

2022 Weekly Legislative Report

#11

March 18, 2022

Today, we write about federal earmarks secured by Vermont's congressional delegation, recent Advocacy testimony on local option taxes, the education property tax, the transportation and municipal energy bills, and regional dispatch centers. Elsewhere in the State House addresses redistricting and the budget adjustment bill. We also present fifteen new bills for your legislative pleasure.

You can always check our two webpages to track the 2022 bills that especially affect municipalities: [bills introduced in the House](#) and [bills introduced in the Senate](#). We update these cumulative lists every Friday so you can follow bills as they travel through the appropriate State House committees. Scroll to the end to see the newest additions.

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 issue and find other weekly legislative reports.
- Here is a [PDF of the full report](#).

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Earmarks in the Federal Omnibus Spending Bill

On Tuesday, President Joe Biden signed an omnibus spending bill that includes \$13.6 billion in aid for Ukraine, \$730 billion in non-defense spending (a 6.7 percent increase from FFY21), and \$782 billion in defense spending (a 5.6 percent increase from FFY21). The bill appropriates spending for the federal fiscal year that started October 1, 2021 and ends September 30, 2022. The spending package contains earmarks for projects selected by members of Congress, and Vermont fared exceedingly well in that realm. Following are projects – many of them local – that will receive funding, according to the offices of Senators Leahy and Sanders and Congressman Welch. We sincerely thank our congressional delegation for their steadfast advocacy for Vermont.

Vermont earmarks of Congressionally Directed Spending (CDS) projects secured by Senator Leahy include:

- \$10 million to establish an Institute for Rural Partnerships at the University of Vermont plus \$30 million in programmatic funding.
- \$5 million to establish a National Farm to School Institute at Shelburne Farms to provide technical assistance to farm-to-school programs in Vermont and around the country.
- \$16.9 million to replace the nearly 100-year-old Vermont National Guard Readiness Center in Bennington.
- \$10 million for an Aviation Tech Center at the Burlington Tech Center
- \$1 million for Church Street Marketplace pedestrian improvements
- \$1.5 million for Historic Preservation of the Paramount Theater, East Monitor Barn, and African-American Arts & Culture Center at the Clemmons Family Farm
- \$2.5 million for Statewide Recreation Trails through the Vermont Huts Association

- \$1.2 million for a Vermont Nursing Career Pipeline through the Vermont Business Roundtable Research and Education Foundation
- \$9 million in Recovery and Economic Resiliency Loans through the Vermont Center for Emerging Technology
- \$5.25 million for Lake Champlain Basin environmental infrastructure and habitat restoration projects

Vermont earmarks secured by Senator Sanders include:

- \$4,500,000 for the Community College of Vermont to create a Partnership for Educational Opportunities for Incarcerated Vermonters and Corrections Officers
- \$500,000 for Interlace Commons, a partnership to develop a program to combine important agricultural research with community events that will bring people together to support and strengthen local farms
- \$500,000 for Vermont Program for Quality Health Care, which would help promote equitable access to culturally competent telehealth services by identifying under-served geographic regions, priority individuals, and associated health care providers
- \$1,000,000 to the Vermont Public Power Supply Authority to help commercial and residential customers transition from fossil fuel to electric use and other cleaner energy sources.

Vermont earmarks secured by Congressman Welch total \$10.3 million, including:

- \$2,456,176 for the Fairbanks Museum, which is constructing a demonstration mass timber building to create space for STEM-based exhibits and facilitate co-location with the Community College of Vermont's St. Johnsbury site

- 250,000 for the Student Support Services program at NVU-Lyndon, whose mission is to foster the intellectual, creative, and personal growth of every student in a community committed to diversity and inclusion
- \$750,000 for the Chittenden County Public Safety Authority to fund the technology capital costs to start up a regional dispatch center
- \$2,000,000 for remediation of the Fonda/Solo Brownfield Site in St. Albans
- \$85,000 to the Sheldon Museum in Middlebury for historic preservation and energy upgrades
- \$517,750 to build Derby Park, a new park in Derby that will include walking paths, a 10-station fitness trail system, and other amenities
- \$1,688,000 for Farmers Center in Rutland to improve access to critical infrastructure, equipment, and coordinated technical resources
- \$200,000 to the East Calais Store to restore the building that contains the general store and three apartments affordable to low-income households
- \$1,150,000 for Wheels and Waves, a Health/Opiate Use Disorder Treatment and Telehealth program
- \$1,277,000 for Tri-Park Mobile Home, Vermont's largest resident-owned mobile home cooperative comprising more than 300 homes owned and occupied by 800 low and moderate income residents

