

2022 Legislative Preview

December 17, 2021

This preview of Vermont's 2022 legislative session includes a summary of what we expect to see as the second half of the biennium unfolds, the various factors that affect the state budget, the continuing quest for local governance authority, how town meetings will be conducted in 2022, and more.

To read this report:

- Under "This Week's Articles," simply click on any of the article titles to have the article expand so you can read it.
- As the legislative session progresses, go to our [Legislative Reports page](#) to revisit this preview and find subsequent weekly legislative reports.
- Here is [a PDF of the full report](#).

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[What We Expect to See in 2022](#)

Following the special session on November 22 that resulted in the passage of S.1 authorizing cities, towns, and villages to adopt face covering requirements, the Vermont Legislature will return for the second half of the biennium on Tuesday, January 4, 2022. The special session was likely a dress rehearsal for what the 2022 session will look like: the House met in person in the State House with representatives fully masked and spread throughout the House Chamber to maintain social distancing; the Senate met in a hybrid format, while also

maintaining social distancing and wearing face coverings.

We know that in January legislators will be eager to address the findings of the Initial Vermont Climate Action Plan, which the Vermont Climate Council issued on December 1, and perhaps less eager to take up recommendations of the Pension Benefits, Design, and Funding Task Force or the Pupil Weighting Factors Report Task Force. This month, several committees have been holding preparatory meetings, including House Transportation, which is important for local governments. The House Government Operations Committee will be taking up the recommendations of the Apportionment Board. All of these reports are sure to generate lots of questions and heated debate.

When the legislature convenes, the Senate Government Operations Committee will immediately begin work on a bill to authorize the use of Australian ballot for town meeting 2022 in towns that generally hold their meetings from the floor, to hold a pre-town meeting informational meeting remotely, and to authorize moving Town Meeting Day to a better time chosen by the selectboard. The language of the bill will be similar to that of Act 1 last year, which provided alternative procedures for the 2021 annual municipal meetings. That bill was passed on January 14 and signed by the governor five days later. Both the Senate and House are committed to passing this bill as speedily as they did last year. A companion bill is expected to be introduced early in the session that would allow local officials to meet remotely as conditions warrant. Many towns experienced increased participation in their meetings last year when meetings were held remotely and constituents could attend via their computers.

On November 6, Congress passed the Infrastructure Investment and Jobs Act, and the President signed it nine days later. We expect that the Vermont Legislature will have work to do directing the appropriation of at least some of those funds. Likewise, the legislature retained \$523 million in American Rescue Plan Act (ARPA) dollars to appropriate in the coming session. In the 2021 session, the legislature appropriated \$599 million in ARPA money for FY22, the current fiscal year. To date, only a fraction of that amount has been spent. (See Joint Fiscal Committee [ARPA Crosswalk spreadsheet](#).)

Meanwhile, on December 16, the Joint Rules Committee issued its masking and testing policy for the upcoming session. In addition to requiring masks – with exceptions only for medical conditions or religious beliefs – the policy requires proof of vaccination from legislators and staff or at-home weekly rapid testing prior to entering the State House. Members of the public

are urged to provide proof of vaccination or rapid testing on the day they plan to visit the Golden Dome.

Because 2022 is the second year of the biennium, all bills that were introduced last year but not passed are considered “alive” – that is, they may still be taken up, debated, and passed. In reality, a new bill is more likely to be introduced with a new number. An example is S.79, the rental housing bill that was passed last session and which the governor vetoed in July. Language in that bill would transfer the responsibility for rental housing inspections from the local health officer to the Division of Fire Safety except in towns administering inspection programs, and establish a statewide registry of rental housing units, including short-term rentals. We expect a new bill will be introduced that addresses the governor’s concerns around the rental housing registry, permitting, and regulatory impediments to housing construction, and funding for the Vermont Rental Housing Investment and homeownership revolving loan fund programs.

Your Advocacy staff is here to help you navigate the 2022 legislative session and to secure legislation that implements VLCT’s adopted priorities. We may, however, occasionally need your help as the session unfolds and ask you to contact your legislators to tell your story from the standpoint of a municipal official. And please watch for our returning Advocacy chats on alternate Mondays. As always, contact us with your ideas and concerns, and let us know what you are discussing with your legislators.

[The Budget and Education Funding](#)

The legislature will again have to wrestle with the budget in 2022. Managing a fund surplus is often more difficult than building a budget during a time of deficits, as interest groups seem to think there should be no reason to deny their requests for funding. And this year, in addition to huge infusions of federal dollars, revenues are ahead of estimates in the General and Education funds while holding steady in the Transportation Fund. As of November, General Fund revenues (from state-generated sources) were \$27 million ahead of expectations; Education Fund revenues were \$5 million ahead.

