



STATE OF VERMONT
GENERAL ASSEMBLY
HOUSE COMMITTEE ON
APPROPRIATIONS

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MEMORANDUM

To: Rep. Pugh, Chair, House Committee on Human Services
From: Rep. Heath, Chair, House Committee on Appropriations
Date: April 30, 2014
Subject: Review of Language added to Budget by the Senate

The Conference Committee on the budget has been appointed and is in the process of reviewing provisions added, deleted, or changed by the Senate. It would be very helpful if you could review the sections below and provide me with your feedback by 1 p.m. on Tuesday, May 6th, or earlier if possible. Thank you for your help with these issues.

THE FOLLOWING LANGUAGE WAS ADDED BY THE SENATE

Sec. C.109 COMMITTEE ON CHILD PROTECTION (Also sent to House Judiciary for review)

(a) There is created a Committee on Child Protection. The Committee shall be composed of seven members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees. The Committee on Committees shall designate two Senators to serve as Co-Chairs of the Committee.

(b) The Committee shall investigate and evaluate Vermont's current system of child protection, including:

(1) examining Vermont's laws, policies, and procedures and evaluating whether those laws, policies, and procedures are effective in protecting children;

(2) comparing Vermont's laws, policies, and procedures to those in other jurisdictions and to best practices in the area of child protection;

(3) understanding how federal requirements shape Vermont's laws, policies, and procedures and the child protection system;

(4) examining whether the departments, agencies, branches, and entities that are responsible for child protection cooperate and are effectively fulfilling their role in the child protection system;

(5) examining whether specific crimes or incidents reveal shortcomings in current laws, policies, and procedures and how the current system operates. In doing so, the Committee shall not interfere in any ongoing investigations;

(6) examining how the child protection system operates in different parts of the State and whether similar cases or allegations are handled differently. If the Committee determines that similar cases or allegations are handled differently, the Committee shall examine the reasons for, and results of, those differences;

(7) determining whether legislative or other changes are necessary to improve the child protection system.

(c) The Committee may conduct hearings and may administer oaths to, and examine under oath, any person. The Committee shall have the power, by a majority vote of the Committee, to issue subpoenas to compel the attendance and testimony of witnesses, and the production of books, papers, records, and documents.

(d) Notwithstanding any other provision of law to the contrary, the Committee may receive records that are confidential, privileged, or the release of which is restricted under Vermont law. All State agencies and departments may provide such records to the Committee upon request. Any such records obtained by the Committee shall be exempt from public inspection and copying, shall be kept confidential by the Committee, and shall not be disclosed.

(e) No person who is an employee of the State of Vermont, or of any State, local, county, and municipal department, agency, or entity involved in child protection, and who testifies before, supplies information to, or cooperates with the Committee's investigation shall be subject to retaliation by his or her employer. Retaliation shall include job termination, demotion in rank, reduction in pay, alteration in duties and responsibilities, transfer, or a negative job performance evaluation based on the person's having testified before, supplied information to, or cooperated with the Committee.

(f) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Committee may retain additional legal and other services as necessary.

(g) On or before January 6, 2015, the Committee shall report to the General Assembly its findings and any recommendations for legislative action.

(h) The Committee may meet no more than ten times, unless additional meetings are determined to be necessary by the Co-Chairs and approved by the President Pro Tempore of the Senate and Speaker of the House. The Co-Chairs shall call the first meeting of the Committee, and the Committee may hold hearings at whatever locations the Co-Chairs determine to be appropriate. A majority of the members of the Committee shall be physically present at the same location to constitute a quorum. A member may vote only if physically present at the meeting and action shall be taken only if there is both a quorum and a majority vote of all members of the Committee members physically present and voting.

(i) The Committee shall cease to exist on January 6, 2015.

(j) For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

THE FOLLOWING HOUSE PASSED LANGUAGE WAS REMOVED BY THE SENATE

(a) On or before November 15, 2014, the Commissioner of Vermont Health Access shall submit a report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare on value-based payment mechanisms that provide financial incentives for achieving performance requirements. In preparing the report, the Department of Vermont Health Access shall consult with the Department of Health's Alcohol and Drug Abuse Program and any preferred providers with which it contracts and the Department of Mental Health and any designated agencies with which it contracts. The report shall contain the following:

(1) the identity of any value-based payment mechanisms that would improve access, initiation, and participation in substance abuse and outpatient mental health services, including rate setting, capitated funding, performance-based contracts, cost-based reimbursement, capacity grants, and bundled payments; and

(2) the benefits, drawbacks, and costs of each identified funding mechanism.

