

May 8, 2013

Committee of Conference – FY 2014 Appropriations Bill
State House
Montpelier, VT 05602

Dear Members of the Committee of Conference:

I am writing to provide the Administration's input into the Senate-passed version of the Fiscal Year (FY) 2014 Appropriations Bill, H.530. We appreciate the hard work done by both the House and the Senate on this bill and the degree to which both appropriations committees collaborated with the Administration in its development.

Although in general agreement with the bill, the Administration has specific concerns with respect to certain Senate provisions. The Administration's concerns are as follows:

Secs. B.1201 (General Fund Reduction; Authorized Position Count) and E.100 (Executive Branch – positions authorized in FY 2014):

The Senate proposed to create 60 new executive branch positions, of which 41 were specifically identified, and 19 were established in the position pool to be distributed. Under the Senate's B.1201, the Secretary of Administration must reduce GF appropriations by \$200,000 as a result of budgeted positions not being authorized in FY 2014. The Administration proposes to accept the House position of 66 specifically identified positions. On that basis, the Administration will accept the Senate's proposal to the \$200,000 general fund reduction in the Senate's B.1201.

Sec. B. 237 Liquor Control Administration:

The Senate reduced Enterprise Funds in Liquor Control by \$355,000 related to its new Point of Sale (POS) system. Liquor Control advises that this reduction would delay implementation of the POS system, but believes it can reasonably accommodate a \$255,000 reduction without impeding its implementation schedule.

Sec. E.139 Grand List Litigation Assistance:

The Senate added \$50,000 of Education Funds to the Reappraisal and Listing Payments appropriation to be transferred to the Attorney General's Office with accompanying budget bill language. The funds are to reimburse towns for litigation costs defending grand list appeals. The Tax Department expresses its concerns about this proposal. Reimbursing towns for litigation costs sets a precedent that could prove to be much more costly than the \$50,000 appropriated in this instance. Even though there is a reimbursement limit established in subsection (b), it creates an expectation that grand list defense will be covered by the State, exposing the State and the education fund to unnecessary liability. The costs of the reappraisals and expert witnesses during litigation were covered in the FY2013 BAA with \$150,000 of education funds. The administration did not support payments to towns for this purpose beyond the \$150,000 provided.

Sec. E.105.1 Department of Information and Innovation:

The Senate added language to increase the level – from \$100,000 to \$1 million -- above which departments must receive approval from the Agency of Administration regarding the assignment of appropriate project managers for information technology activities within state government. The Department of Information and Innovation is in support of raising the review threshold for assignment of project managers, but believes that \$1 million is too high a level, and the level should be set no higher than \$500,000. We agree that raising the threshold will improve utilization of scarce DII resources and will be less burdensome to departments, but there is a tradeoff in regard to risk mitigation that makes increasing this threshold beyond \$500,000 inadvisable.

Sec. E.111(b) Tax Administration/Collection:

The Administration opposes the Senate’s proposed study as redundant to existing reporting requirements and potentially detrimental to the Department's compliance activities. Annually, the Department is required to report to the Joint Fiscal Committee on its compliance modernization program. Currently, the Department is engaged in a data warehouse project with a respected national vendor, which enhances tax collections and allows the department to leverage efficiencies from this project to redeploy resources into different audit programs, as well as to staff policy and outreach positions. Beyond formal reporting requirements, the Department has provided reports on these initiatives to the House and Senate Committee on Appropriations, House Committee on Ways & Means, and Senate Committee on Finance. Furthermore, the Department is concerned that providing additional details on "program revenue targets" and "program outcomes" may advantage recalcitrant taxpayers and reduce the flexibility needed to fulfill the Department's mission of ensuring that all Vermonters pay the correct amount of tax.

Sec. E.307.3 Analysis of Methods to Help High Out-Of-Pocket Cost Subscribers:

The Senate added this section in the event that subsidy of out-of-pocket costs is approved for federal matching. If approved in the waiver, this language requires an analysis of the expansion of the Cost Sharing in the exchange. While the Administration appreciates the intent of this proposal, it is highly unlikely that the expansion of the cost shift will be approved in the new waiver. If the language remains, the Administration would like sections (b) and (c) struck, as well as the last part of the last sentence in part (d) struck (“and shall review the comparative analysis for establishing a high-risk pool or secondary insurance.”) In all three instances, given the administrative burden of implementing the health care exchange, the Administration needs to focus its resources.