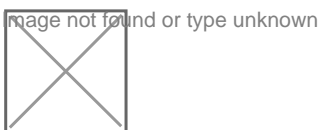
Each December 1, the commissioner of Taxes is required to send a letter to House and Senate leadership that forecasts a property dollar equivalent yield, an income dollar equivalent yield, and a non-homestead tax rate. Readers should recall that the education

property tax makes up two thirds of the Education Fund. This month's letter indicated those yields and forecast total pupil spending to grow by 4.3 percent in FY23, while the equalized pupil count is predicted to decline by 379 students. (See the article on Pupil Weighting for a discussion of calculations that results in equalized pupil counts.) The commissioner's letter also forecasts a \$90 million surplus in the Education Fund, due to "higher-than-expected performance of the non-property tax revenues, the FY22 education property tax credits costing less than anticipated, enhanced surplus from FY21, and other prior year reversions." The governor has proposed returning half of the Education Fund surplus to tax payers and reinvesting the other half in one-time capital construction costs and in students. The commissioner also encourages school boards to be strategic in how they spend almost \$400 million in direct aid through the federal Elementary and Secondary School Emergency Relief funds.

In addition to state funds, the legislature appropriated \$2.7 billion in federal funds in FY22, including \$482 million in American Rescue Plan (ARPA) and Coronavirus Relief Fund monies. The legislature has reserved \$528 million in ARPA funds for FY23, which it will appropriate when it returns. When one adds up all of the federal pandemic-related dollars that came to Vermont through direct aid to individuals, municipalities, schools and other institutions, and support for food assistance, rental assistance, testing and more, the total is a whopping \$10 billion.

As well, the federal Infrastructure Investment and Jobs Act includes funding for initiatives and capital projects that will go through existing revolving loan, grant, and other programs that the legislature authorizes each year, much of it in the capital bill. And if Congress passes the Build Back Better bill, implementing social infrastructure programs, the work of legislators – particularly those on the Appropriations committees – will be even harder.

The table below from the Joint Fiscal Office shows General Fund budget pressures facing the legislature both in the general operating budget and in one-time expenditures.



The annual budgeting process works like this: the governor proposes a budget; the legislature then debates, listens to interest groups (including municipalities), amends, and enacts the

budget; then the budget is returned to the governor in the form of a bill for his signature. Local officials should watch for Governor Scott's budget presentation in January for an indication of his priorities and how the legislature is likely to respond to them. We'll be watching, too!

Resources for this article:

- [Joint Fiscal Office FY22 Revenue Tracking, Target and Actual](#)
- [Tax Dept. Education Yields and Non-Residential Education Property Tax Rate Letter](#)
- [Joint Fiscal Office Budget and Federal Funding Legislative Briefing](#)

Local Governance Initiatives

Over the years, the Vermont Legislature has rejected proposals that would allow local officials and voters to exercise greater authority over purely local matters, unless that permission is granted within the bounds of municipal governance charters. Now, VLCT is working on legislation that takes clear and decisive steps to change that. Following the lead of the legislature's legal counsel, VLCT is proposing numerous amendments to general statutory law and ordinance authority to implement robust local authority measures.

VLCT Advocacy staff reviewed municipal charters indexed in the Title 24 Appendix and also compiled a "wish list" from local officials of the types of statutory provisions that would benefit their municipalities. The different measures are grouped into three categories: ordinance authority under 24 V.S.A. §2291, voter approved authority, and legislative body authority without voter approval.

Examples of **ordinance authority**:

- Regulating sidewalks installation, traffic calming, storm drain, public improvements
- Regulating blighted properties and implementing property management standards
- Removing abandoned or leaking boats from waters of the state

Examples of **voter approval authority**:

- Adopting local option taxes
- Adjusting the number of seats or members on selectboards, city councils, DRBs, ZBAs, and planning commissions
- Recalling local officials
- Eliminating archaic offices that a town no longer utilizes

- Electing or appointing non-town voters or residents to municipal positions
- Determining whether some statutory officers should be elected or appointed

Examples of **legislative body authority**:

- On-street parking, speed limits, crosswalks, and other traffic regulations
- Using cemetery funds for property improvements
- Hinging town zoning permit approval on the receipt of other town permit approvals (condition precedent) such as sidewalks, sewer and water, building codes, signage.

VLCT is advocating for common sense adjustments to state law to give greater control over local matters to local officials and local voters without having to adopt or amend a charter. All of the provisions noted above – and others up for consideration – have either already been adopted by some municipalities via charter or are provisions that the legislature should not need to spend energy and time reviewing on a case-by-case basis in a proposed future charter. Local governments and their residents need the authority to work directly on issues that truly are local in nature. We hope that this approach will be supported by the legislature. We further hope that local officials will keep VLCT Advocacy abreast of other provisions of general law that should either be reviewed and amended or be newly adopted in state law.

[Town Meeting 2022](#)

The COVID-19 pandemic first hit Vermont in mid-March 2020, curtailing or shutting down many municipal services mere weeks after most towns and cities held their annual meetings for the year. Later in 2020, the legislature passed bills both temporary and permanent to help municipalities hold elections and conduct public and annual meetings. There have been so many different pieces of legislation over the last 20 months that it is understandably confusing where communities stand as we face 2022 and the annual meetings in March.

Very early in the 2022 session, the legislature needs to establish the ground rules for Town Meeting Day 2022, as they did in 2019 and 2020 when they enacted temporary measures that provided flexibility for municipalities to conduct their annual meetings. However, because

those temporary provisions will sunset at the end of this year, the legislature needs to renew those measures for town meetings and special meetings in 2022.

During the first week of the session, leadership in both Government Operations committees promised to take up a bill that would:

- authorize legislative bodies to apply Australian ballot systems to annual meetings in 2022;
- authorize legislative bodies to move annual meetings to a potentially safer date later in the year; and
- authorize remote informational meetings for annual meetings.

