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HOUSE COMMITTEE ON APPROPRIATIONS

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MEMORANDUM

To: Representative William Lippert, Chair, House Committee on Health Care

From: Representative Kitty Toll, Chair, House Committee on Appropriations

Date: February 7, 2017

Subject: Provisions in the Governor's Proposed FY 2018 State Budget

The House Appropriations Committee has started work on the Governor's proposed FY 2018 State Budget bill and would like to inform you about proposals related areas of your subject area. A summary of these areas is listed on page 2 followed by the excerpts from the Administration proposed language.

The House Appropriations Committee welcomes and appreciates your input and would like to give you the opportunity to comment on any of the proposals; however, it is not necessary to respond to all of the proposals unless you have concerns or recommendations. If you do not wish to comment on any of the issues sent to your committee, please send a quick e-mail or note to the Committee through Theresa Utton-Jerman at tutton@leg.state.vt.us or the reporter of the subject area. If you would like to respond, it would be helpful if you could do so by the end of the day on March 1st. As a note, the Committee understands that there may be unanticipated policy changes after the deadline that may require additional discussions and recommendations by policy committees and we encourage those. Please keep the Committee apprised of any updates to earlier recommendations, through the reporter or Chair, as they develop.

There are several House Appropriations Committee budget reporters for these subject areas, please click [here](#) to review the list or go to the highlights section of the committee's webpage. If you have not already done so, please notify Theresa who your committee's budget liaison/s is for coordination and communications between the two committees.

Summary of Budget Review Sections

Number proposal (see DVHA crosswalks):

- A 10% reduction totaling \$3.7 million in General and Federal Funds to DSH payments to hospitals (page 9 of the All AHS crosswalks)

Language proposals:

- a transfers to the General Fund from the Green Mountain Board for \$700k, and \$32,165,542.00 from the AHS Central Office of earned federal receipts, in Sec. D.101(b);
- General Funds are reserved in the Federal Contingency and Human Services Caseload reserve in Sec. D.104;
- a repeal of the Director of Health Care Reform in Agency of Administration in Sec. E.100.2;
- statutory changes to transfer the Employer Assessment from Department of Labor to Tax in Sec. E.111.1;
- the extension of the health care claims tax Sunset to the end of FY2018 in Sec. E.300.1;
- requirement for recommendations on the future of the HIT fund in Sec. E.300.2;
- the movement of the position and contract as well as statutory updates and funding for the Director of Health Care Reform to AHS Central Office in Sec. E.300.3, E.300.4, E.300.5 and E.300.6 in both 18 V.S.A. § 9602 and § 9607, and E.300.7;
- an emergency rule process for compliance of federal HCERA in Sec. E.306;
- an extension for the Drug Utilization Review Board to review the Preferred Drug List in Sec. E.306.1;
- Extension for the Eligibility Determination for the VPharm members legislative requirement in Sec. E.307;
- clarifying language for the use of Global Commitment funds within Agency of Education for the Individualized Education Program in Sec. E.500;
- a requirement for the Vermont State Colleges to hold a summit to align higher education and demand for substance abuse counselors in Sec. E.602.0.2;
- and a retroactive effective date for the VSC summit in Sec. F.100.

Budget Review Sections

Sec. D.101 FUND TRANSFERS, REVERSIONS, AND RESERVES

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2018:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

<u>21550</u>	<u>Land & facilities Trust Fund</u>	<u>429,000.00</u>
<u>21638</u>	<u>AG -Fees & reimbursements -Court order</u>	<u>2,000,000.00</u>
<u>21909</u>	<u>Tax Computer System Modernization</u>	<u>798,808.00</u>
<u>21973</u>	<u>GMCB regulatory and Admin Fund</u>	<u>700,000.00</u>
<u>22005</u>	<u>AHS Central Office earned federal receipts</u>	<u>32,165,542.00</u>
<u>50300</u>	<u>Liquor Control Fund</u>	<u>955,000.00</u>

<u>Caledonia Fair</u>	<u>5,000.00</u>
<u>North Country Hospital Loan</u>	<u>24,250.00</u>

EXPLANATION: FY 2018 estimated direct applications to the General Fund.