Sec. E.321.1 General Assistance Emergency Housing:

The Department for Children and Families supports the Senate proposal regarding emergency housing. However, in addition, DCF proposes the following, in order to be more explicit about the new policy:

- (c) The Department shall adopt emergency rules pursuant to 3 V.S.A. § 844 to take effect July 1, 2013 regarding the provision of emergency housing, subject to available funds and supervisory review and approval, for vulnerable populations without a catastrophic need. Vulnerable populations are defined as households with a member:
 - (1) ~~households with a member~~ who is 65 years of age or older,
 - (2) ~~living with a disability as determined by the Social Security Administration for Social Security or Supplemental Security Income who is in receipt of either Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI)~~;
 - (3) a child under the age of 6 years,
 - (4) persons in the third trimester of pregnancy.
- (d) ~~During fiscal year 2014, the Agency, in consultation with interested stakeholders, including both statewide organizations and local agencies, shall adopt rules pursuant to 3 V.S.A. chapter 25 to clarify eligibility for General Assistance housing, including rules defining when the Agency may provide~~

~~emergency housing subject to available funds to vulnerable populations as defined in subsection (c) of this section without a catastrophic need.~~

(d) Eligibility for vulnerable populations should not be extended to individuals who caused their own eviction.

(e) Eligibility for vulnerable populations should be limited to 28 days.

Sec. E.323.1 Reach Up:

The Agency of Human Services expresses the following concerns about the Senate-proposed changes to Reach Up eligibility in this section:

- The language exempts traditional child-only grants, but does not specifically exempt child-only grants for parents or caretakers receiving SSI. AHS recommends language includes both types of child-only grants.
- AHS recommends the age be extended to 22 as parent-child centers serve participants to that age.
- AHS recommends the participating family meet its obligations under the family development plan. Following language is recommended: “Notwithstanding subsection (a) of this section, the Commissioner may extend to a participating family that is meeting its obligations under the family development plan and that does not have a qualifying deferment under section 1114 of this title and that has exceeded the cumulative 60-month lifetime eligibility period set forth in subsection (a) of this section...” Also, “Notwithstanding subsection (a) of this section, the Commissioner may extend to a participating family that does not have a qualifying deferment under section 1114 of this title and that has reached ~~exceeded~~ the cumulative 60-month lifetime eligibility period set forth in subsection (a) of this section.”
- Furthermore, AHS recommends Reach-Up sanction policies apply to participants even after they reach 60 months and are allowed to continue under exemptions (1) and (2).

Sec. E.324 – Home Heating Fuel Assistance/LIHEAP:

The Senate included language allowing transfer of up to \$1 million of Weatherization fund to LIHEAP under specific circumstances. The Administration does not support this proposal. It should be noted that the GMP Public Service Board order requiring funding for weatherization may place constraints on the transfer of Weatherization funds to LIHEAP.

Sec. E.324.4 through E.324.7 – LIHEAP data collection:

These sections added by the Senate establish a process to collect house dwelling unit square footage data as part of the LIHEAP eligibility process, in order to develop reporting data and rationalize benefit allocations. The Department for Children and Families advises that the 1970s era ACCESS eligibility system cannot accommodate this additional eligibility criterion. Therefore, the proposed changes would need to be handled manually and would create a significant administrative burden, for which funds are not provided in the budget.

Sec. E.333 Disabilities, Aging, and Independent Living - Developmental Services:

- The Senate revised language in subsections (a) - (d) creates multiple, conflicting policy processes. The State’s current System of Care Plan process, outlined in E.333 18 V.S.A. § 8725, is a long-standing, well-established process for evaluating, reviewing and prioritizing services for persons with disabilities. The current system of care plan expires on June 30, 2014 and DAIL plans to begin the revision process in July 2013. **Creating an additional process – with its associated delayed timeline -- jeopardizes DAIL’s ability to achieve the \$2.5M budgeted savings in FY 2014.**
- If this language is necessary, the following suggestions should be considered regarding what should be included and who should be involved in the System of Care Plan update:
 - To be consistent with other authorities, we recommend the number of advocates and people with disabilities on the task force balance the providers and State representatives. We

recommend that we either use the State Program Standing Committee for this function, or add two advocates, and two more people with developmental disabilities (18 VSA §§8733, 8723(8); DS Regulations 10.12). The Department suggests that this effort will have the best chance of success if representatives of key stakeholders participate from the outset. We propose involvement of the following in a task force of no more than 20 individuals:

- Green Mountain Self-Advocates
 - Division/Department Staff, DS Providers
 - DD Council
 - State Program Standing Committee for Developmental Services
 - Vermont Family Network
 - DD Law Project
- The Senate set a report deadline in subsection (e) of September 30, 2013, we believe that a complete review cannot be achieved between now and the end of the September. A more realistic deadline is January 15, 2014.
 - The Senate language in subsection (f) conflicts with 18 V.S.A §8725. Striking the words “or rescissions” will eliminate conflict with current law. Additionally, the date should be updated to coincide with what is outlined in subsection (e).
 - The Senate added subsection (g) to establish a consensus forecasting process for DS caseload and utilization. We agree with the establishment of a consensus forecasting process but believe that presenting the finding in November is premature. To align with the Governor’s budget development process, we believe that forecast should be presented and adopted at the Emergency Board meeting in January at the same time the Medicaid Per-Member-Per-Month forecasts are adopted.