Due to the urgency of the issue, the provisions of this first bill are limited to town meetings in 2022. Municipalities have voiced strong support for reauthorizing open meeting laws that had previously permitted officials to conduct fully remote meetings provided they met certain criteria for participation and transparency. VLCT hopes the legislature will support granting that authority again as the pandemic rolls into its second full year. (It is worth noting that the new Climate Action Plan endorses making remote meetings a permanent feature of the Open Meeting Law to enhance transparency, encourage participation, and reduce greenhouse gas emissions.) This authorization will not be included in this first bill; however, we expect it will appear in another bill soon to follow.

Have your municipality and its constituents benefited from holding remote meetings during the pandemic? Did participation increase? If so, please let your legislators know how helpful that authority was and how it will continue to be this winter as new variants of the coronavirus inevitably reach Vermont.

[Housing](#)

When legislators return to the State House next month, they will face intense pressure to address Vermont's ongoing housing crisis. Although the shortage of housing is a problem that is national in scope and has been years in the making, several circumstances conspire to make Vermont's situation especially difficult. For years, housing costs have been high relative to compensation for middle- and low-income Vermonters. Land use and environmental regulations – including Act 250, water quality, and even local zoning regulations – have made housing development difficult and expensive. During the pandemic, many people from around the country moved to Vermont – rightfully seen as a safe place to live that is oriented toward

the outdoors – thereby driving real estate prices into the stratosphere. At the same time housing construction costs soared, both supplies and construction labor ran short, issues that plague every sector of the economy across the country. In 2019, Digital Third Coast, an internet marketing service company, surveyed the housing market in all 50 states. Vermont was ranked number 2 for the number of vacation homes per capita (approximately 17 percent or 58,500 housing units). Coincidentally, Maine was ranked number 1 and New Hampshire was number 3.

When the legislature adjourned last session, S.79 and S.101 were still on the table. S.79 would have established a new system for rental housing inspections. It would have transferred the authority for enforcement of the Rental Housing Health Code to the Fire Safety Division of the Department of Public Safety, except in municipalities with established rental housing inspection programs that agree to continue that program. The bill also would have established a statewide rental housing registry that included short-term rentals. In July, the governor vetoed the bill because he was concerned about the proposed rental housing registry, the ability of the Fire Safety Division to conduct rental housing inspections, and the lack of Act 250 reforms to ease permitting for housing development. When the legislature reconvenes, we expect that instead of attempting to override his veto, they will introduce a new bill, likely in the Senate Economic Development, Housing and General Affairs Committee, that addresses his concerns.

S.101 did not make it over the finish line even during the June veto session. Instead, it will be taken up in the Senate Economic Development, Housing and General Affairs Committee in January. That bill would have established Bylaw Modernization Grants to help municipalities update their land use and development bylaws to facilitate housing choice, affordability, and opportunity in compact settled areas.

Two and possibly three other separate bills will seek to reform Act 250, in what has long been a Sisyphean task. At least one of those bills will be limited to exempting designated areas from Act 250 review in order to facilitate housing development and redevelopment.

Last session, the legislature appropriated \$250 million in American Rescue Plan Act (ARPA) funds for investing in housing in designated areas as part of the appropriations bill. According to the Agency of Commerce and Community Development (ACCD), more than \$820 million in COVID-19 recovery funds was made available to assist Vermonters with everything from

rental, utility, and mortgage payment assistance to emergency housing services. Seven hundred and seventy-nine new affordable units were built and almost 800 more are in the pipeline.

Along with the assistance programs funded last year, legislation to be introduced would require municipalities to notify property tax payers whose properties are going to tax sale that assistance programs are available to them, and delay commencing a tax sale for 60 days thereafter. There will be additional requests this year for funding to build affordable housing.

ACCD administers tax credit programs to incentivize redevelopment of properties in downtown and village centers and works with multiple partners to deliver housing services and programs to Vermonters. Its Housing Resources website features several tools to help municipalities plan and zone for housing within walking distance of designated downtowns. Every year, the legislature considers, and often implements, changes to those programs, including increases to the tax credit programs. This year, ACCD established an innovative housing program: The Vermont Housing Improvement Program is designed to provide rental property owners up to \$30,000 per unit to bring vacant and blighted properties back into the rental market.

The state is not alone in seeking to increase the availability of housing. On December 16, Burlington Mayor Miro Weinberger announced a ten-point plan to double the rate of housing production and end chronic homelessness in the city. The plan would invest at least \$5 million of ARPA funds; create a new position in the city's Community Economic Development Office to work on this housing effort; support the creation of 1,250 homes, including 312 permanently affordable one, by the end of 2026; and fully fund the Housing Trust Fund in FY23. in Chittenden County have also signed on to Building Homes Together 2.0, a program to build 5,000 homes in that county by 2025, including at least 1,250 affordable homes.

Along with climate change, Vermont's current housing crisis will likely tinge nearly every conversation in the State House this year.

