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Adam Greshin, Commissioner

March 28, 2018

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

Dear Senator Kitchel:

Upon review of H.924, the following technical issues were identified and should be addressed in the Senate's amendments to H.924. Additionally, we include below more detailed observations related to both policy and funding changes made by the House to the Governor's recommended budget.

1. **Sec. B.141 Lottery Commission:** The Problem Gambling Program within the Lottery Commission is a grant expenditure, therefore a net-neutral technical adjustment is required, as follows:

<u>Sec. B.141 Lottery commission</u>		
Personal services	1,881,368	1,881,368
Operating expenses	1,377,706	<u>1,427,706</u>
Grants	<u>150,000</u>	<u>100,000</u>
Total	3,409,074	<u>3,409,074</u>
Source of funds		
Enterprise Funds	<u>3,409,074</u>	<u>3,409,074</u>
Total	3,409,074	3,409,074

2. **Sec. E.224** requires modifications to reflect the anticipated level of investments and to remove the reference to administrative expenditures, as administrative costs are included in the Personal Services and Operating Expenses of Sec. B.224:

Sec. E.224 Agriculture, food and markets – agricultural development

(a) Of the funds appropriated in Sec. B.224 of this act, the amount of ~~\$805,352~~ **\$594,000** in general funds is appropriated for expenditure by the Working Lands Enterprise Board established in 6 V.S.A. § 4606 for ~~administrative expenses~~, and investments in food and forest systems and services

providers pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in 2012 Acts and Resolves No. 142, Sec. 5, as amended by 2014 Acts and Resolves No. 179, Sec. E.224.1.

3. **Sec. B.307 and B.308 Home Health (HH) 2% Increase:** The House budget provided a 2% increase to a selection of Home Health providers. The Governor’s recommended budget did not include this increase. However, given the selection of Home Health providers, if this increase is accepted by the Senate, the 2% increase should also be applied to the adult moderate needs group, which will require additional funds.

In addition, the DVHA non-CFC subset of the House’s funding increase was calculated at a 3% increase – not a 2% increase. The net effect of these corrections relative to the House proposal would be: \$47,573 gross GC; \$21,983 of GF; and \$25,590 of FF. The following technical changes are required:

<u>Sec. B.307 Department of Vermont health access -</u>		
<u>Medicaid program - global commitment</u>		
Grants	<u>729,932,455</u>	<u>729,799,355</u>
Total	<u>729,932,455</u>	<u>729,799,355</u>
Source of funds		-
Global Commitment fund	<u>729,932,455</u>	<u>729,799,355</u>
Total	<u>729,932,455</u>	<u>729,799,355</u>

<u>Sec. B.308 Department of Vermont health access -</u>		
<u>Medicaid program - long term care waiver</u>		
Grants	<u>203,637,124</u>	<u>203,817,797</u>
Total	<u>203,637,124</u>	<u>203,817,797</u>
Source of funds		-
General fund	0	0
Federal funds	0	0
Global Commitment fund	<u>203,637,124</u>	<u>203,817,797</u>
Total	<u>203,637,124</u>	<u>203,817,797</u>

4. **Sec. B.307 DVHA – Global Commitment:**

Delivery System Reform (DSR):

The House redirected \$370,000 of DSR investment funds to provide increased funding for the clinics for the uninsured. The state match for this DSR investment is the Health Information Technology (HIT) fund. There are specific criteria enabling the use of the HIT fund. The proposal to increase funds to the clinics to the uninsured does not meet the criteria and as such, cannot be diverted for these purposes.

In addition, this is a new Global Commitment investment which requires a formal application process with CMS, and subsequent approval. Any new investment would need to meet the CMS criteria for approval, and no expenditures could occur without approval.

From a program perspective, the Accountable Care Organization (ACO) program proposes to fundamentally change the health care delivery business model by paying for value of care rather than volume of services. Hospitals and other providers will only make these changes if the State is a predictable and sustainable partner. Adjusting program finances in the middle of a program year will create uncertainty and call into question whether the State is committed to reform, as well as jeopardize appropriated funding for existing DSR obligations. Additionally, the Information Technology DSR investment is critical to the implementation of the all-payer model since the ACO is relying on these technology investments to create data reports and tools that will help its providers care for Vermonters in innovative ways.

For the reasons above, this swap is not advisable. From a technical standpoint, the House Appropriations Committee adjusted the DVHA GC appropriation (B.307). This DSR investment is appropriated in the DVHA Admin appropriation (B.306).