THE FOLLOWING LANGUAGE WAS ADDED BY THE SENATE

Sec. E.306.2 OFFICE OF ALCOHOL AND DRUG ABUSE PROGRAMS; TRANSFER (This provision was also sent to House Health Care for Review)

(a) The Secretary of Administration and the Chief of Health Care Reform are authorized in fiscal year 2015 to transfer the Office of Alcohol and Drug Abuse Programs from the Department of Health to the Department of Vermont Health Access, except that the Secretary and the Chief shall ensure that positions in the Office of Alcohol and Drug Abuse Programs that serve public health functions remain in the Department of Health and may transfer the positions and associated State and federal funding to the Division of Public Health within that Department. The transfer shall be completed by June 30, 2015.

(b) If the Secretary and the Chief are confident that increased expenditures through the Care Alliance for Opioid Addiction will result in identifiable savings to DVHA or other State programs, they may transfer Global Commitment funds from the Department of Vermont Health Access to the Office of Alcohol and Drug Abuse Programs for that purpose.

(1) To the extent possible within the savings are identified as result of the increase expenditures through the Care Alliance for Opioid Addiction, up to \$30,000 of existing funds may be utilized for needle exchange programs.

(c) The Secretary and the Chief shall report to the Joint Fiscal Committee at its September meeting and to the Health Care Oversight Committee on or before October 1, 2014 on the progress of the transfer of the direct service delivery functions of the Office of Alcohol and Drug Abuse Programs to the Department of Vermont Health Access, including the transfer of funds for increasing the Care Alliance for Opioid Addiction and the corresponding savings to DVHA programs, residential treatment programs, and other programs. The report shall include the impact on capacity and sustainability of residential substance abuse treatment facilities in the State within the context of all aspects of the State's public and private substance abuse treatment system.

Sec. E.306.4 REPEALS (This provision was also sent to House Health Care for review)

(a) 2 V.S.A. chapter 24 (Health Care Oversight Committee) is repealed on January 1, 2015.

(b) 2004 Acts and Resolves No. 122, Sec. 141c (Mental Health Oversight Committee), as amended by 2006 Acts and Resolves No.215, Sec. 293a and 2007 Acts and Resolves No. 65, Sec. 124b, is repealed on January 1, 2015.

Sec. E.306.6 HUMAN SERVICE PROGRAMS OVERSIGHT PROPOSAL

(a) As part of the January, 2015, report requirement under 2 V.S.A. § 852 (c) the Health Care Oversight Committee shall, in consultation with the Mental Health Oversight Committee, recommend an oversight structure for human service programs funded by the state when the legislature is not in session. Consideration of the membership, scope, powers, duties, and meetings as well as anticipated coordination with the respective legislative standing committees shall be included with the recommendation.

THE FOLLOWING HOUSE PASSED LANGUAGE WAS STRUCK BY THE SENATE

Sec. E.314.1 MENTAL HEALTH BUDGET PRESENTATION

(a) In order for the General Assembly to evaluate whether the State is meeting the goals in 2012 Acts and Resolves No. 79 of increasing community supports, decreasing inpatient care, and moving toward a less coercive system, the Departments of Mental Health and of Vermont Health Access shall, in their budget proposals for fiscal year 2016, present a unified expenditure and utilization analysis to the General Assembly for all proposed inpatient psychiatric care supported by the State in fiscal year 2016. The analysis shall distinguish between each of the following funding categories:

- (1) level 1 inpatient psychiatric services;
- (2) other involuntary inpatient psychiatric services;
- (3) inpatient services for community rehabilitation and treatment clients; and
- (4) inpatient services for other Medicaid patients.