Resources for this Article:

- [ACCD Housing Resources](#)
- [The State of Housing in Vermont](#)
- [Building Homes Together 2.0](#)

[Infrastructure Investment and Jobs Act \(IIJA\)](#)

President Biden signed the Infrastructure Investment and Jobs Act (IIJA) on November 15. The legislation is exceptionally good news for Vermont, which earned a grade of C from the [American Society of Civil Engineers](#) infrastructure report card. The legislation is slated to deliver clean water to all American families; ensure every American has access to high-speed internet; and rebuild roads, bridges, and other infrastructure with attention to climate resiliency. Earlier this month, the Environmental Protection Agency (EPA) indicated that Vermont will receive \$63 million in state revolving funds for environmental projects in the first year.

We expect to receive much more information from the federal and state governments about how and when dollars will be made available and how local officials may access them. Some funds will require applying to federal government agencies, although many will be funneled through existing state-administered programs. And while the IIJA authorized transportation programs and funding amounts, the U.S. Congress will need to actually appropriate those increased dollar amounts in its appropriations bill.

The act includes \$1.5 billion for community-led brownfield revitalization; \$350 million for solid waste and recycling grants (nationally); 1 billion for per- and polyfluoroalkyl substances (PFAS) and emerging contaminants in Clean Water State Revolving Loan Funds; \$4 billion for PFAS and emerging contaminants in Drinking Water State Revolving Loan Funds; \$5 billion for small and disadvantaged businesses; and \$40 million to clean up Lake Champlain. Municipalities will apply through the state Clean Water and Drinking Water revolving loan funds for these dollars, just as they do now. Applications for brownfield remediation funds will be made through the EPA's regional administrator.

Broadband grants, digital equity grants, and funding for "middle mile connections" will be made to states and administered by the U.S. Department of Commerce's National Telecommunications and Information Administration – although it is not yet clear how much Vermont or other states will receive.

According to Congressman Peter Welch's office, the bill provides Vermont with:

- \$1.4 billion for federal-aid highway programs over five years.
- \$225 million for bridge replacement and repairs over five years.
- \$21 million to expand Vermont's electric vehicle charging network over five years.

- At least \$100 million to deploy advanced broadband, plus additional funding based upon the number of locations unserved by high-speed internet, as well as an Affordability Connectivity Benefit that will be available to approximately 22 percent of Vermont's population to help defray connection costs.
- \$77 million to improve and expand public transportation over five years.
- \$355 million to improve water infrastructure over five years.
- \$150 million to the Northern Border Regional Commission.
- \$6 million to protect against wildfires and
- \$12 million to protect against cyber attacks.

The bill also makes \$3.5 billion available nationally to improve weatherization in residential units.

During VLCT's December 9 webinar to help local officials understand the IIJA, the secretary of Transportation noted that of the 26 transportation-related programs, six are existing and 20 are new. It will take some time for the Agency of Transportation to implement those programs. Congress recently passed a resolution that continues to fund the government through February 18. However, it has not yet passed a new appropriations bill for the federal fiscal year. This means that the higher dollar allocations to transportation programs in the IIJA do not take effect; instead, the funding amounts from the last transportation authorization bill (the FAST Act) continue.

Keep abreast of the roll-out of programs funded by the Infrastructure Investment and Jobs Act in future Weekly Legislative Reports, our biweekly email updates, and by visiting our [IIJA webpage](#).

Resources for this article:

- [What the Infrastructure Investment and Jobs Act will Deliver for Vermont](#)
- [EPA Sample Letter to Governors](#)
- [Bipartisan Infrastructure Law: What It Means for Vermont Transportation](#)
- [What Does the Infrastructure Bill Mean for Your Town?](#) (VLCT webinar)

Climate Action and Resiliency

In 2020, the legislature passed the Global Warming Solutions Act (Act 153), which established the Vermont Climate Council and directed it to develop the first Climate Action

Plan by December 1, 2021. The bill became law on September 22, 2020, following a legislative override of Governor Scott's veto. It required the plan to include specific elements:

- reduce greenhouse gas (GHG) emissions while ensuring that all regions of the state benefit from these reductions (26% below 2005 GHG emissions by January 1, 2025; 40% below 1990 GHG emissions by January 1, 2030; and 80% below 1990 GHG emissions by January 1, 2050);
- encourage smart growth and related strategies;
- achieve long-term carbon sequestration and storage, and promote best management practices to achieve climate mitigation, adaption, and resilience on natural and working lands;
- achieve net zero emissions by 2050 across all sectors;
- reduce energy burdens for rural and marginalized communities;
- limit the use of chemicals, substances, or products that contribute to climate change; and
- build and encourage climate adaptation and resilience of Vermont communities and natural systems.

The 23-member Vermont Climate Council did release its first Climate Action Plan on December 1 despite the very short timeframe the council and its five subcommittees had to complete their work. The subcommittees are Rural Resilience and Adaptation, Agriculture and Ecosystems, Cross Sector Mitigation, Just Transitions, and Science and Data. The council also coordinated its plan with the Public Service Department's [Comprehensive Energy Plan](#).

This first Climate Action Plan is likely to dictate much of the dialogue in the State House in 2022. Key discussions will include how much implementing the plan will cost the state, municipalities, businesses, and individuals – and conversely, how much implementing the plan may save.

What does all this mean for local governments? Climate change has affected everyone in Vermont in one way or another, and responses to reduce GHG emissions and build resilience and adaptation will continue to take place in our cities, towns, villages, gores, and grants. According to the Third National Risk Assessment of the First Street Foundation, Vermont currently has 26,565 residential properties, 7,030 miles of roads, 3,613 commercial properties, 273 infrastructure facilities, and 408 social facilities with operational flood risk.

