



STATE OF VERMONT
LEGISLATIVE JOINT FISCAL OFFICE

MEMORANDUM

To: Joint Legislative Management Committee
From: Stephen Klein, Chief Fiscal Officer, Legislative Joint Fiscal Office
CC: Catherine Benham - Associate Fiscal Officer/Chief Operating Officer, JFO
Theresa Utton-Jerman, Senior Staff Associate, JFO
Mike Ferrant, Deputy Director, Operations, LC;

Date: September 16, 2019

Subject: Response as to the organization, structure and oversight of staff and staff offices, and specific comments on the NCSL recommendation to establish an HR position.

I. Summary

The Vermont Legislature has a strong legislative staff that has been serving the Legislature well. If anything, we are working to improve overall systems and the work of this Committee should focus on staff capacity with a vision toward the future. I think a permanent Joint Legislative Management Committee (JLMC) has potential value. My specific responses to the committee request and the discussions of the first meeting and recommendations are as follows:¹

1. Human Resources: I recommend creating a capacity for legislative human resources quickly. Initially, it could be either through a consultant or by hiring a staff person. Having a professional in this area could improve benefit plan uniformity, improve grievance procedures where appropriate, and provide a resource as we continue to work toward reducing implicit bias and promotion of staff diversity.

¹ The initial information request: We are requesting your overall thoughts as they relate to the organization, structure and oversight of staff and staff offices, and your specific comments on the NCSL recommendation to establish an HR position. In addition to your ideas and general comments, we request you address the following questions so that our conversation on these specific issues can be informed by the experience of your office. Please help us understand what HR functions your office currently performs.

If an HR function for the legislative branch were established, what do you think might be the effect on your office?

What works well and what could be improved under our current organizational structure?

What is potentially beneficial about Option A [of the NCSL report](page 28)? Option B [of the report](page 33)?

What is potentially concerning about Option A? Option B?

What other ideas might you have for the organizational structure of the legislative branch?

Are there additional services or functions for staff, legislators or constituents not currently provided or mentioned in the report that could be made available with more capacity?

2. Information Technology: The Legislative IT office should be made independent soon. If the Committee acts this fall, the change could be incorporated in the FY 2021 budget. Kevin, as Director, has done an excellent job. The office's independence would allow for a greater sense of service to the various constituent entities. The legislative directors' group could be maintained in an advisory capacity.

3. Management Structure: The management restructure is complex and less urgent. I am not a proponent of NCSL's Option A of complete centralization under a staff director or option B that removes the Fiscal Committee from the hiring process. The Senate Secretary's Option C proposal appears to be workable.

4. Fiscal Office Structure: The Joint Fiscal Officer should continue to serve and be hired by the Joint Fiscal Committee. The relatively small fiscal staff, the nature of the work, the appropriateness of the Fiscal Committee/money chairs steering workflow, and the Committee's successful role in management argue for maintaining their hiring authority.

5. As part of the above, it is important to address space concerns in the present and into the future. It will be difficult to successfully navigate change without recognition that we may need operational space. This needs to be addressed fairly quickly as we consider adding staff.

II. Response

1. Human Resources

A. Human Resources and the Fiscal Office: The basic human resource activities in the Fiscal Office take minimal time, and the time savings would be marginal if any. In some ways, adding another layer for basic timesheet and personnel processes would be potentially a time user. A summary of our internal personnel role is listed below in Subsection C.

There are a number of small events that impact time sheets; for example, changes related to National Guard leave, family emergencies, and unusual work issues that are better handled in Departments and could require multiple communications if centralized.

B. The key advantages of having a human resources capacity are less about savings than about important system improvements that are discussed below:

1. Reviewing and creating more uniformity where appropriate in legislative staff benefits, grievance procedures, and other terms of employment.

Our offices operate with different benefit structures, grievance procedures, and policies around pay. The human resources person could look at these for opportunities for standardization. We are "at-will employees." The level of procedures put in place impact the employment relationship. For this reason, a Human Resources professional could be helpful.