5. **Sec. B.310 DVHA – Medicaid Matched Non-waiver:** While the Governor’s recommended budget did not include this change, from a technical standpoint, the funds were restored in the incorrect appropriations. This affects the AHS GC appropriation as well. Additionally, due to the GF/FF split used to calculate this change, \$23,378 in General funds were over appropriated to Sec. B.301. The following technical corrections are required:

<u>Sec. B.301 Secretary's office - global commitment</u>		
Operating expenses	3,156,749	3,156,749
Grants	<u>1,579,419,508</u>	<u>1,579,356,086</u>
Total	<u>1,582,576,257</u>	<u>1,582,512,835</u>
Source of funds		-
General fund	<u>279,787,829</u>	<u>279,781,899</u>
Special funds	28,902,465	28,902,465
Tobacco fund	20,299,373	20,299,373
State health care resources fund	284,480,725	284,480,725
Federal funds	<u>952,273,583</u>	<u>952,216,091</u>
Interdepartmental transfers	<u>16,832,282</u>	<u>16,832,282</u>
Total	<u>1,582,576,257</u>	<u>1,582,512,835</u>

<u>Sec. B.310 Department of Vermont health access -</u>		
<u>Medicaid non-waiver matched</u>		
Grants	<u>31,345,248</u>	<u>31,408,670</u>
Total	<u>31,345,248</u>	<u>31,408,670</u>
Source of funds		
General fund	<u>11,400,406</u>	<u>11,406,336</u>
Federal funds	<u>19,944,842</u>	<u>20,002,334</u>
Total	<u>31,345,248</u>	<u>31,408,670</u>

6. **Sec. B.314 DMH – Mental Health:**

Supportive Housing – Rutland County (\$276K GF):

AHS/DMH requests flexibility to use these funds across the state where the need is the greatest – and not just in Rutland.

7. **Sec. B.500 Education Finance and Administration:** In accordance with the special fund created in 2018 Acts and Resolves No. 87, Sections 39 and 40, spending authority is required for the Uniform Chart of Accounts project with the AoE. While spending authority was created in SFY18 via the BAA, continued spending authority will be needed for this purpose during SFY19 because the project funding was not spent in SFY18 as anticipated.

<u>Sec. B.500 Education - finance and administration</u>		
Personal services	<u>6,569,932</u>	<u>7,569,932</u>
Operating expenses	<u>3,575,080</u>	<u>3,575,080</u>
Grants	<u>15,540,935</u>	<u>15,540,935</u>
Total	<u>25,685,947</u>	<u>26,685,947</u>
Source of funds		
General fund	<u>3,795,807</u>	<u>3,795,807</u>
Special funds	<u>15,280,409</u>	<u>16,280,409</u>
Education fund	<u>995,597</u>	<u>995,597</u>
Federal funds	<u>2,396,087</u>	<u>2,396,087</u>
Global Commitment fund	<u>260,000</u>	<u>260,000</u>
Interdepartmental transfers	<u>2,958,047</u>	<u>2,958,047</u>
Total	<u>25,685,947</u>	<u>26,685,947</u>

8. **Sec. B.505** includes \$25,000 for Stamford interstate compact planning. However, there is no corresponding language or reference to a bill that informs the use of this funding. The Agency of Education will need more direction in order to allocate these funds.

9. **Sec. B.919 Transportation Municipal Mitigation Assistance:** The General Obligation Bond funding was inadvertently included in both the Gov. Rec. as well as in the Capital Bill. This funding should be included only in the Capital Bill, therefore the following technical change is required:

<u>Sec.B.919 Transportation - municipal mitigation assistance program</u>		
Personal Services	200,000	200,000
Grants	<u>8,882,342</u>	<u>6,482,342</u>
Total	<u>9,082,342</u>	<u>6,682,342</u>
Source of funds		-
Transportation fund	1,240,000	1,240,000
Special funds	2,400,000	<u>0</u>
Federal funds	<u>5,442,342</u>	<u>5,442,342</u>
Total	<u>9,082,342</u>	<u>6,682,342</u>

10. **Sec. C.104 Actuarial Contribution; Carry Forward:** Current estimates indicate sufficient funds will be collected in SFY19 to meet the Actuarially Determined Employer Contribution and will take actions to ensure it. Hence, carryforward language is not required.
11. **Sec. D.101 Fund Transfers, Reversions, and Reserves:** The following language for Fund Transfers, Reversions, and Reserves requires a technical correction to reflect the intended Governor’s Recommended fund transfer to the General Fund:

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

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2019:

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

<u>22005</u>	<u>AHS Central Office earned federal receipts</u>	<u>8,193,326.00</u>
<u>50300</u>	<u>Liquor Control Fund</u>	<u>1,805,000.00</u>
<u>21698</u>	<u>Department of Public Service</u>	<u>500,000.00</u>
<u>21991</u>	<u>Clean Energy Development Fund</u>	<u>500,000.00</u>
	<u>Caledonia Fair</u>	<u>5,000.00</u>
	<u>North Country Hospital Loan</u>	<u>24,250.00</u>

12. **Sec. E.100 Position Authorizations for Pre-K initiative:** The AoE may consider proposing a change in position descriptions listed in Sec. E.100(a)(1) relative to evolving legislation. Should the AoE propose changes to the descriptions, it will do so as a separate technical correction.