Many of the plan's proposals are not new, although they are organized in new ways and backed with reams of data. Julie Moore, secretary of the Agency of Natural Resources (ANR), told the legislature on December 8 that the Climate Action Plan is not "a pick menu." Rather, Vermont needs to implement all of the recommendations and strategies and implement them at scale. Many of the strategies would affect local governments and require their action to implement. Following are our impressions of those components of the 273-page plan that most directly affect local governments.

In its introduction to the Climate Action Plan, the Vermont Climate Council wrote, "Climate change represents an existential threat for people and the natural systems upon which we depend for our health and well-being. It is critical that we act to become more resilient and adaptive to climate change already underway and that we do more to reduce the emissions that have brought us to this point, in order to create a habitable future." The plan identifies both actions that Vermont can take now to promote adaptation and resilience as well as areas that require more in-depth study and, likely, consensus, prior to implementation. The council is to deliver its second annual report to the legislature on January 15. ANR is to adopt rules that implement the Climate Action Plan by next July.

The council also committed to:

- advancing efforts to explore funding and financing options, especially with relation to American Rescue Plan Act and Infrastructure Investment and Jobs Act dollars;
- overseeing rollout of the plan;
- organizing subcommittee work to focus on next steps;
- identifying how to measure impact of the plan's implementation;
- developing further strategies for transportation sector emissions reduction; and
- determining the council's organizational structure and needs in 2022.

The plan is organized by actions or strategies. For each, it identifies:

- lead implementers;
- impacts on achieving emissions reductions requirements and on adaptation, resilience, and carbon sequestration goals;
- equity assessments (the degree to which marginalized and rural communities and low and moderate income people are affected, and the extent to which the pledge to "do no harm" to people, communities, and the land is honored)

- a timeline to implement;
- cost effectiveness (that is, the lifetime net cost per ton of greenhouse gas emissions avoided relative to its cost to Vermonters);
- co-benefits (the impact on broader societal benefits such as public health, equity, economic prosperity, biodiversity conservation, and workforce opportunities); and
- technical feasibility (whether required technologies need to be developed and are reasonably available).

The first portion of the report details climate-driven changes in Vermont's environment (is it warmer or wetter?), health concerns, economy, power supply, and population. There follows a description of the assessment mechanisms for the actions and strategies and an explanation of the work of the Just Transitions Subcommittee to include equity in the work of the council. In June, that subcommittee published "Guiding Principles for a Just Transition" that frames the effects on Vermont's impacted and frontline communities.

Six principles from the Just Transitions Subcommittee will guide the work of the council and its other subcommittees.

- Ensuring *Inclusive, Transparent, and Innovative Engagement* in the development of the plan and associated policies and program.
- Creating *Accountable and Restorative* recommendations that recognize inequality and seek to resolve them using clearly identified strategies.
- Moving at *The Speed of Trust* where candor and honesty are recognized as essential for public trust and preparing Vermonters for transition to a sustainable climate future.
- Incorporating *Solidarity* to create inclusionary spaces for all traditions and cultures, particularly for Indigenous communities, recognizing them as integral to a healthy and vibrant Vermont.
- Prioritizing *The Most Impacted First* through recommendations that address the needs of impacted and frontline communities first, providing the greatest benefits of transitions to these communities.
- Developing *Supports for Workers, Families, and Communities* that consider and plan for potential impacts on workers, families, and their communities based on the implementation of Vermont's Climate Action Plan.

The plan establishes “pathways” to take action and devise strategies. And, as one might expect based upon its impact, GHG emissions is the first pathway addressed. The plan recommends transitioning to electric vehicles and multi-modal transportation systems, reducing vehicle miles traveled, and creating compact communities where Vermonters can afford to live and work while traveling less. These actions along with moving away from fossil fuels for buildings and processes are expected to double Vermont’s electricity demands: therefore, it is vital to ensure that our electricity use is not generated from GHG-emitting sources.

Vermont has some of the oldest housing stock in the country, and thermal energy use for those buildings produces more than a third of Vermont’s GHG emissions, representing approximately 35 percent of the state’s energy expenditures. Switching to lower carbon alternatives for heating is a priority for meeting climate goals, but the switch must occur without burdening lower income Vermonters, especially those who rent their homes. It will likely require developing a workforce skilled in both weatherization and updated building energy codes. (Building codes are an issue whose regular updating and expansion will address emissions reduction and resilience.) The plan anticipates that municipalities will be tasked with enforcing the energy building codes.

The plan also emphasizes locating housing and development in compact settlement areas to reduce emissions, enhance community resilience, and help conserve natural and working lands. The plan does not generally address the reduction in travel, particularly in rural areas, due to individuals who transitioned to working from home during the pandemic and in the long term (once high-speed internet is extended to the last mile), or how that affects emissions in rural areas. The plan also doesn’t address the fact that the number of housing units needed statewide cannot all fit in state-designated downtowns, growth centers, village centers, or new neighborhoods. The plan calls for creating densities necessary for efficient and resilient energy supply systems in compact settlement areas, enabling energy efficient multi-family housing options, and reducing social isolation – all of which requires increasing investment in the state’s infrastructure (sewer, water, stormwater, mixed use development housing, sidewalks, bike lanes, broadband, and energy supply) to support compact, walkable development.