2. Providing a strong voice for promotion of staff diversity through implicit bias trainings, recruitment assistance, and other activities.

As we move forward, the Legislature needs to embrace efforts to diversify its staff. This is difficult and requires a mix of addressing implicit bias issues and thoughtful recruitment efforts. Practices and procedures in this area could be improved. A human resources staff person could develop protocols, do outreach, and provide assistance in this area.

3. Provide a resource for staff when management issues arise, other than direct contact with legislative leadership or JLMC.

In the past, when issues have arisen with departmental management, there has been little in the way of an outlet for those concerns. This becomes a management issue as leadership, even a committee like JLMC, should not be the primary entity to address these concerns. The human resources person could be an important resource to assist in such a situation.

4. Work with the JLMC on issues of legislator pay and benefits. Issues continue to arise as legislator salaries fall increasingly below that of other elected officials. Legislative pay and benefits impact who can afford to run. This is an area that deserves thought and leadership over time.

C. Our Current Fiscal Office Practice:

- We currently manage and approve timesheets, conduct biennial staff evaluations, and performance surveys.
- The last formal Fiscal Officer evaluation took place in 2006 as part of an NCSL staff management program. Since then other indirect evaluations of the officer have occurred. For example, I received the national “Steve Gold Award” in 2013 issued to a fiscal director once every three years. Other recipients since 2006 include fiscal directors from Utah, Michigan, California, and Wisconsin—all well-regarded fiscal office states.
- The Fiscal Office operates with a general pay plan but has incorporated the NCSL suggested salary ranges as guidance.
- Each Fiscal Office position has a job description that was updated in large part due to the NCSL work.
- The Fiscal Office manages salary adjustments–JFC policy since 7/21/94:
 - Fringe benefits track those provided to classified employees in Executive Branch
 - Annual salary adjustments are comparable to that provided to exempt employees in the Executive Branch
- Hiring, retention, and compensation of the Joint Fiscal Office staff are functions of the Joint Fiscal Committee.
- The Joint Fiscal Committee has approved use of the statewide sexual harassment policy applicable to all State employees. The Legislature has done work in this area, but after internal discussions with JFO staff, the state’s policy remains the preferred option.
- We utilize the State Human Resources Department for FMLA and other personnel issues and would see an advantage to having a capacity such as Damien provides to the Legislative Council and Sergeant at Arms.

2. Information Technology

The importance of information technology to legislators, the staff, and the public is growing. This needs to return to being independent of any specific operating office, although it could indirectly report to the JLMC

The current director has professionalized the office and earned considerable credibility; however, its placement in Legislative Council remains an issue.

3. Structure

The Vermont Legislature is a relatively unique state legislature in several respects. As a small state:

- Legislators represent smaller districts.
 - They operate with no personal staff and nonpartisan staff plays a critical support roll in that context.
 - The legislature is also one of distributed power where committees play a strong role in policy development - again leading to strong demands on staff.
 - On the fiscal side, we are one of six states without a line item veto, which creates a strong legislative role in the state budget process.²
- The current staffing structure is a Legislative Council that was established toward the end of the 1972 session (March 1972), with a separate Joint Fiscal Office established one biennium later in January 1974. Prior to that, the legislature operated with a few session only drafters, a small legislative reference bureau for legislative research, and no dedicated fiscal staff.³ I think the legislature then, as is still the case, recognized the importance of a strong independent fiscal operation.
- The early seventies was a period of legislative staff transformation generally. A number of other state legislatures began their fiscal offices at that time and, on the federal level, in July 1974, Congress created the Congressional Budget Office and the nonpartisan Congressional Joint Committee on Taxation.

4. The Fiscal Office

A. The statutory structure of the Joint Fiscal Committee and the fiscal staff is different than that of the Legislative Council. By general statute, the fiscal staff is charged with supporting the money committees and the transportation committees.⁴ Other staffing support has been added to

² The other states are New Hampshire, North Carolina, Nevada, Rhode Island, and Michigan.

