



STATE OF VERMONT
LEGISLATIVE JOINT FISCAL COMMITTEE

Tuesday, September 15, 2015

Minutes

Members present: Representatives Ancel, Branagan, Johnson, Lippert, and Sharpe, and Senators Ashe, Ayer, Kitchel, Sears, and Snelling.

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

The Chair, Senator Kitchel, called the meeting to order at 9:42 a.m., and Senator Snelling moved to approve the July 27, 2015 minutes. Senator Sears seconded the motion, and the Committee approved it.

B. Administration's Fiscal Updates

Brad Ferland, Deputy Commissioner, and Emily Byrne, Budget Director, Department of Finance and Management, distributed three documents, and reviewed the FY2015 funds closeout for the Transportation, Education, and General Fund along with reserve balances. Mr. Ferland explained the FY2016 Budget Adjustment (BAA) agency/department meetings were underway and the FY2017 budget meetings were scheduled to begin at the end of September through October and November. Ms. Byrne explained that Medicaid ended in FY2015 with a \$30 million shortfall of which \$6 million was estimated for the BAA process.

Mr. Ferland gave an update on the FY2017 budget development process, explaining that budget instructions to agencies and departments were sent out recently. Expectations to agencies and departments were to level fund budgets. Also, backfilling positions from the retirement incentive were discouraged until more was known on where those positions were most needed. It was anticipated that pension funds, debt service, and the General Fund transfer to the Education Fund would be fully funded, and that reliance on one-time funding would decrease.

Mr. Ferland stated that budget meetings with agencies and departments would include conversations on ideas around structural changes or restructuring. Senator Ayer asked what the difference was between cuts and structural changes. Mr. Ferland responded that the Administration would encourage functional changes to department's budgets rather than Across-the-board cuts.

Senator Kitchel asked what the payment was for the Accountable Care Organizations (ACO), and how much the payment would be in the BAA. Mr. Ferland responded that there was an estimated total savings of \$14.7 million of which half (\$6.7) would need to be paid back under the ACO shared savings. Stephanie Barrett, Associate Fiscal Officer, Joint Fiscal Office, added that 45% of the half (\$6.7) was the State match and the rest was Global Commitment (federal funds). Senators Snelling and Ayer requested a description on the savings methodology from the Department of Vermont Health Access.

C. Request by BGS for approval on a Less Than Fair Market Value Lease

Michael Obuchowski, Commissioner, and Allen Palmer, Property Manager Specialist, Department of Buildings and General Services (BGS), distributed three documents. The Commissioner reviewed the proposal and history of the lease and explained that the Department was seeking approval from the Committee. He added that by calendar year 2016, Act 176 of 2014 instructs the Chittenden Children's Advocacy Center for Chittenden County Unit for Special Investigation (CUSI) to develop a plan on how to come into compliance with the original lease of \$50,000.00 from \$1,000.00. In responding to Senator Kitchel's question, the Commissioner stated the Legislature had acted upon the CUSI lease three times previously. Mr. Palmer added that Act 176 required that CUSI come into compliance by 2019.

David Cahill, Executive Director, Vermont State's Attorneys, Sheriffs and Special Investigation Units, at the request of Senator Kitchel explained that his office housed CUSI and he was Chair of the Special Investigative Unit (SIU) Board. During the CUSI lease phase-in process, he planned to request, through the legislative budget process, an increase to the SIU budget to offer a program support grant to CUSI to meet its lease obligations. Senator Kitchel asked where the difference of less than fair market value lease cost was charged. Commissioner Obuchowski responded that other fee-for-space customers were making up for the difference in the payment from the CUSI lease.

Senator Kitchel asked for a motion to approve the extension of the CUSI lease proposal with the understanding that CUSI would prepare a four-year plan on how to come into compliance by 2019 as directed in Act 179 of 2014 and as requested by Representative Lippert and Senator Snelling. Senator Ayer moved to authorize the Department of Building and General Services to enter into a Less Than Fair Market Value Lease with the Chittenden Children's Advocacy Center, under the authorization of 29 V.S.A. § 165(h)(2) with the understanding that a plan be submitted to come in compliance within the next four years. Senator Sears seconded the motion. In responding to Senator Snelling's question on fee-for-space market value, Mr. Palmer explained that lease rates are adjusted according to what the market will bear, which took in consideration the geographical area. The motion passed.