Sec. E.800(a) Vermont Training Program:

The Senate added language restricting the flexibility provision of the Vermont Training Program by prohibiting new grants or awards under the provision. The Administration requests that the Conference Committee strike this provision, returning to the Governor’s Recommended language.

Joint Executive And Legislative Commission On Health Care Financing:

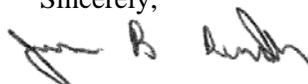
As we move beyond implementation of Vermont Health Connect towards Green Mountain Care, given what we know at this time, a financing plan will need to be addressed, most likely, by the 2015 General Assembly. This session, it would be helpful to create a joint executive - legislative commission on health care finance. Its purpose will be to engage the public and gather information on issues relating to financing for Green Mountain Care, and to help prioritize a series of options for financing Green Mountain Care prior to the 2015 legislative session. The Administration, in cooperation with the Chairs of the Health and Welfare, Health Care, Finance, and Ways & Means Committees, have developed the language below (Attachment).

Health Care Reform:

The Office of Health Care Reform advises that it is necessary to pass certain provisions in order to implement Vermont’s Health Benefit Exchange and further Vermont’s health care reform goals. The Secretary of Administration and Director of Health Care Reform will send a separate memo providing those items that should be included in H.530.

We appreciate your consideration of these comments, and look forward to working with the Legislature to resolve these policy and budgetary issues.

Sincerely,



Jim Reardon
Commissioner

cc: Representative Martha Heath, Chair, House Appropriations Committee
Representative Janet Ancel, Chair, House Ways and Means Committee
Representative Shap Smith, Speaker, House of Representatives
Senator Jane Kitchel, Chair, Senate Appropriations Committee
Senator Tim Ashe, Chair, Senate Finance Committee
Senator John Campbell, President Pro Tem, Senate
Steve Klein, Joint Fiscal Office
Jeb Spaulding, Secretary, Agency of Administration

Attachment – Joint Commission on Health Care Financing:

* * * Commission on Health Care Financing * * *

Sec. X. JOINT EXECUTIVE AND LEGISLATIVE COMMISSION ON HEALTH CARE FINANCING

(a)(1) Composition of commission. There is hereby established a Commission on Health Care Financing composed of 9 members. The members shall be:

(i) the chairs of the House Committees on Health Care and on Ways and Means;

(ii) the chairs of the Senate Committees on Finance and on Health and Welfare;

(iii) two members from the executive branch appointed by the Governor;

(iv) and three at-large members jointly appointed by the Speaker of the House, Committee on Committees, and the Governor.

(2) The commission shall be appointed within 45 days after the effective date of this act. The Governor shall appoint the chair from among its members within 10 days after appointment of all members.

(b) Duties. The Commission shall have the following duties:

(i) to engage and educate the public on issues relating to financing for Green Mountain Care established in 33 V.S.A. chapter 18, subchapter 2 through public meetings held in at least 4 disparate geographic locations in Vermont;

(ii) to gather information from the public relating to the financing for Green Mountain Care;

(iii) to recommend a prioritized series of options for financing Green Mountain Care to the general assembly no later than January 15, 2015. In recommending options, the Commission shall be consider the following:

(A) the principles adopted by the general assembly in No. 48 of the Acts of 2011;

(B) the reliability, stability, sufficiency, and sustainability of the financing sources;

(C) equity;

(D) business competitiveness; and

(E) other criteria as established by the Commission.

(c) Staff and Consulting Support. The Secretary of Administration shall designate a staff director to coordinate the efforts of the commission from existing executive branch staff. The staff director shall ensure that the Commission receives technical assistance and administrative support from the Agency of Administration, Department of Vermont Health Access, and Department of Taxes. The Commission may direct the legislative Joint Fiscal Office to contract with such consultants as it deems necessary with the amounts appropriated by the general assembly. The legislative Joint Fiscal Office and Legislative Council shall assist the Commission upon request.

(d) Non-legislative members of the commission shall be entitled to compensation as provide under 32 V.S.A. § 1010. Any legislative members of the commission shall be entitled to the same per diem compensation and reimbursement of necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

Sec. X. APPROPRIATION

The Joint Fiscal Office is appropriated \$50,000 in general funds for consulting resources to provide technical assistance as needed to the Commission on Health Care Financing.