³ Nevada, New Hampshire and North Carolina established interim fiscal committees in the 1969-71 time period, Rhode Island already had them in place.

⁴ 2 V.S.A. § 503(a) The Joint Fiscal Committee shall direct, supervise, and coordinate the work of its staff and secretaries.

the office responsibilities through a variety of legislation on a temporary or ongoing basis. The Legislative Council is designed around general support to all legislators. This difference is very important when it comes to work priorities and office operation. The money committees are our primary client and the chairs of those committees have a role in setting priorities. In an environment of limited resources and with the nature of the money bills being “must pass” bills, this relationship is critical.

B. Other Characteristics Specific to the Fiscal Office:

- Currently, I consult with the money chairs in staff hiring and organization decisions. Their perspective is useful, and with their understanding of the fiscal issues and staffing needs, they are in a good position to participate in that role. I also present these proposed changes and issues to the appropriations committees during the budget process.
- Vermont’s model of fiscal staffing is different than many states that focus on preparation of fiscal notes for every bill. With the direction of the Joint Fiscal Committee and the money committees, generally our resources are used for deeper reviews of key fiscal issues and specific money bill concerns, with fiscal notes being prepared when a bill reaches a money committee. This approach works with money chair involvement. With the changes in control of director hiring moving to a centralized committee, the current money committee control of resource allocation when conflicts arise could be diminished. I would be concerned to see hiring move from the money chairs and fiscal committees.
- The Fiscal Committee and Fiscal Office have navigated successfully through a number of personnel issues, including the removal of a fiscal officer and an FMLA issue. These issues were effectively addressed. I see no advantage of moving from a successful working model to one with greater centralization.
- The nature of our fiscal work requires extensive interaction with the Executive Branch for data and information. In several areas, we share modeling capacity and analytical work with Executive Departments. Among these are: REMI–forecasting, Chainbridge–Tax analysis, the Medicaid estimating group, the Education Finance group (the Garlic group), and revenue and expenditure analysis with Finance and Management. This creates a very different office dynamic than one without the steady Executive Branch interaction and, again, raises potential issues with centralization

(b) The Joint Fiscal Committee shall:

- (1) furnish research services and secretarial services of a fiscal nature to the Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Committees on Transportation, and the Joint Fiscal Committee;
- (2) carry on a continuing review of the fiscal operations of the State, including revenues, budgeting, and expenditures;
- (3) accept grants, gifts, loans, or any other thing of value, approved by the Governor, under the provisions of 32 V.S.A. § 5, when the General Assembly is not in session;

C. Institutionally, I see the role of staff as being to facilitate the success of the Legislature, its members, and the institution itself. I also see the structure of hiring with a fiscal staff accountable to the Joint Fiscal Committee as a positive and appropriate one. The major advantage to Option A and B is that they create a point person for legislative leadership to turn to on legislative staff issues. Staff management is not the reason legislators are elected or serve and it should not be. I think the creation of the Joint Legislative Management Oversight Committee and provision of some staffing resources are positive. The level of control envisioned in Option A and the elimination of the Fiscal Committee from hiring and staff decisions in both options are concerns. If the Committee does go that route, this change would need to be accompanied by a review of the staff functions discussed above and actions to preserve the money committee chairs' role and involvement in priority setting.

5. Conclusion

- Overall, the legislative staff is small as compared to other states. This creates pressure on allocation of resources, which I think is healthy. I am not sure that centralization will be positive in this process.
- Given the nature of the legislature and its changing legislative priorities and leaders, it is critical that an effective staff organization be designed to be flexible and able to serve in this environment. In general, my impression is that the Legislative Council and the Joint Fiscal Office have done this well. Any change needs to preserve that flexibility within the institution.
- The structure discussion is one with many complications. Unlike that of the human resources staff and the technology change, which I think should move forward soon, I think quick action on structural change could be problematic.