D. State Employee Retirement Incentive Report

Beth Pearce, Vermont State Treasurer, distributed a report on the retirement incentive program and a list of applications by department, and then explained that the incentive was offered to over 900 State employees, 311 employees applied, and 39 employees had rescinded their applications since the Office had first submitted its original report to the Committee, leaving 272 applicants. In responding to Senator Ayer, Treasurer Pearce stated that it was anticipated there would be further employees to withdraw from the program. Representative Lippert asked that the Administration send a summary of the apportionment of the impacts in the various departments across State government once the final applicant numbers were tallied. Senator Sears expressed concern on the impacts to the Department for Children and Families with not only the retirements but also an increase in caseload that was noted by the Commissioner at another meeting. He asked the Administration to consider transferring open positions according to critical needs in the various Departments, and he encouraged the Department to create a plan on how to address a shortfall of caseworkers. Treasurer Pearce offered that the State could also stagger when State employees could exit their jobs. Commissioner Reardon added that the Administration was aware of the issue and planned to address it when final numbers were known.

E. Vermont Economic Growth Incentive (VEGI) – Cost Benefit Model – Annual Update

Fred Kenney, Executive Director, Vermont Economic Progress Council, and Ken Jones, Economic Research Analyst, Agency of Commerce and Community Development, summarized the proposed updates to the VEGI model. Mr. Kenney explained that the technical working group's charge was to ensure the correct data was used for updating the rates for the background growth for the model. Senator Kitchel asked for the working group's participants, and Representative Ancel asked if the group's make-up was consistent with the recommendations of Tom Kavet, the Legislature's Economist. Mr. Kenney confirmed the group was composed according to the recommendations of Mr. Kavet. Senator Ashe queried how many times the group would meet before disbanding. Mr. Kenney responded the group would meet about twice to discuss the background growth issue. Representative Ancel asked if the technical group would communicate areas that need further updating to the Legislature. Mr. Kenney stated that particular issue was on its current agenda. Representative Ancel moved to approve the proposed Vermont Economic Growth Incentive Cost-Benefit Model Annual Update as proposed by the Vermont Economic Progress Council, under the authorization of 32 V.S.A. § 5930a(d) with the additional amendments by Tom Kavet from his memo dated September 4, 2015. Senator Ashe seconded the motion, and the Committee approved it.

F. Grant – JFO#2774 – Department of Public Safety

Captain Rick Hopkins, Homeland Security Advisory, and Lieutenant Kevin Lane, Director of the Vermont Intelligence Center, Department of Public Safety, gave a description of the grant. Senator Kitchel asked if there were restrictions on the work performed by the grant.

Captain Hopkins explained that restrictions on the use of the funding had loosened since 9/11 because the federal government foresaw the importance of the funds for local use within public safety. He added that the grant would enable the Department to hire a third person within the intelligence center to meet local, as well as State, demand.

Lieutenant Lane gave background on other avenues pursued prior to the grant application. He explained that the new position would involve a civilian to be specifically trained for functions that included time consuming analytical work, such as researching cell phone and laptop information, monitoring missing persons, and using the automated License Plate Recognition System (LPR).

Senator Snelling noted that the federal funding for the grant should not be considered sustainable and if the Department believed the limited service position was critical, it should consider building the position and funding into its budget. Captain Hopkins agreed with Senator Snelling, and stated that the Department was considering how to sustain the funding of the position. Senator Ayer asked if the Department had assessed the fusion centers where the positions were based with performance measures. Captain Hopkins responded that the Department conducted an annual assessment of the fusion centers through self-assessments validated through a federal metric by the Department of Homeland Security. Lieutenant Lane added that within the last 10 years, the assessment showed that workload for the fusion centers had gone up 40%.

Senator Ashe showed concern for the grant and asked if the increased staffing of data centers would then justify additional monitoring of the public. Lieutenant Lane responded that there was a vast amount of information already available within existing databases. It was the analyst's job to filter the data and provide it to police officers in an organized and understandable way. Joe Flynn, Deputy Commissioner, Department of Public Safety, added that the Department was requesting the same model from 2012 be used before that position was eliminated. Senator Ashe asked if the Department preferred that the data be kept internal or external in the future. Deputy Commissioner Flynn responded that, because of privacy issues, the Department would keep the data in-house as long as it was affordable.