“Non-energy emissions” include the treatment of solid waste and wastewater. The highest priority strategy for Vermont’s ten wastewater treatment facilities with anaerobic digesters is to

ensure that flares (which burn off methane) are operational.

The section of the report most relevant to municipalities is the description of pathways to adapt and build resilience in communities and the built environment. Between 2010 and 2019, Vermont was home to 17 major declared disasters: flooding, tornados, wind and ice storms, heavy snow, and tropical cyclones. The section recommends:

- supporting strategies to increase capacity for building collective knowledge and collaborating on climate planning at the local, regional, and state levels;
- developing a climate planning toolkit to help towns assess vulnerabilities to climate change impacts and then prioritize actions to increase resilience;
- establishing permanent statewide funding and technical support for local and regional climate resilience planning and project implementation;
- increasing community participation in local governance and supporting civic engagement and citizen involvement, including by requiring remote meeting options, having a call-in option for all meetings of public bodies, allowing fully virtual meetings of public bodies with guidelines similar to those for states of emergency, and evaluating options for online collaboration in preparation for meetings that can be done with transparency;
- investing to enhance resilience in transportation, communications, water/wastewater, and energy infrastructure statewide;
- creating a policy, planning, and organizational foundation to support investments in infrastructure resilience;
- reducing vulnerabilities of specific transportation, utility, or water infrastructure facilities; and
- reducing the use of fossil fuel in institutions in rural areas.

The plan also includes recommendations to increase the adaptive capacity of the state's natural (wild) and working lands and waters. Key to this strategy are implementing land use policies that support resilient development and natural resource conservation and protection and applying science-based, technical and traditional ecological knowledge* to managing those resources for biodiversity, forest health, and climate resilience. The plan recommends technical assistance and climate adaptation planning and training to farmers, land owners (especially owners of forest lands), and municipalities, as well as increased funding to regional planning commissions to hire natural resources staff. Those resilience and

conservation/protection strategies and practices would be incorporated in state funding and planning efforts.

The Climate Action Plan now moves to the legislature. Every action that the legislature takes in 2022 will be evaluated through the lens of reducing the impact and acceleration of climate change. Expect far more information on the plan as these issues evolve through the session.

* Traditional ecological knowledge (TEK) is a cumulative body of Indigenous knowledge, practice, and belief, handed down through generations by cultural transmission, about the relationship of living beings with one another and with their environment.

Resources for this article:

- [Vermont Climate Action Plan Summary](#)
- [ANR Secretary Julie Moore's Climate Action Plan Presentation to the Legislature](#)
- [Third National Risk Assessment](#)

[Cannabis and Your Local Government](#)

In 2019, the legislature passed Act 164, the Cannabis Regulation Act, which set in motion the framework for a taxed and regulated cannabis system in Vermont. Last year, legislators fine-tuned cannabis laws further with Act 62. Now, as Vermont is in the final stretch of implementation, the legislature is guaranteed to take up cannabis laws yet again.

The legislatively established Cannabis Control Board (CCB) worked straight through the latter half of 2021 to create reports to the legislature as they structure and implement the framework for retail cannabis. The CCB is currently writing the rules for retail cannabis operations. Rules 1 and 2 were pre-filed on November 24, and we anticipate seeing Rules 3, 4, and 5 in the waning days of 2021. These rules will provide the regulatory standards and tools that local governments must use for local licensing and permitting for cannabis establishments located in a community. VLCT is closely following the rulemaking process and will of course report any news of import as it happens.

The legislature will review the CCB's reports this session as the state and local governments prepare for the first wave of cannabis establishment licensing, set to begin April 1, 2022. One matter still pending that VLCT Advocacy staff is following closely are the taxes and fees that apply to retail cannabis. The state will assess a 14 percent cannabis excise tax and will also

assess a six percent sales tax. The only municipalities that will receive any financial gain from hosting a retail cannabis operation are the 16 towns and cities that have a local option sales tax. If your municipality is not among them and you opt in to hosting a cannabis retail operation, you will receive no tax revenue from your community's cannabis retail operation.

The CCB recommended to the legislature that local cannabis license fees be capped at \$100 each to cover the basic cost of license administration. The CCB also recommended that the state share a portion of the state excise tax with municipalities. However, the legislature has resisted including local governments in any sharing of the state's revenue. Rep. Janet Ancel, chair of the House Ways and Means Committee, hoped to use local licensing fee as a means of pooling and redistributing money to all communities in the state that host cannabis establishments, retail or otherwise. But the local licensing fee would have to be raised significantly to even cover the basic costs of licensing administration.

VLCT opposes the fee-share model. Rather, we support an automatic local cannabis tax for every cannabis retail operation – where revenue generated in the town remains in the town or the state sharing a portion of the excise tax. Local governments shouldn't have to levy a local option sales tax to receive tax revenue from a cannabis operation in town. The legislature should at least reconsider the revenue sharing formula for the state excise and/or sales tax assessed on retail cannabis include revenue sharing with local governments. Ideally, the legislature will simply implement a new local cannabis tax to retail operations and allow towns to financially benefit from local operations proportionate to the business conducted in each community.