Sec. D.104 FEDERAL CONTINGENCY AND HUMAN SERVICES CASELOAD RESERVE
(a) The sum of \$22,000,000.00 shall be reserved from General Fund in the Federal Contingency and Human Services Caseload reserve established in 32 V.S.A. § 308b and amended by this Act.

EXPLANATION: Reserves General funds in the Federal Contingency and Human Services Caseload reserve

Sec. E.100.2 REPEAL

(a) 3 V.S.A. § 2222a is repealed :

EXPLANATION: Eliminates the director of health care reform from the Secretary of Administration's office. Roles and responsibilities added to AHS in Section E.300.4 of this act.

Sec. E.111.1 32 V.S.A. chapter 245 is added to read:

CHAPTER 245 HEALTH CARE FUND CONTRIBUTION ASSESSMENT § 10501.

PURPOSE

For the purpose of more equitably distributing the costs of health care to uninsured residents of this State, an employers' health care fund contribution is established to provide a fair and reasonable method for sharing health care costs with employers who do not offer their employees health care coverage and employers who offer insurance but whose employees enroll in Medicaid.

§ 10502. DEFINITIONS

As used in this chapter:

(1) "Employee" means an individual who is:

(A) 18 years of age or older for all of a calendar quarter,

(B) employed full-time or part-time, and

(C) reported by an employer for purposes of complying with Vermont unemployment compensation law pursuant to Chapter 17 of Title 21

(2) "Employer" means a person who is required to furnish unemployment insurance coverage pursuant to Chapter 17 of Title 21.

(3)(A) "Full-time equivalent" or "FTE" means the number of employees expressed as the number of employee hours worked during a calendar quarter divided by 520. The FTE calculation shall be based on a 40 hour work week. No more than one FTE may be assessed against an individual employee, regardless of the actual number of hours worked by that employee during the calendar quarter.

(B) The hours worked during a calendar quarter means hours worked during all pay periods in that quarter for which gross wages were reported and paid. Unworked hours, such as vacation or sick time, may be excluded from the FTE calculation.

(C) "Full-time equivalent" shall not include any employee hours attributable to a seasonal employee or part-time employee of an employer who offers health care coverage to all of its regular full-time employees, provided that the seasonal employee or part-time employee has health care coverage under either a private plan or any public plan except Medicaid.

(4) “Health care coverage” shall mean any private or public plan that includes both hospital and physician services.

(5) “Part-time employee” shall mean an employee who works for an employer for fewer than 30 hours a week and fewer than 390 hours in a calendar quarter.

(6) “Seasonal employee” means an employee who:

(A) works for an employer for 20 weeks or fewer in a calendar year; and

(B) works in a job scheduled to last 20 weeks or fewer.

(7) “Uncovered employee” means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and:

(i) is enrolled in Medicaid;

(ii) has no other health care coverage under either a private or public plan except Medicaid; or

(iii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

§ 10503. HEALTH CARE FUND CONTRIBUTION ASSESSMENT

(a) The Commissioner of Taxes shall assess and an employer shall pay a quarterly Health Care Fund contribution for each full-time equivalent uncovered employee employed during that quarter in excess of four full-time equivalent employees.

(b) The amount of the contribution shall be \$151.12 for each full-time equivalent employee in excess of four. Starting in calendar year 2017, the amount of the contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

(c) Health Care Fund contribution assessments under this chapter shall be determined on a calendar quarter basis, due and payable on or before the 25th day of the calendar month succeeding the close of each quarter. All administrative provisions of chapter 151 of this title shall apply to this chapter, except penalty and interest shall apply according to chapter 103 of this title.

(d) Revenues from the Health Care Fund contributions collected shall be deposited into the State Health Care Resources Fund established under 33 V.S.A. § 1901d.

