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Agency of Administration

April 5, 2016

The Honorable Senator Jane Kitchel, Chair
Senate Appropriations Committee
State House
Montpelier, VT 05609

Dear Senator Kitchel,

This letter provides the Administration's review of H.875, the House-passed Fiscal Year (FY) 2017 Appropriations Bill, and outlines specific areas of concern that may be helpful to the Senate in its own review. The Administration appreciates the difficult task completed by the House, and accepts many of the provisions of the House-passed budget. However, there are a number of provisions in the bill that raise specific concerns for the Administration, they are as follows:

Provider Assessment

The Governor's proposed budget included expanding provider assessments to independent physicians and dentists, to provide funding to support the current Medicaid program and to provide additional funding to increase reimbursement rates for dentists and primary care physicians. The past two budgets the Governor has presented included raising revenue to cover costs associated with increasing enrollment in the Medicaid program as the uninsured become covered and also beginning to address the disparity in rates between Medicaid and Medicare. The State made a commitment to Vermonters to cover the uninsured and we have to fund it.

The Administration strongly recommends that the Senate pass a dedicated revenue source that can be used to address the growing Medicaid budget while simultaneously beginning to address Vermont's low Medicaid reimbursement rate. Vermont should be proud to provide coverage through the Medicaid program for those who were previously uninsured. This financial pressure should level off over time, unless there is an economic downturn, but should be adequately budgeted for. The Medicaid budget should also ensure sufficient reimbursement rates to provide access to care, which means addressing the disparity in rates over time. In addition, Medicaid rates should be stable on a yearly basis to provide basic predictability for provider budgets. In order to meet these goals, Medicaid needs a predictable, stable, dedicated revenue source.

House proposed Employer Assessment is very complex to implement – particularly in the short timeframe proposed by the House - and does not adequately address the underlying issue of Medicaid sustainability and funding.

B.1101 Next Generation; Appropriations and Transfers

The Governor's proposed budget appropriated $1,963,000 in targeted higher education investments, Step Up ($850,000), College Savings Accounts ($1,000,000) and Vermont Strong Scholars ($113,000). The FY 2017 Budget as passed by the House does not fund these strategically important programs. The Administration requests that these amounts be restored and the amount appropriated to the Vermont State Colleges ($800,000) in B.602, which is not appropriated strategically, be removed.

B.1103 Security Planning and Funding

The Governor's proposed budget appropriated $1,000,000 for security upgrades across the state. The FY 2017 Budget as passed by the House removes this funding, requests a plan to be disclosed to the Legislature and directs the Administration to re-request the funding in the 2017 Budget Adjustment Act. The Administration requests that the funding be restored and the plan be removed. The Secretary of Administration has testified several times that disclosing such a plan would reveal current security issues publicly and, removing the funding will slow down our ability to make immediate progress on security issues.

Transfer to the Enterprise fund

The Governor proposed adding $500,000 to the Enterprise Fund to provide investments for companies which provide jobs vital to the economy and to give the State the flexibility to move quickly to create or protect jobs. The Administration recommends that these funds be restored in the Budget.

B. 124 Governor's Office

Since the Governor's budget was introduced the Governor's office and the Agency of Human Services (AHS) have decided to shift all work done on the Race to the Top grant out of the Governor's office and to AHS. As such, the Interdepartmental Transfer line in the Governor's office should be reduced to reflect the movement of individuals and their expenses to AHS.

Please make the following changes in the Governor's Office Appropriation:

	Gov Rec	Proposed Change	Delta
Personal Services	~~1,627,847~~	1,444,960	(182,887)
Operating Expenses	~~460,416~~	436,716	(23,700)
Total	~~2,088,263~~	1,881,676	(206,587)
General Fund	1,695,176	1,695,176	0
Interdepartmental Transfer	~~393,087~~	186,500	(206,587)
Total	~~2,088,263~~	1,881,676	(206,587)

B.235 ENHANCED 9-1-1 BOARD

The Governor's proposed budget did not include enough funding for the E-911 Board; this occurred as a result of misinterpreting 2015 Act 41 Sec. 16. The Administration and the E-911 board have reexamined the budget submission and request that the Senate increase the FY2017 appropriation to $4,922,130 accordingly:

	Gov Rec	Proposed Change	Delta
Personal Services	~~3,280,087~~	3,368,345	78,358
Operating Expenses	~~204,843~~	743,785	448,942
Grants	~~720,000~~	810,000	90,000
Total	~~4,304,830~~	4,922,130	617,300
Special Fund	~~4,304,830~~	4,922,130	617,300
Total	~~4,304,830~~	4,922,130	617,300

Administration; Purchasing and Contracting

The Governor's proposed budget includes language which moves funding for the Purchasing and Contracting Division from the Department of Buildings and General Services to the Secretary of Administration's Office. This was done to allow for more consistent practices and oversight of purchasing and contracting across State Government, as is done in other states. The FY 2017 Budget as passed by the House removed this language, decreased funding and created an evaluation report due November 15, 2016. The Administration requests that the language and funding as introduced be restored and the language written by the House, be removed.

E.224 Agriculture, Food and Markets – Agricultural Development

The Administration does not support the additional funds the House dedicated to working lands. The program has recently received several private donations and the Administration does not think, that in a time of constrained resources, and with the availability of non-state resources, that this is an appropriate investment of General Funds.

Designated Agency 2% increase

Though the Administration does not object to the concept of a 2% Designated Agency increase, there is concern about the level of resources needed to support the increase. Additionally, it is not clear how the increase would be implemented or what it specifically represents but rather simply gives the Designated Agencies a broad 2% increase. Rather, the Administration suggests that this 2% be targeted for a specific purpose.

B.314 Mental Health

The Administration recommends that the Senate appropriate the funds for suicide prevention as originally proposed by the Governor. Vermont suicide rates remain higher than the national average; two counties in particular have higher prevalence. With the Governor's original appropriation, the Department of Mental Health would have the resources to make targeted investments in the counties that currently have higher suicide rates.

E. 127.1 Vermont Health Benefits Exchange technology; Sustainability Analysis; Report

The budget as passed by the House included language requesting the Joint Fiscal Office conduct a study of the operations of Vermont Health Connect, if sufficient funding is appropriated. The Administration believes this study is unnecessary and any identified funding in is better spend on more important priorities.

E.307 Department of Vermont Health Access – Outpatient Psychotherapy; Utilization Review

The language added by the House regarding the utilization review by DVHA should be removed from the Senate version of the budget bill. This policy change will result in no cost savings for DVHA and result in additional costs to the Department.

Sec.E.323 (10) – Department for Children and Families – Reach Up Language

The House amended the proposed appropriations bills to include language requiring DCF to report the impact on families affected by the decision to count $125 of SSI income with respect to Reach Up benefits. In order to study the qualitative effect of this change on families, DCF would need a contractor to conduct research and survey families. The Administration recommends removing this requirement from the Appropriations Bill.

Sec. E.324 – Low Income Housing Energy Assistance Program

The House as passed FY 2017 appropriations bill modifies the language allowing a 1 to 1 transfer of funds between the Weatherization appropriation and LIHEAP. This modification will not allow the Administration to have the flexibility to transfer funds next heating season when the needs of LIHEAP recipients and the revenues from the Gross Receipts Tax (which funds weatherization) are better known. The Administration requests that the original proposed LIHEAP Weatherization transfer language be adopted by the Senate.

In addition, in Sec. B.326 the $1.2M in IDT funds should be appropriated as federal funds. They will be spent as federal funds.

E.400 Workforce Education and Training Report

The report required in Sec. E. 400 is encompasses work that is already being done by state government and is unnecessary. Recognizing the benefits this study would provide, the Administration proposes striking the language as passed by the House and replacing it with the following:

Sec. E.400 Workforce Education and Training Report

(a) Intent and purpose:

(1) 2013 Acts and Resolves No. 81, Sec. 1 created a Workforce Development Work Group charged with the duty to research, inventory, and collect certain data concerning workforce education and training programs and activities in Vermont. Representing the Administration on that work group were: the Secretary of Commerce and Community Development, the Secretary of Education, and the Commissioner of Labor. The purpose of this section is to require a report which will inform the legislature on the status of this and other similar efforts being carried out by the Administration.

