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STATE OF VERMONT
GENERAL ASSEMBLY
HOUSE COMMITTEE ON TRANSPORTATION

MEMORANDUM

To: Representative Kitty Toll, Chair, House Committee on Appropriations
From: Representative Pat Brennan, Chair, House Committee on Transportation
Date: January 20, 2017
Subject: Transportation sections of the FY-2017 Budget Adjustment bill

The Transportation Committee has reviewed the transportation related sections of the Governor's recommended FY-2017 budget adjustment based on the July 2016 consensus revenue forecast, the new January 2017 consensus revenue forecast and the administration's proposed changes in response to the new forecast. With some minor clarifying language accepted by the administration, the Transportation Committee approved the administration's proposed measures on a vote of 11-0-1. The approved measures are detailed below.

Sec. 61. REVERSIONS
(a) Notwithstanding any provision of law to the contrary, in fiscal year 2017:

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(3) The following amounts shall revert to the Transportation Infrastructure Bond Fund from the accounts indicated:

8100001700 Transportation – rest areas construction 173,114.00

EXPLANATION: The July consensus forecast reduced the FY-2017 revenue estimate for the Transportation Infrastructure Bond Fund, resulting in a budgetary shortfall of $101,114. The January consensus forecast further reduced the revenue estimate resulting in a total budgetary shortfall of $173,114 (in the January forecast summary the change in TIB revenue is stated in rounded figures as -$0.1 million; in unrounded figures the change is -$72,000). The reversion in this section balances the TIB Fund's appropriations to the January consensus forecast.

The reverted funds were appropriated in FY-2014 for the Derby Welcome Center at a time when the project envisioned a joint state – federal facility. When federal Homeland Security changed its plans in FY-2014 the project was put on hold and the TIB appropriation of $445,683 was carried forward. In Sec. 7 of Act No. 40 of 2015 (the FY-2016 Transportation Bill) the original state-federal project was cancelled and in Sec. 8 a new state-only project for the rehabilitation of the Derby Welcome Center was added to the State Transportation Program funded by the original FY-2014 carried forward appropriation. The revised reversion of $173,114 is drawn from the unexpended portion of the original $445,683 carry forward.

Sec. 71. 19 V.S.A. § 11a(b) is amended to read:

(b) In fiscal year 2017 ~~and in succeeding fiscal years~~, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of ~~$2,100,000.00~~ $1,680,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. In fiscal year 2018 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of $2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this allocation be adjusted to reflect market conditions for the vehicles and equipment.

EXPLANATION: During the 2016 session, the Transportation Bill amended a statute (19 V.S.A. § 11a) to add language requiring that $2.1 million of JTOC transfer funds be allocated for State Police Vehicles, starting in FY17. However, this statutory allocation established in the T Bill exceeded the actual amount allocated in the Big Bill, which was $1.68 million. The $1.68 million appropriated in the FY17 Big Bill consisted of $785K in General Fund and Special Funds and $900K in one-time additional transportation funds. Sec. E.208(c) of the FY17 Big Bill, which was session law, resolved the inconsistency, stating “Notwithstanding 19 V.S.A. § 11a(b), of the funds appropriated to the Department under 19 V.S.A. § 11a(a) in fiscal year 2017 the amount of $1,680,000 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles.” Sec. 71 codifies the effect of this session law.

Sec. 80. EXEMPTIONS FROM TRANSPORTATION FUND BUDGET STABILIZATION RESERVES

(a) Transportation Fund amounts totaling $2,560,373.70, reverted under the Secretary of Administration’s carry forward authority in 2016 Acts and Resolves No. 68, Sec 56(a), are exempt from the fiscal year 2016 Transportation Fund appropriation total used to calculate the five percent budget stabilization requirement for fiscal year 2017 in 32 V.S.A. § 308a.

EXPLANATION: Actual Transportation Fund revenues in January-June 2016 fell short of the January 2016 consensus forecast by $2,560,374. To cover the deficit the administration exercised its authority under the FY 2016 Budget Adjustment bill to not carry forward unexpended FY 2016 TFund appropriations in the same amount.

This “current year reversion” is tantamount to a reduction in FY 2016 TFund appropriations which, in turn, impacts the calculation of the Transportation Fund Stabilization Reserve required at the end of FY-2017 under 32 V.S.A. § 308a. Based upon the January 2016 consensus revenue forecast of FY 2016 TFund revenue as reflected in the FY 2016 Budget Adjustment bill, FY-2017 Transportation Fund budgeting set aside $589,589 to top off the TFund Stabilization Reserve at $13,313,289 equal to 5% of the then approved FY 2016 TFund appropriations. This section reduces the amount set aside in FY-2017 to top off the TFund Stabilization Reserve by $2,560,373 x 5% = $128,019.