13. **Secs. E.100, B.204, B.205 New positions and conversions:** One key driver of State government spending growth is the increase in the number of positions. The Governor's budget created 2 new classified positions (in the Agency of Education to administer the statewide public Pre-k mandate) and converted 2 Public Safety positions from limited service to permanent. The House budget adds a new position in the Judiciary and another new position for the States' Attorneys. The House also adds a third conversion in Public Safety and makes permanent 3 limited service positions at the Green Mountain Care Board and 1 limited service position at the Agency of Education (for career pathways). A separate special education bill creates 3 new positions at the Agency of Education to administer a new approach to special education delivery and payment. This overall increase in the number of positions will inevitably create fiscal pressure in the future and deflects from the key question of how we can more effectively and efficiently deliver services to Vermonters within the staff cohort we currently have.
14. **Sec. E.100.1 Position pilot:** The Governor's recommended budget did not include language extending the position pilot, and instead contemplated using the position pool to manage the state workforce. The House extended the position pilot program another year and added the Vermont Veterans' Home and the States' Attorneys to the pilot program. This initiative was originally created with the well-intentioned goal of more effectively utilizing existing budgeted resources. In practice, the overall number of State positions has increased, while offsetting savings have not been reliably demonstrated. Expanding the scope of participating departments will likely only exacerbate this result. The House's amendment to include VSEA in the oversight of this program only raises further questions as to the real intent of the extension of the program.
15. **Sec. E.308 Choices for Care – Savings:** Should the legislature choose to include language directing the reinvestment of Choices for Care savings, then it should do so in session law as has been the practice of past years. Codifying this language would fiscally constrain the AHS in future years without providing the benefit of working with the legislature each session to determine appropriate language. Furthermore, any reporting requirement should have DAIL report to the Joint Fiscal Committee at the September meeting, as has been the practice in years past. This would allow DAIL to report and implement a savings plan by September rather than waiting to report to House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare in January. Delaying the implementation of a savings plan until mid-SFY would create problems with fiscal obligations at year-end.
16. **Sec. E.317 Parent Child Network; Evaluation of Master Grant:** The purpose of this analysis is unclear, particularly as to what is meant by "true value". It is important to point out that the PCC master grant is a small portion of the overall funding the PCCs receive from AHS. It would be more productive to undertake a cost benefit analysis of all AHS funds conducted by an outside consultant, and to be funded by the legislature.
17. **Sec. E.323 Reach Up; Ratable Reduction Report:** The DCF currently reports each year on Unfunded Budget Pressures to the Department of Finance and Management, which in turn is delivered to the legislature. Included in that report is a section on Reach Up funding full benefit obligations prior to any ratable reduction made pursuant to 33 V.S.A. §1103(a) to ensure that

the expenditures for the program shall not exceed appropriations. Therefore, this report is unneeded.

18. **Proposed Sec. E.306.2:** Emergency rule making authority is required for the Vermont Health Benefit Exchange in the event that either federal regulations or state laws specific to health care eligibility and enrollment, or to the administration of Vermont Health Connect, are promulgated and affect current practices. This language is generally included in the Big Bill each year. This year, necessary language was included in an early draft of a miscellaneous Medicaid bill this session, but the language was subsequently removed. Please consider the following insertion of language into H.924:

Sec. E.306.2 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 health care eligibility and enrollment and the operation of the Vermont Health Benefit Exchange to state and federal law and guidance. The Agency may use the emergency rules process pursuant to 3 V.S.A. § 844 prior to June 30, 2019, but only in the event that new state or federal law or guidance require Vermont to amend or adopt its rules in a time frame 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).

Please let me know if you have any questions.

Sincerely,



Adam Greshin
Commissioner

cc: Rep. Kitty Toll, Chair, House Committee on Appropriations
Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office
Stephanie Barrett, Associate Fiscal Officer, Joint Fiscal Office
Maria Belliveau, Associate Fiscal Officer, Joint Fiscal Office