(A) The Secretary of Commerce and Community Development, the Secretary of Education, the Secretary of the Agency of Human Services, and the Commissioner of Labor, shall jointly report, on or before December 15, 2016, to the House Committees on Commerce and Economic Development and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs and on Appropriations, the following:

(1) A summary of the work-product of the 2013 Workforce Development Work Group referenced in section (a) above;

(2) A detailed report on the follow-up to that effort, including the resulting work product;

(3) Summaries of all other related initiatives and activities taking place in the State in which these four agencies are involved, including: the joint agency employer workforce needs assessment; the Title 10 § 540 (1) (B) requirement that the Commissioner of Labor, in consultation with the State Workforce Development Board, *create and maintain an inventory of all existing workforce education and training programs in the State;* and the Workforce Innovation and Opportunity Act (WIOA) requirements which include the Unified State Plan and the development of common intake and common performance evaluations.

B. 500 Agency of Education – Administration

The House included $75,000 for the Agency of Education to fund a position to support the Board of Education. The Administration believes this position is unnecessary and requests its removal and the funds redirected.

Agency of Natural Resources PILOT

The Administration does not agree with the House version for the ANR PILOT language. Please see the attached appendix for a detailed explanation regarding the implications of the changes. The Senate should adopt the PILOT language originally proposed by the Administration to ensure that Vermont towns are treated fairly.

Clean Water Fund Appropriations

Since the Governor's Budget submission, the Department of Tax has revisited the projected revenue for the Property Transfer Tax surcharge that provides the revenue for the Clean Water Fund. The projected available funding in FY 2017 has been reduced by $750,000. The Clean Water Board is meeting on April 8th to adopt revised FY 2017 appropriations that align with available revenue. The Administration will submit updated appropriations on April 12th.

Department of Environmental Conservation – language needed to provide emergency assistance to communities to mediate PFOA drinking water contamination

Due to the recent discovery of PFOA water contamination, the Department of Environmental Conservation (DEC) requests that the spending cap from the Environmental Contingency Fund be lifted for expenses related to remediation at these sites. The Legislature has authorized previous requests to lift this cap, both in Act No. 65 of 2008, for the Pownal site, and in the current Budget Bill, H.875 Sec. 709, for the Elizabeth Mine Superfund Site. The Administration requests that the following language be included in H.875 with an effective date on passage so that the Department can use the funds right away.

Sec. E.709.1. AUTHORIZATION FOR EXPENDITURE RELATED TO PFOA DRINKING WATER CONTAMINATION

(a) Notwithstanding the $100,000 limitation on the expenditure of funds from the environmental contingency fund established pursuant to 10 V.S.A. § 1283, the secretary of the agency of natural resources may expend funds to accomplish activities authorized under 10 V.S.A. § 1283(b) to address PFOA drinking water contamination.

Additionally, the Administration would like the population cap on the Vermont Drinking Water Planning Loan Fund lifted. The current statute that governs the use of the fund, 24 V.S.A. § 4753(a)(5), limits the use of the fund to town under 10,000 people, and has not be updated since 1997. Given the needs of the communities following the discovery of PFOA in private and public drinking water, the Administration requests the addition of the language below to remove the population threshold.

Sec. E.709.2 24 V.S.A. § 4753(a)(5) is amended to read:

(a) There is hereby established a series of special funds to be known as:

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(5) The Vermont Drinking Water Planning Loan Fund which shall be used to provide loans to municipalities and privately owned, nonprofit community water systems, ~~with populations of less than 10,000,~~ for conducting feasibility studies and for the preparation of preliminary engineering planning studies and final engineering plans and specifications for improvements to public water systems in order to comply with State and federal standards and to protect public health. The Secretary may forgive up to $50,000.00 of the unpaid balance of a loan made from the Vermont Drinking Water Planning Loan Fund to municipalities after project construction is substantially completed. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State Intended Use Plan (IUP) with public review and comment prior to finalization and submission to the U.S. Environmental Protection Agency.