If your community has opted in to hosting a retail cannabis establishment, or if you anticipate that it will vote to do so in the future, it's imperative that you speak to your legislators. VLCT will advocate for you in the State House this year, but local officials must voice their disagreement with the current tax structure. Ask your legislators why the state benefits from cannabis establishments located in your communities while your community is prevented from doing the same.

[Diversity, Equity and Inclusion \(DEI\)](#)

Throughout the summer and fall when the legislature was in recess, the legislative Social Equity Caucus continued to meet to work on the wide range of DEI issues that require focused, committed, and continuing legislative attention. As well, a considerable amount of

work took place in several forums to address DEI issues, and that work was frequently reported to, discussed, and refined in the Social Equity Caucus.

Last session, caucus members developed a long list of subjects concerning diversity, equity, inclusion, and social justice in Vermont that needed to be addressed. As a result, more than 30 bills were introduced. One of them, S.148, an environmental justice bill, would establish an environmental justice policy for the state, require agencies to incorporate environmental justice into their work, and establish an Advisory Council on Environmental Justice. (Nearly 40 states have already enacted environmental justice legislation or policies.) Provisions of several independent pieces of legislation found their way into the Appropriations Bill, economic development legislation, and other bills that passed last session, including funding for an additional position at the state Office of Racial Equity. The job of the Task Force on the Implementation of the Pupil Weighting Factors focused on correcting the way pupils are counted for education funding purposes – an historic methodology that fails to appropriately account for poverty, rurality, English language learners, secondary school students, and geographically necessary small schools.

State Director of Racial Equity Xusana Davis receives many calls from local officials who need help with engaging their communities in the work of addressing equity. She hopes to develop recommendations that will help municipal leaders, community groups, businesses, and libraries advance racial equity. That work would mesh with that of VLCT's Equity Committee to provide tools to local officials to address these issues.

Diversity is a key topic of the VLCT Board. At its November meeting, the board endorsed S.148; at its December meeting, it heard from the VLCT Equity Committee co-chairs, which presented an Equity Charter developed by the committee to guide its work and which the board adopted. Over the summer and fall, several more towns adopted a declaration of inclusion or similar policy; the total number of towns doing so currently exceeds twenty.

The Climate Action Plan (see related article [here](#)) commits to incorporating traditionally disenfranchised groups in every aspect of the plan's implementation guided by six principles developed by the Vermont Climate Council's Just Transitions Subcommittee.

These are just a few of the DEI actions that have taken place in the last several months. We will keep you apprised of their progress over the course of the session.

[Transportation](#)

State and Local Funds

Last session, municipal governments made huge strides in how the House and Senate Transportation committees responded to the needs of local officials. The statutory award thresholds for Town Highway Structures and Class 2 Town Highway Roadway Program grants increased, as did FY22 funding levels – to the tune of \$7 million. Also for FY22, municipalities received an additional \$3 million in one-time state Transportation Fund money for general town highway aid. VLCT is pleased to have received so much support from Transportation committee members who adjusted the governor's recommended budget to include these provisions, and we're excited to again work closely with them this session.

As of November, state FY22 Transportation Fund revenues were running slightly below target at \$122.4 million. (A \$122.7 million figure had been projected.) That is good news, but the state Transportation Fund has generally maintained its funding structure during the past few decades and fuel consumption is projected to continue its downward trajectory. This is largely due to more fuel-efficient and electric vehicles on Vermont roads. With no new or adjusted funding sources for the Transportation Fund, state revenues will continue to be a concern. Although Vermont has not yet had reason to worry about attaining match requirements for federal money, we don't know how the state will meet these matches in the future. Coupled with inflation and stressors on local budgets, we should be concerned that revenue will not be able to keep up with state transportation costs and needs.

Federal Money

In November, Congress passed and the President signed the Infrastructure Investment and Jobs Act (IIJA) which, in part, replaces the Fixing America's Surface Transportation Act, or FAST Act. IIJA provides a new five-year authorization of proposed funding to the states, and Vermont expects to receive \$1.645 billion. Compared to FAST Act funding, IIJA levels increased by 53 percent – to \$570.5 million. However, those transportation program increases need to be actually appropriated in the federal appropriations bill, which remains tied up in Congress.

This monumental and unprecedented sum includes \$324.3 million (a 30 percent increase) in core highway funds for highway and bridge maintenance, as well as support for bike, pedestrian, and park-and-ride projects. A good chunk of that money is earmarked for greenhouse gas emission reduction and resiliency measures. Two General Fund programs – the Bridge Program and the EV Charging Facilities Program – will receive \$225 million and \$21.5 million, respectively. Public transit and rail programs will receive an additional \$22.5 million, a 35 percent increase over the FY21 figure.

These record funding levels came with a similarly unprecedented increase in new competitive grant programs that the state will need to align with. Twenty of the 26 programs funded by the IIJA are new. We'll have to wait for the Federal Highway Administration to issue guidance on how they will be implemented, including non-federal match requirements and the policy priorities of the Vermont Administration, which we anticipate will focus on equity, resilience, and carbon reduction. Competitive grants include highway and bridge projects (including downtown revitalization), resilience, carbon reduction, healthy streets (including bike and pedestrian programs), active transportation, and safe streets.