§ 10504. HOURS WORKED BY UNCOVERED EMPLOYEES; CALCULATION AND REPORTING

(a) Employers shall report to the Department of Taxes the number of hours worked by each uncovered employee on a return provided by the Department. The return shall be filed at the same time payment is required under subsection 10503(c) of this chapter, shall be filed electronically, and shall include any information required by the Commissioner.

(b) Quarterly health care contributions shall be calculated in the following manner:

(1) An employer shall divide the total hours worked by all uncovered employees during a quarter by 520, to represent one full-time equivalent employee. The employer shall then round the resulting number down to the nearest whole number and subtract four. The employer shall then multiply the resulting number by the amount established under subsection 10503(b) of this chapter to determine the amount of assessment due for the quarter.

(A) For full-time salaried employees, employers shall use 520 hours a quarter for the total hours worked.

(B) For all employees who worked more than 520 hours in a quarter, employers shall use 520 hours a quarter for the total hours worked.

(2) The Commissioner shall provide an electronic declaration of health care coverage form for employers to collect the health coverage statuses of their employees for purposes of this assessment. The form shall preserve the confidentiality of the type of coverage possessed by the employee and the employer shall only use the form for purposes of this assessment.

(A) An employer shall annually obtain a declaration of health care coverage from every employee who is not enrolled in a plan offered by the employer.

(B) An employer shall maintain declarations of health care coverage for a minimum of three years in a manner reasonably available for review and audit.

(C) Employees for whom no declaration of coverage is obtained shall be treated as uncovered.

(c) In the case of an employee leasing agreement, leased employees shall be considered employees of a client company and not employees of an employee leasing company.

§ 10505. HEALTH BENEFIT COSTS

(a) Employers shall provide their employees with an annual statement indicating:

(1) the total monthly premium cost paid for any employer-sponsored health benefit plan;

(2) the employer's share and the employee's share of the total monthly premium; and

(3) any amount the employer contributes toward the employee's cost-sharing requirement or other out-of-pocket expenses.

(b) Notwithstanding the provisions of subsection (a) of this section, an employer who reports the cost of coverage under an employer-sponsored health benefit plan as required by 26 U.S.C. § 6051(a)(14) shall be deemed to be in full compliance with the requirements of this section.

EXPLANATION: Statutory changes needed to transfer the Employer Assessment to the Department of Taxes from the Department of Labor.

Sec.E.300.1 2013 Acts and Resolves No. 73, Sec. 60(10) is amended to read:

(10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims sunset) shall take effect on July 1, ~~2017~~ 2018.

EXPLANATION: Extends the health care claims tax Sunset until the end of FY 2018.

Sec. E.300.2 HIT FUND; FUTURE RECOMMENDATION

(a) The Secretary of Administration and the Secretary of Human Services shall review the use of the HIT fund and make recommendations for its use after June 30, 2018. The review shall include but not be limited to a review of the current revenue stream and the current allocation of funds. A plan for proposed changes will be submitted to the General Assembly on or before January 31, 2018.

EXPLANATION: Requires the Secretary of Administration and the Secretary of Human Services to review and make recommendations on the future of the HIT fund.

Sec. E.300.3 POSITION TRANSFER

(a) The Director of Health Care Reform established in 2011 Acts and Resolves No. 48 Sec. 3b(e) is transferred from the Agency of Administration to the Agency of Human Services.

EXPLANATION: Move Director of Health Care Reform position to AHS CO

Sec. E.300.4 3 V.S.A. §3027 is added to read:

§ 3027 Health care system reform; improving quality and affordability

(a) The Director of Health Care Reform in the Agency Human Services shall be responsible for the coordination of health care system reform efforts among Executive Branch agencies, departments, and offices, and for coordinating with the Green Mountain Care Board established in 18 V.S.A. chapter 220.

(b) The Director shall ensure that those Executive Branch agencies, departments, and offices responsible for the development, improvement, and implementation of Vermont's health care system reform do so in a manner that is coordinated, timely, equitable, patient-centered, and evidence-based, and that seeks to inform and improve the quality and affordability of patient care and public health, contain costs, and attract and retain well-paying jobs in this State.