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H.853 – An act relating to setting the nonresidential property tax rate, the property dollar equivalent yield, and the income dollar equivalent yield for fiscal year 2017, and other education changes

Sec. 4 of the House passed version of H.853 adds statutory language that requires that any identified unfunded education mandates passed by the Legislature will be funded by Governor through a transfer from the General Fund to the Education fund. This language allows the Legislature to establish programs, without identifying a funding source, and requires that funding be provided outside of the current appropriations process. By circumventing the appropriations process this language could saddle the General Fund with a significant burden if unfunded mandates are passed without regard to funding mechanisms.

Finally, the Administrations asks that you be mindful of the workload and resources necessary of departments if and when a new study or report is added to departments requirements.

The Administration appreciates your consideration of these comments, and looks forward to working with the Legislature to resolve these policy and budgetary issues.

Sincerely,

Andrew A. Pallito
Commissioner

cc: Representative Mitzi Johnson, Chair, House Appropriations Committee
Representative Janet Ancel, Chair, House Ways and Means Committee
Representative Shap Smith, Speaker, House of Representatives
Senator Tim Ashe, Chair, Senate Finance Committee
Senator John Campbell, President Pro Tempore, Senate
Steve Klein, Joint Fiscal Office
Justin Johnson, Secretary, Agency of Administration

Appendix: ANR Pilot Language

ANR has some concerns regarding the changes the House Appropriations Committee made to PILOT and continues to support its original FY'17 PILOT recommendation for ANR lands as submitted. A just and equitable PILOT program for ANR lands is essential to maintaining positive relationships with Vermont municipalities. Local support for state-owned conservation lands often depends on towns receiving a fair payment for ANR lands within their borders.

One change the committee made was to reduce the percent at which PILOT base payments for existing ANR parcels from .60% as recommended by ANR and the Vermont League of Cities and Towns to .55%. This would reduce the FY'17 PILOT appropriation by $36,000. This has a very small overall budget effect, but would come at the expense of towns that host ANR land who have not seen any appreciable increase in their PILOT payments over the last two fiscal years and will have a significant impact on several town budgets.

It should be noted that in FY2015 most towns were notified that they were poised to see a significant increase in PILOT, primarily due to an increase in ANR land values as determined by PVR. The overall increase to the FY'15 PILOT budget would have been $500,000. Instead of approving this increase, the legislature enacted a moratorium on ANR PILOT for the past two fiscal years. The Agency's PILOT recommendation to use .60% for determining PILOT base payments came out of last year's study committee report to the legislature and only amounts to about a 2% increase per year since FY'2015. We feel this modest increase in the overall PILOT budget provides both a fair and sustainable approach to PILOT and believe that it is fundamentally unfair to realize $36,000 in saving at the expense of towns that play host to ANR lands. For these reasons, we recommend sticking with .60%.

ANR also supports retaining the automatic annual adjuster provision that would tie the growth of PILOT to the growth of municipal tax rates. This provision was supported in the recent PILOT study by ANR, VLCT and Property Valuation and Review. Without regular adjustments, base PILOT payments to towns would become stale over time. The adjustment factor that the study committee settled upon provides for a modest growth rate that has averaged 1.81% over the last three fiscal years. While we understand the legislature's concern about incorporating such mechanisms into law, we would point out that the use of an automatic adjuster is not unprecedented in legislation. For example, Chapter 133 Subchapter 2 16 V.S.A. § 4011 Education Payments allows for the base education award to be increased using a regional CPI. In the event an annual automatic adjuster is not retained, ANR should not be restricted in when it is allowed to recommend an adjustment to the base payments. By allowing for as needed adjustments ANR will be able to avoid the large periodic increases that have caused significant, unexpected budget increases in the past.

In addition, a minor technical correction should be made that would add clarity to the calculation of PILOT moving forward. (c)(2) should read:

On parcels acquired after April 1, 2016, the total municipal actual tax rate as reported in the most current PVR Equalization Study of the fair market value as assessed on April 1 in the year of acquisition by the municipality in which it is located.