Diverted from the Stabilization Reserve, these FY-2017 TFund revenues revert to the TFund and combined with $2.8 million in rescissions were part of the administration's proposal, approved by the Joint Fiscal Committee in September 2016 to cover the TFund deficit resulting from the July 2017 consensus forecast. This section thus formalizes action taken by the Joint Fiscal Committee to balance the TFund budget with the July 2016 consensus forecast.

NEW Sec. XX. TRANSPORTATION FUND APPROPRIATION REDUCTIONS

(a) The Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to reduce transportation fund appropriations to the Agency of Transportation to the extent necessary to ensure the Transportation Fund Stabilization Reserve is funded at its maximum statutory level at the close of fiscal year 2017.

(b) In making any appropriation reductions authorized under subsection (a) of this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall be taken from available fiscal year 2017 cash flow, shall not affect projects or grants, and shall be replaced in the affected appropriations in fiscal year 2018.

(c) In July 2017, the Secretary of Administration shall report any appropriation reductions made under the authority of this section to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee.

EXPLANATION: The January consensus forecast reduced the FY-2017 TFund revenue estimate by $3,200,000 relative to the July 2016 forecast. This deficit is reduced by two FY-2017 operating statement items not reflected in the consensus forecast:

(1) the recent closing of a sale of surplus property on Shelburne Road which generates one time TFund revenue of $580,000 and
(2) the scheduled receipt of an electric transmission line right-of-way option payment from TDI New England which generates one time TFund revenue of $75,000.

These 2 one-time receipts sum to $655,000 which reduces the deficit – based on the January forecast – to $2,545,000. This section authorizes the Secretaries of Administration and Transportation to reduce fiscal year 2017 TF appropriations to the Agency of Transportation (AOT) as necessary to maintain the Transportation Fund Stabilization Reserve at its maximum statutory level at the close of fiscal year 2017, i.e. to reduce spending if necessary to ensure that at fiscal year end there is the $461,670 in TFunds in the bank that is needed to top off the TFund Stabilization Reserve.

AOT anticipates that the administration would cover the forecasted deficit and any additional revenue shortfall by not carrying forward unexpended FY-2017 appropriations authority from two main sources.

The largest potential source is delayed construction projects. Over the past decade of higher project intensive transportation budgets, AOT has ended each fiscal year with unexpended construction related appropriation authority in a range between $8 to $14 million due to a variety of reasons, greatly complicated by the fact that the June 30 to July 1 change in fiscal years occurs in the middle of the construction season. One category of this total is due to construction activity delayed in the spring which contractors plan to catch up during the construction season after Jul 1. To ensure full construction season progress, unexpended appropriations authority for such projects need to carry forward. A second category concerns projects not yet contracted which are delayed by permitting issues or by unanticipated geological or hydrological test results, or by any number of other reasons which push the likely construction start date of the project out a month or several months. Depending on the estimated cash flow schedule for the project during the current and the succeeding construction season, AOT typically has more flexibility with respect to the unexpended appropriations authority in the current fiscal year. Finally, with respect to projects experiencing no delays but not yet put out to bid, AOT when confronted with a cash crunch has the flexibility to modify the schedule in which projects are put out to bid or modify the construction start date on projects so as to shift cash flow needs from one fiscal year to the next.

The other potential source is unexpended grants in town programs. In the Town Highway Structures and Class 2 Roadway programs there is always a lag between AOT’s annual allocation of grants and the recipients’ actual draw down of the appropriated funds. This means AOT has an appropriations “float” – an often sizeable corpus of appropriations authority from the current year and carried forward from prior years which, based on prior experience, will most likely not be drawn down in the current fiscal year. To cover a deficit, a portion of this appropriations authority float could not be carried forward at the end of the fiscal year and provided the “borrowed” funds were put back into the program the next fiscal year (in addition to the annual appropriation for grants in that year), there would likely be no impact on the ability of town grant recipients to advance their projects on their own schedule – all depending on the size of the borrowing relative to the normal float.

The proposed section gives the administration broad authority to balance the FY-2017 budget. Based on the past several years experience in which the transportation budget has been hit by both a January consensus forecast revenue downgrade followed by a January-June shortfall in revenues relative to the January forecast, the administration anticipates that the projected FY-2017 deficit could be covered by a combination of not carrying forward the unexpended appropriations of unavoidably delayed projects, from potential savings from contract bids coming in below estimates and through adjustments in the scheduling of contract bids and construction start dates. Just in case these customary sources prove to be insufficient, the administration would next look at tapping the float in the town programs subject to the proviso that any borrowing be made whole in the FY 2018 budget.

The House Transportation committee is thoroughly familiar with this experience and believes that coping with the FY-2017 deficit can best be achieved with minimum disruption to state and town plans by granting AOT and the administration the flexibility provided in this section.