(c) Vermont's health care system reform efforts include:

(1) The State's chronic care infrastructure, disease prevention, and management program contained in the Blueprint for Health established by 18 V.S.A. chapter 13, the goal of which is to achieve a unified, comprehensive, statewide system of care that improves the lives of all Vermonters with or at risk for a chronic condition or disease.

(2) The Vermont health information technology project pursuant to 18 V.S.A. chapter 219.

(3) The multi-payer data collection project pursuant to 18 V.S.A. § 9410.

(4) The common claims administration project pursuant to 18 V.S.A. § 9408.

(5) The consumer price and quality information system pursuant to 18 V.S.A. § 9410.

(6) The information technology work done by the quality assurance system pursuant to 18 V.S.A. § 9416.

(7) The public health promotion programs of the Agency of Human Services, including primary prevention for chronic disease, community assessments, school wellness programs, public health information technology, data and surveillance systems, healthy retailers, healthy community design, and alcohol and substance abuse treatment and prevention programs.

(8) The creation of a universal health care system to provide affordable, high-quality health care coverage to all Vermonters and to include federal funds to the maximum extent allowable under federal law and waivers from federal law.

(9) A reformation of the payment system for health services to encourage quality and efficiency in the delivery of health care as set forth in 18 V.S.A. chapter 220.

(10) A strategic approach to workforce needs set forth in 18 V.S.A. chapter 222, including retraining programs for workers displaced through increased efficiency and reduced administration in the health care system and ensuring an adequate health care workforce to provide access to health care for all Vermonters.

(11) A plan for public financing of health care coverage for all Vermonters.

(d) The Director of Health Care Reform or designee shall provide information and testimony on the activities included in this section to the Health Care Oversight Committee and to any legislative committee upon request.

EXPLANATION: Updates statute to reflect the transfer of the Director of Health Care Reform to AHS.

Sec. E.300.5 18 V.S.A. § 9491(a) is amended to read:

(a) The director of health care reform in the ~~agency of administration~~ agency of human services shall oversee the development of a current health care workforce development strategic plan that continues efforts to ensure that Vermont has the health care workforce necessary to provide care to all Vermont residents.

EXPLANATION: Updates statute to reflect the transfer of the Director of health Care reform to AHS.

E.300.6 18 V.S.A. § 9602 is amended to read:

(a) The Agency of ~~Administration~~ Human Services shall ~~establish~~ maintain the Office of the Health Care Advocate by contract with any nonprofit organization.

EXPLANATION: Moves the Health Care Advocate contract to AHSCO.

E.300.6 18 V.S.A. § 9607(b)(3) is amended to read:

(3) The Green Mountain Care Board shall administer the bill back authority created in this subsection on behalf of the Agency of ~~Administration~~ Human Services in support of the Agency's contract with the Office of the Health Care Advocate pursuant to section 9602 of this title to carry out the duties set forth in this chapter.

EXPLANATION: Language update in conjunction with the movement of the Health Care Advocate contract to AHS.

Sec. E. 300.7 FUNDING FOR THE OFFICE OF THE HEALTH CARE ADVOCATE

(a) Of the funds appropriated in Sec. B.300 of this act, \$1,407,406 shall be used for the contract with the Office of the Health Care Advocate.

EXPLANATION: Pursuant to 2015 Act 54 Sec 53(c)

Sec. E.306 VERMONT HEALTH BENEFIT EXCHANGE RULES

(a) The Agency of Human Services may adopt rules pursuant to 3 V.S.A. chapter 25 to conform Vermont's rules regarding operation of the Vermont Health Benefit Exchange to federal guidance and regulations implementing the provisions of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152. The Agency may use the emergency rules process pursuant to 3 V.S.A. § 844 prior to June 30, 2018, but only in the event that new federal guidance or regulations require Vermont to amend or adopt its rules in a timeframe that cannot be accomplished under the traditional rulemaking process. An emergency rule adopted under these exigent circumstances shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