Representative Ancel queried if there were new initiatives the position would work on for the Department. Lieutenant Lane responded that the position would help to tackle the above capacity and increasing workload. Captain Hopkins added that the position could also do a much needed outreach program for the privacy and civil liberties program. Representative Ancel asked if the Department was able to keep up with its most serious criminal workload. Captain Hopkins stated the Department kept up with priority cases but other non-priority cases may wait a longer period of time before receiving attention. The position would address those nonpriority cases. Senator Sears expressed his support for the position to also enable the staff and Department to

better address complicated on-call duty schedules, he then moved to approve the establishment of a new limited service position as proposed by the Department of which funding had been previously approved in Act 58 of 2015. Representative Branagan seconded the motion. Representative Lippert asked what portion of the workload of the fusion center was terrorism and what portion was criminal activity. Captain Hopkins responded that the fusion centers have had both components prior to 9/11, but what the current setup of the fusion centers allowed was better collaboration between State and local authorities.

Representative Lippert showed concern for the grant funding, and stated that the Department could become dependent on funding that may not always be available. Senator Ashe inquired what would happen with the grant if it were delayed until the Committee's November meeting. Deputy Commissioner Flynn responded that the Department would lose valuable time to train the new employee. Senator Ashe asked why the Department did not request the position with the funding in the FY2016 budget. Deputy Commissioner Flynn responded that originally the Department had sought to fill the workload with local police but coordination and strains with local authorities made it necessary to move back to the 2012 model that had an additional in-house person. Representative Ancel inquired what would happen to the money if the position were not approved. Captain Hopkins explained that the Department would use the money for other areas within the Homeland Security grant program. In past grant funding, items such as mobile communication devices in town highway trucks and ambulances and thermal imaging cameras in volunteer fire departments were bought for local agencies. Senator Sears inquired if the funds could be used to address the backlog of DNA cases in the forensics lab. Deputy Commissioner Flynn stated he would check with the forensic lab director for an update on the backlog and whether the grant funding could be used for this purpose and then forward that information onto the Committee.

The Chair repeated the motion and the Committee approved it with Senator Ashe opposing it.

G. Grant – JFO#2777 – Department of Liquor Control

Jim Giffin, interim Commissioner, Department of Liquor Control, summarized the grant. He explained there were two pieces to the grant. The first was for a speaker on drugs and alcohol as it pertained to enforcement. He explained that the presentation had no relationship to the conversation of legalizing marijuana. The second was for assistance to evaluate the liquor warehouse for capacity and if there were reorganization ideas to allow for additional capacity. The Department was able to send back unsalable items to the distributors, and to a contractor in Tennessee for disposal. A preliminary report had been submitted by the contractor that allowed for an additional 3–5 years of capacity for the warehouse, but some adjustments such as structural issues with liquor racks would need to be addressed quickly. Senator Ayer inquired if the evaluation included the question of privatization rather than State owned. Mr. Giffin

explained that the Legislature approved and appointed a Vermont Liquor Control System Modernization Evaluation Committee (VLCSMEC) to review those questions. Representative Ancel, also a member of the VLCSMEC, stated that the VLCSMEC was reviewing the possible privatization of the State's Department of Liquor Control, and showed concern for the grant having an effect on that decision. Mr. Giffin responded that the warehouse evaluation piece of the grant had been requested to address current operations issues, such as capacity and organizational methods to save funding while policy makers debate future plans of how liquor was sold. Senator Ashe asked if the study had started, and if so, what funding was used. Mr. Giffin responded that funding for the study had been appropriated but, with the grant, the State funding could be used to address the safety issues.

Representative Branagan asked if the full cost of the project would exceed the grant's \$14,000 funding. Mr. Giffin responded that the additional State funding appropriated initially for the study may be used for critical safety and security issues listed in the recommendations of the final report from the contractor. If there are areas needing legislative approval, the Department would seek language in the FY2016 Budget Adjustment proposal (BAA).

Senator Kitchel inquired about the marijuana conference and Vermont Works Prevention Coalition. Mr. Giffin responded that the grant had been written poorly along with the titling of the flyer. The Department was acting as the grant pass through entity for the presentation on Vermont Prevention Day for the Coalition. The Committee had a discussion on the speaker of the conference.