THE FOLLOWING LANGUAGE WAS ADDED BY THE SENATE

Sec. E.314.1 MENTAL HEALTH BUDGET PRESENTATION

(a) In order for the General Assembly to evaluate whether the State is meeting the goals in 2012 Acts and Resolves No. 79 of increasing community supports, decreasing inpatient care, and moving toward a less coercive system and to evaluate the outcomes of the systemwide investments made as the result of Act79, the Departments of Mental Health and of Vermont Health Access shall in consultation with the State's Chief Performance Officer, as designee of the Secretary of Administration, provide a longitudinal capacity, caseload, expenditure, and utilization analysis with the fiscal year 2016 budget presentation for:

- (1) Inpatient Services by the following funding categories:
 - (A) Level 1 inpatient psychiatric services;
 - (B) Other involuntary inpatient psychiatric services;
 - (C) Inpatient services for community rehabilitation and treatment clients; and
 - (D) Inpatient services for other Medicaid patients.
 - (E) Emergency department wait times for an acute inpatient psychiatric bed for minors and adults.
- (2) Residential Services by categories of service, including
 - (A) Intensive Recovery
 - (B) Crisis Residential and Hospital Diversion
 - (C) Group Homes
 - (D) Supported Independent Living
 - (E) Secure Residential
- (3) Community Mental Services by categories of service, including
 - (A) Community Rehabilitation and Treatment

- (B) Crisis Programs
- (C) Outpatient Clinics
- (D) Peer Support Programs
- (4) Other Mental Health Support Services and Administration

THE FOLLOWING THREE HOUSE PASSED LANGUAGE SECTIONS WERE STRUCK BY THE SENATE

Sec. E.314.2 TRANSPORTING PATIENTS

(a) Beginning July 1, 2015, the Agency of Human Services shall only enter into contracts with designated professionals or law enforcement officers for the transport of persons pursuant to 18 V.S.A. § 7511 or of children pursuant to 33 V.S.A. § 5123 if, by entering into the contract, the designated professionals or law enforcement officers agree to comply with the provisions of those sections.

(b) As part of its fiscal year 2016 budget proposal, the Department of Mental Health shall report the number of persons transported in shackles and by using less restrictive means by each sheriff's department during the previous calendar year.

Sec. E.314.3 REPORT; MINORS WAITING FOR INPATIENT BEDS

(a) On or before January 15, 2015, the Department of Mental Health shall submit to the Senate Committee on Health and Welfare and to the House Committee on Human Services a report pertaining to minors waiting in an emergency department for an acute inpatient psychiatric bed. The report shall include data on the frequency and length of waits in an emergency department.

Sec. E.314.4 PSYCHIATRIC HOSPITAL STAFFING

(a) The Department of Mental Health shall conduct an ongoing assessment of the staffing at the Vermont Psychiatric Care Hospital to ensure that the staffing numbers and staff mix are appropriate in achieving the Hospital's mission. On or before January 15, 2015, the Department shall report the expected patient outcomes and other criteria by which it will evaluate Hospital staffing to the Senate Committee on Health and Welfare and to the House Committee on Human Services.

(b) In its fiscal year 2017 budget proposal, the Department of Mental Health shall include any proposed adjustments to the staffing numbers or staffing mix at the Vermont Psychiatric Care Hospital as the result of its ongoing assessment.

THE FOLLOWING LANGUAGE WAS ADDED BY THE SENATE

Sec. E.314.4 PSYCHIATRIC HOSPITAL STAFFING

(a) By July 1, 2014, the Department of Mental Health shall establish criteria by which to determine the appropriate staffing level at the Vermont Psychiatric Care Hospital. The criteria shall consider the need to provide sufficient direct care and administrative and support staff consistent with the requirement to provide effective treatment services in an environment that monitors patient care and the safety needs of patients, and aligns with the guidelines of the federal Centers for Medicare and Medicaid Services.

(b) The Department shall provide a written report to the Joint Fiscal Committee and the Joint Mental Health Oversight Committee in July 2014 regarding the staffing plan for the Vermont Psychiatric Care Hospital. The report shall justify and demonstrate the need for each of the

administrative and support staff included in the plan, with the goal of limiting positions to those that are essential to meet the needs of operating the hospital. The Department shall hold three non-direct care positions vacant until legislative approval is granted.

(c) By July 1, 2014, the Department of Mental Health, in consultation with the State's Chief Performance Officer, as designee of the Secretary of Administration, shall identify desired outcomes, performance measures and data requirements required to measure whether the hospital is achieving the stated outcomes for reflect patient care, and the effectiveness of treatment services, patient monitoring, and safety requirements at the Vermont Psychiatric Care Hospital and shall provide a written report to the Joint Fiscal Committee and the Joint Mental Health Oversight Committee in July, 2014

Sec. E.318 33 V.S.A. § 3504 is added to read:

§ 3504. SUPPLEMENTAL CHILD CARE GRANTS

In instances in which Extraordinary Financial Relief will not maintain ongoing access to high quality child care, the Department for Children and Families may provide additional support to ensure access to high-quality, comprehensive child care that meets the needs of working parents in high-poverty areas of Vermont. Licensed child care centers may be considered for this additional financial support to help ensure ongoing access to high-quality child care in areas of the State where none exists, as determined by the Commissioner. Financial assistance may be granted, at the discretion of the Commissioner, if the child care center meets the following criteria:

- (1) provides full-day day care year-round;
- (2) serves infants and toddlers;
- (3) is located in a high-poverty area without access to public transportation, as determined by the Commissioner;
- (4) maintains a 5 star rating in the SStep Ahead Recognition System (STARS) program;
- (5) maintains a caseload in which at least 80 percent of enrollees receive a 100 percent child care subsidy; and
- (6) receives child care subsidies as its primary source of program revenue.

THE FOLLOWING HOUSE PASSED LANGUAGE WAS AMENDED BY THE SENATE – SEE HIGHLIGHTS

Sec. E.321.2 33 V.S.A. § 1114 is amended to read:

§ 1114. DEFERMENTS, MODIFICATIONS, AND REFERRAL

* * *

(b) The work requirements shall be either modified or deferred for:

* * *

(5) A participant who is needed in the home on a full or part-time basis in order to care for an ill or disabled parent, spouse, or child. In granting deferments, the Department shall fully consider the participant's preference as to the number of hours the participant is able to leave home to participate in work activities. A deferral or modification of the work requirement exceeding 60 days due to the existence of illness or disability pursuant to this subdivision shall be confirmed by the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of

Human Services prior to receipt of continued financial assistance under the Reach Up program.

* * *

(d) Absent an apparent condition or claimed physical, emotional, or mental condition, participants are presumed to be able-to-work. A participant shall have the burden of demonstrating the existence of the condition asserted as the basis for a deferral or modification of the work requirement. A deferral or modification of the work requirement exceeding 60 days due to the existence of conditions rendering the participant unable-to-work shall be confirmed by the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.

* * *

(f) As used in this section, "health care provider" means a person, partnership, or corporation, other than a facility or institution, licensed or certified or authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

THE FOLLOWING LANGUAGE WAS ADDED BY THE SENATE

Sec. E 324.2 EXPEDITED CRISIS FUEL ASSISTANCE

(a) The Commissioner of the Department for Children and Families or designee may authorize crisis fuel assistance to those income-eligible households who have applied for an expedited seasonal fuel benefit but have not yet received it, if the benefit cannot be executed in time to prevent them from running out of fuel.

Sec. E.324.3 33 V.S.A. § 2502(e) is added to read:

(e) ~~Repealed.~~ The Office of Economic Opportunity and the Economic Services Division shall report to the General Assembly, on or before January 15, 2015, with recommendations on how to account for the benefits that result for homes that have been weatherized under the Home Weatherization Assistance Program. The Offices shall jointly consider the existing data related to weatherization, and analyze the heating costs to such homes before and after weatherization. Based on this analysis, the Offices shall include in their report specific recommendations for adjusting the appropriations into, or benefits paid out of, the Low Income Home Energy Assistance Program to account for the benefits provided by the Home Weatherization Assistance Program in fiscal year 2016.

Sec. E.326.1 WEATHERIZATION PROGRAM

(a) The Department and the Office of Economic Opportunity shall examine the feasibility as well as programmatic and fiscal impacts of having an income-sensitive cost-sharing component in the weatherization program and shall include as part of its fiscal year 2016 budget proposal recommendations resulting from this examination.

Sec. E.975 2014 Acts and Resolves No. 95, Sec. 75a is amended to read:

Sec. 75a. CHOICES FOR CARE; REINVESTMENT

(a) Of the Provided there are sufficient Choices for Care funds, either actually or projected to be, available for reinvestment in fiscal year 2014, the Department of Disabilities, Aging, and Independent Living is authorized to shall use up to a total of \$1,000,000 in fiscal years 2014 and 2015 on one-time investments that directly benefit eligible choices for care

enrollees and one-time investments to home- and community-based providers that are consistent with and prioritized based on current needs analysis to meet the overall strategic goals and outcomes of the waiver. This authorization is in addition to the reinvestment plan submitted by the Department as submitted to the Committees on Appropriations in January 2014. The General Fund portion of this amount is \$435,600 which may shall be transferred to other Department appropriations as needed to meet the objectives of this section. The Department shall report to the Joint Fiscal Committee in July 2014 regarding this provision.