EXPLANATION: Recurring language. This language was last included in 2016 Act 172 Sec. E.306.3. DVHA is requesting emergency rulemaking authority in FY 2018 for rules that govern the operation of Vermont Health Connect. This emergency rulemaking authority will ensure that DVHA can comply, in a timely matter, with new federal guidance and regulations of the Patient Protection and Affordable Care Act (ACA). By not following federally mandated rules or dictates in a timely manner, DVHA may be adversely affecting Medicaid beneficiaries' rights and state-federal match possibilities, and creating issues that will compound themselves until such time that DVHA can promulgate a rule. The emergency rulemaking authority that DVHA is

requesting is pursuant to process outlined in state law (3 V.S.A. § 844). Emergency rules are in effect for 120 days and go before the Legislative Committee on Administrative Rules (LCAR). When emergency rules expire it is the expectation that DVHA would go through the permanent rulemaking process that includes a robust public comment period.

Sec. E.306.1 33 V.S.A. §1998 (f)(3) is amended to read:

(3) To the extent feasible, the Board shall review all drug classes included in the preferred drug list at least every ~~12~~24 months and may recommend that the Commissioner make additions to or deletions from the preferred drug list.

EXPLANATION: Extends the number of months the Drug Utilization Review Board has to review medications currently on the Preferred Drug List. The board does not have enough resources to review all drugs on the list on an annual basis. This change would not impact the timeliness of review of drugs that are new to the market, have a change to their safety profile or any other clinical reason. It does not impact DVHA's ability to negotiate supplemental rebates on drugs.

Sec. E.307 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No. 179, Sec. E.307, as amended by 2015 Acts and Resolves No. 58, Sec. E.307, as amended by 2016 Acts and Resolves No. 172, Sec. E.307.3 is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but no later than December 31, ~~2017~~ 2018.

EXPLANATION: Eligibility Determination for the VPharm members occurs within the legacy eligibility system – ACCESS. DVHA plans to move forward with this legislative requirement; however, it is contingent upon the Integrated Eligibility solution design and implementation. Thus, the Department is requesting an extension to the effective date.

Sec. E.500 Education – finance and administration

(a) The Global Commitment funds appropriated in this section will be used for physician claims for determining medical necessity of Individualized Education Program (IEPs). It is the goal of these services to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

EXPLANATION: Language that makes clear that Global Commitment funds will be used for appropriate Global Commitment purposes. This language has been updated from prior years to reflect the uses under the new 1115 Global Commitment Waiver.

Sec. E.602.0.2 VERMONT STATE COLLEGE SUBSTANCE ABUSE TREATMENT PROFESSIONALS SUMMIT

(a) By April 1, 2017 the Vermont State Colleges will convene a summit between substance abuse treatment professionals and Vermont Higher Education institutions to determine ways to increase the number of treatment counselors with coursework starting in fall 2017 semester.

EXPLANATION: Language requiring the Vermont State colleges to hold a summit to determine how to align higher education with the current demand for substance abuse counselors in Vermont.

Sec. F.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (Federal Contingency and Human Services Caseload reserve), E.100.2, E.300.3, E.300.4, E.300.5 (transfer Director of Health Care Reform and duties to the Agency of Human Services), and E.300.1 (HIT fund sunset), shall take effect on passage.

(b) Sec. E.111.1 (Employer assessment transfer to the Department of Taxes) and Sec. 400 (repeal of employer assessment requirement from the Department of Labor) shall take effect on January 1, 2018 with the return of the fourth quarter of 2017 being due January 25, 2018.

(c) Sec.E.602.0.2 (summit on substance abuse workforce) shall take effect retroactively on March 31, 2017.

(d) All remaining sections shall take effect on July 1, 2017.

EXPLANATION: Transfer of director of health care reform, change to caseload reserve, effective on passage. Employer assessment move from DOL to Tax effective for the first quarter of receipts in calendar year 2018. Substance abuse summit requirement effective prior to the summit. Remaining sections effective on July 1, 2017.