Senator Ashe moved to divide the question for the grant request. The first instance would be the question of whether to approve the request for the study of the warehouse, and the second instance would be to approve the request for the conference speaker. Whereby, Senator Ashe moved to approve the grant request in the first instance to approve the \$14,800 for the warehouse study. Representative Johnson seconded motion, and commented that the Department should keep its options open to improve efficiency of its operations.

The Chair restated the motion on the first question to approve the warehouse study funding, and the Committee approved it. The Chair then restated the motion for the second half of the question for funding of an educational speaker for 2015 Vermont Prevention Day of \$4,300. Senator Sears moved to approve funding for the educational speaker but expressed concern that it was difficult to reverse something that had already been scheduled and obligated and which should have had legislative approval for the funding. Senator Snelling seconded the motion. A discussion then ensued on the presentation and grant content. In responding to a question on the speaker's retainer fee, Mr. Giffin stated that \$800 was passed through the Coalition from the Department's operating budget.

The Chair restated the motion and the Committee approved with Senator Ashe and Representatives Branagan and Sharpe voting no (7-3-0).

H. Grant JFO#2781 – Department for Children and Families

Sean Brown, Deputy Commissioner, Bobby Arnell, Benefits Program Policy Analyst, and Wendy Beinler, Operations Director for the Economic Services Division, Department for Children and Families, summarized the grant. Deputy Commissioner Brown explained that the \$8.9 million grant targets hard-to-serve people such as homeless or potential homeless, those with prior criminal records having difficulty reentering the workforce, and those with opiate or substance abuse addictions. Currently, the State is not able to use the Unemployment Insurance (UI) funds, \$10 million of federal and State matching funds, received for the purposes other than to get individuals in a realistic employment plan. The grant allows for the hiring of 13 limited services positions for the duration of the 3-year grant. In responding to Senator Kitchel's question, Deputy Commissioner Brown responded that the Department's vision was to enroll 3,000 Vermonters within control groups, with 1,500 individuals from existing services of the employment and training program, and 1,500 random individuals would be placed in a treatment group under the grant funds. There would be a clinical assessment of the participants enrolled.

Representative Sharpe moved to accept the grant and Senator Ayer seconded the motion. The Committee approved the motion with no opposed (9-0-1).

I. Fiscal Office Updates/Issues

Sara Teachout, Senior Fiscal Analyst, Joint Fiscal Office, gave an update on the revenue contract outlined in a memo provided. Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office, added that Tom Kavet's rate had typically been lower than average which deterred others from applying for the position. Representative Ancel moved to approve the Joint Fiscal Office to negotiate a contract with Tom Kavet. Representative Johnson seconded the motion, and the Committee approved it.

Mark Perrault, Senior Fiscal Analyst, Joint Fiscal Office, briefed the Committee on the status of the Education Fund. He explained there had been two revisions to the Education Fund since the Legislature adjourned the 2015 session, the FY2015 closeout and the other was from a revision to the July consensus forecast. The education reserve fund may now be \$20 million for FY2017 after a reversion by the Agency of Education. Mr. Klein added that the reserve could give flexibility to the implementation of Act 46. At the request of Representative Sharpe and Branagan, Mr. Perrault stated he would send an electronic copy of the current Education Fund Outlook to them.

Mr. Klein stated there was work on the true cost of the Cadillac Tax and the Excise Tax issue. It was estimated that it could be lower than anticipated earlier. The Office was waiting for

guidance from the Internal Revenue Service (IRS). Representative Ancel inquired when the tax would be implemented, and Mr. Klein stated January 2018.

Stephanie Barrett, Associate Fiscal Officer, Joint Fiscal Office, gave an update on Medicaid funding. She explained there were two new potential issues for funding pressures. The first was an anticipated significant increase at the federal level related to Medicare buy-in. The Agency of Human Services had recently received alerts that the buy-in (Medicaid payments for Medicare premiums for eligible participants) were increasing by 50%. There could be a possible \$13-\$16 million annualized increase in FY2017 with a half-year impact beginning in the FY2016 BAA. The second issue was a new drug for Cystic Fibrosis that had a possible high annualized cost of \$12 million. Lastly, the general trending on caseload and utilization of Medicaid could be higher than the July preliminary estimate of \$30 million.

Representative Johnson moved to adjourn the meeting. The Committee adjourned at 12:53 p.m.

Respectfully Submitted,

Theresa Utton-Jerman
Legislative Joint Fiscal Office