At first look, local governments should see more federal funding available for their transportation projects. New programs of note for local government include:

- Rural Surface Transportation Grant
- Charging and Fueling Infrastructure Grant
- Stopping Threats to Pedestrians
- Elimination of Rail Crossings
- National Culverts
- Safe Streets and Roads for All
- Local and Regional Project Grants

The details of these and other new programs are not yet known as the state awaits guidance from the federal government. Local governments can remain hopeful, however, because many of these programs were created to respond to pressure from local governments across the country that requested more federal money for local transportation projects.

Resources for this article:

- [Joint Fiscal Office Transportation Fund Revenues, Nov. 2021](#)
- [IIJA Summary](#)

Public Safety

Across the state, public safety agencies and first responder personnel are struggling. Service providers are tasked with delivering more and faster assistance in emergencies with fewer resources while under severe stress. It is not uncommon to hear the word “crisis” mentioned when the health of public safety services is discussed in Vermont. Even before the pandemic, public safety service representatives voiced serious concerns about the health of fire, emergency medical services (EMS) and police services, including training, recruitment, retention, funding, and generally the fact that workers were being stretched way too thin. The nearly two-year-long pandemic has only exacerbated the problems public safety agencies face. In recent years, the legislature has spent quite a bit of time trying to address problems public safety officials face. And while meaningful progress has been made, more state legislative intervention is necessary to address many issues that simply cannot be handled at the local level.

The Current State of Affairs

Perhaps the biggest changes related to law enforcement took place in 2020. In that year, Act 166 modernized, restructured, and increased the number of seats on the Vermont Criminal Justice Council (VCJC). Several seats are now designated for non-law enforcement members, thus creating a more diverse and inclusive membership. Statewide data collection standards, training and professional regulation, and reporting mandates were modernized. The act mandated that a statewide model body camera policy be implemented by all agencies by January 1, 2022. Also that year, Act 165 created a statewide standard and policy for the use of force by law enforcement. This law was amended in 2021 in Act 27 to better clarify the underlying use of force law language.

Over the past two years, state, regional, and local entities have worked diligently to implement these and other pieces of legislation. But the changes made and the modernization goals proposed will not be accomplished overnight. Much of the work tasked to the VCJC, Law Enforcement Advisory Board (LEAB), Department of Public Safety, and others simply has not been adequately addressed and will require considerably more time and monetary investment. Modernizing training at the Vermont Police Academy and elsewhere will take several years. Updating protocols for handling public records requests – particularly those in the forms of digital and body-worn camera and those related to law enforcement professional

misconduct claims – will also take time to come to fruition. The same is true with devising the funding and structural means to allow better access to law enforcement services at the town level.

EMS and fire services have not been left out of legislation in recent years. In 2020, Act 100 updated training and licensure requirements for EMS providers, which eased bureaucratic regulatory requirements that made it hard for providers and personnel to enter into and maintain state licensure and credentialing. Act 166 (mentioned above) also addressed chronic EMS issues and mandated the Department of Health to review and sunset certain unnecessary competency requirements, create an entry-level EMS certification, and develop more instruction and education levels for EMS instructors. Act 37 (2021) created the Emergency Service Provider Wellness Commission to convene all levels of public safety providers to discuss issues relevant to their physical and mental health and to identify gaps in services. The commission has met three times and is already making foundational strides in mapping out the physical and mental health programs and procedures that currently exist across the state.

Pending Policies and Possible Legislation

Over the last few years, agencies, personnel, and governmental entities at all levels have been creating, reviewing, adopting, educating, and training for the multitude of changes in policies and laws, and they will continue to do so for the foreseeable future. The legislature will read reports and updates on such matters, and requests for increases in funding and policy amendments are certain.

New VCJC leadership and membership have recognized that significant investments are needed for the council and the Vermont Police Academy for the professionalization of law enforcement in Vermont to succeed. The same is true for fire and EMS services – however EMS services lack both an “academy” and the state and federal funding that law enforcement and fire services receive. The Appropriations committees will likely see increased funding requests from the Vermont Police Academy, VCJC, and from leadership in local and regional EMS services that want the Department of Health’s EMS Division better funded so it can provide satisfactory support to service providers. All service entities want to see the state take a more active role in providing the mandated and necessary training, education, and support

services that local and regional services depend on. Local governments already carry most of the financial burden of providing services, but they need the state to step up to ensure agencies are able to continue to provide these essential services.

Across the board, all public safety sectors are struggling with recruiting and retaining personnel, a pre-pandemic problem that has only become more dire. Leadership vacancies spurred by career or agency moves and early retirement continue to be very troublesome. Applicant pools for suitable replacements are small, and individuals with institutional knowledge and expertise are leaving at a time when services are strained, overworked, under-resourced, and stressed to capacity. EMS, fire, and law enforcement agencies are asking the legislature for more funding, grant opportunities, and training and educational support at both academies and at the Department of Health for EMS. VLCT's Board of Directors has gone so far as to contact the governor and legislative leadership and request that law enforcement officers be added to the occupations eligible for the Worker Relocation Grant Program. Public safety agencies have tried to solve these problems by themselves but have fallen short. Support from the legislature and the state is necessary to implement measures to reverse these negative impacts on Vermont's public safety services.

This session, we hope the legislature gives our service providers the support they need to succeed in these difficult times and make sure that any action taken will better resource, support, and professionalize all public safety sectors. And local governments are ready to partner with the state to build upon recent legislative success in accomplishing these goals.