed and stated that the Senate version favors the Northeast and the House version of the budget favors the Southwest.

Representative Heath asked whether there was carryforward from the previous year and if it had been included in the handout calculation for the current heating season. Mr. Moffi responded that there was about \$4 million in carryforward. Of that amount, \$3 million was funding the crisis fuel program and the remaining amount would carry into the current benefit year. Senator Kitchel queried what the CAP agencies costs were for administering the crisis fuel program. Mr. Moffi explained that the LIHEAP block grant to the CAP agencies has a separate category for direct services (administrative costs). The direct services funds total \$450K and are shared among the five CAP agencies. There is an additional \$50K available to the CAPs for after hour, nights, and weekend services. Mr. Moffi added that the \$450K has been in place for about two years and previously was \$350K for 13 years prior.

Representative Heath inquired what the administration had heard in regard to the legislature changing the asset test in 2009, and did it allow for more applications. Mr. Moffi responded that beginning in 2010, the income level was raised from 150% to 185% of gross income of the federal poverty level. The legislature also eliminated the resource test that determined benefits. Vermont was one of ten states still using that type of asset test. The two changes to the program increased the amount of participants, and the new higher income applicants account for 13% of the program case load. Representative Heath queried what the benefit percentage of the average bill paid was and what that number would need to be this year. Mr. Moffi distributed and referred to a second handout in anticipation of the question.

Senator Kitchel asked what the status was of the new utility-based systems program passed by the legislature, and for confirmation on whether Green Mountain Power (GMP) and Central Vermont Public Service (CVPS) were planning a January 1, 2012 implementation date. Mr. Moffi responded that he was a member of the working group and that the January 1 implementation date was very optimistic. He further stated that the positive news was that the model was developing and the conversations were moving forward, but the programs would probably not be implemented this 2011 - 2012 fuel season.

2. Update on Exchange and Health Information Technology (HIT) Grants – a. HIT

Joe Liscinsky, HIT Project Manager, and Terry Bequette, Associate State HIT Coordinator, Department of Vermont Health Access (DVHA), provided a handout and summarized its contents. Senator Kitchel queried whether the department was following the recommendation by Hans Kastensmith to get an independent evaluation of all the HIT projects. Mr. Liscinsky stated a company called The Action Mill was hired to accomplish those high level goals.

Mr. Bequette finished the testimony with information in the handout on the Electronic Health Record Incentive Payment (EHRIP). The program was launched on October 17, 2011 and currently there are 250 registered providers, including 2 hospitals in Vermont.

b. Exchange

Betsy Forrest, Health Care Affordability Director, DVHA, provided a handout and summarized its contents. Representative Heath inquired whether the department was pleased with the progress to date. Ms. Forrest stated the plan will be very challenging to implement but the department had made good progress, and seemed to be ahead of most states in the design phase.

3. Report of Proposed Distribution of Justice Reinvestment Funds

Andrew Pallito, Commissioner, and David Peebles, Restorative & Community Justice Executive, Department of Corrections, provided a handout. Mr. Peebles summarized the contents of the handout. Senator Kitchel asked what the final count of beds would be upon completion of the transitional housing plan. Mr. Peebles stated that depending on how it is configured, there should be about 295 to 300 beds.

Senator Snelling inquired if there was progress in getting better communication tools and computers to parole personnel to better monitor individuals. Commissioner Pallito stated the department would be presenting a legislative-mandated report on a paperless endeavor in a couple of weeks. Officers had the benefit of new computers that were more portable from car to court but the department would also monitor the usage of the new equipment to determine if it is viable.

Representative Sharpe queried whether the department had considered the local efforts with community conflict and resolution. Mr. Peebles responded that through the significant network of the available community-based justice centers, the department was partnering to resolve conflicts before they escalate to police intervention. Representative Branagan asked if the results of the reinvestment funds show a level of success through an actual reduction of beds or budget allotment. Mr. Peebles answered yes with the caveat that the department works on a three-year rate of recidivism for cohorts, but it is already apparent that the trend is changing downward for incarceration rates. Commissioner Pallito offered that data collected were available on the department website. Representative Heath offered that the department would have a budget adjustment for FY2012 but that was due to an increase of detainees that was controlled by the court system and not the department, and the commissioner agreed.

The Committee adjourned at 12:25 p.m.

Respectfully Submitted,

Theresa Utton-Jerman
Legislative Joint Fiscal Office