Local Option Taxes

On Friday afternoon, the Senate Finance Committee took up the Local Options Taxes section of S.181, the bill that would make a variety of changes to municipal regulatory authority. Section 7 would authorize all cities and towns in the state to vote to adopt local option taxes without the additional step of securing approval from the legislature. Advocacy staff testified before the committee in support of the legislation. Later, the committee voted to support the section change.

Resources for this article

- [Testimony before the Senate Finance Committee regarding Section 7 of S.181](#), March 18, 2022.

Education Property Tax

On Thursday, the House Ways and Means Committee introduced H.737. This is the bill, passed every year, that establishes property dollar and income dollar yields so as to set the average homestead property tax rate and the non-homestead education property tax rate. The property yield is the amount of spending the Education Fund could support with a uniform homestead tax rate of \$1.00 on a homestead's property value. The homestead property tax rate in any district that spends more than the yield increases proportionally. The income yield is the per-pupil amount of spending the fund can support with a uniform tax rate on income. As the Agency of Education receives data about school district budgets that have been passed, the yields are recalculated, so the yield amounts typically fluctuate as the legislative session moves on.

For FY23, the property dollar equivalent yield would be \$13,472 and the income dollar equivalent yield would be \$16,146.

The non-homestead property tax rate would be \$1.449 per \$100 of equalized education property value, as indicated by the Education Fund balance.

In FY21, homestead and non-homestead property taxes made up 69 percent of the total Education Fund. (Property taxes always make up at least two-thirds of the Education Fund.) During the early days of the pandemic, many municipalities became painfully aware that if non-property tax revenues are insufficient, the education property tax fills the gap. When a town receives a property tax payment, the education property tax must – in almost every instance – be paid first, which had the potential to create a funding crisis in municipalities in

those first stressful months of 2020.

This year is different. The Education Fund has a surplus of approximately \$95.7 million. The governor proposed returning half of that amount to homestead property owners in rebate checks of approximately \$275 each. (This would, of course, require the assistance of town clerks.) The other half of the surplus would be invested in workforce development programs in K-12 settings such as career technical education.

H.737 would, instead of distributing rebate checks, reduce the average homestead property tax rates, the average tax rates on homestead income (approximately 70 percent of homestead tax payers' pay based on income) and the non-homestead property tax rates.

Education Fund Outlook, March 17, 2022

(in millions of dollars)

	FY21 Actual	FY22 Projected	FY23 Projected
Average Homestead Property Tax Rate	\$1.538	\$1.523	\$1.369
Average Tax Rate on Household Income	2.50%	2.50%	2.29%
Uniform Non-Homestead Property Tax Rate	\$1.628	\$1.612	\$1.449
Property Yield Per Equalized Pupil	\$10,998	\$11,317	\$13,472
Income Yield Per Equalized Pupil	\$13,535	\$13,770	\$16,146
Equalized Pupil Count	87,304	86,944	85,806
Statewide Education Spending Growth	3.9%	1.3%	5.4%
Statewide Education Grand List Growth	2.7%	3.0%	7.5%

The bill would also not address workforce development programs or – as the Vermont School Boards and the Vermont Superintendents associations testified on Thursday – pent-up

demand for capital improvement projects. It would reserve \$36 million of this year's surplus in the Education Fund for providing school breakfast and lunch programs to all K-12 students in FY23. As a result of decades of experience, local officials know that once an obligation is added to the Education Fund, it stays there. Because of the mechanics of the Education Fund, H.737 would establish the property tax as the fallback revenue source for paying for meals for students. In testimony before the committee, your Advocacy staff stated that the property tax is an inappropriate funding source for paying for school meals statewide and urged the committee to find another sustainable and long-term revenue source to pay for them.

Readers should recall that the pupil weighting bill, S.287, would significantly revise the Education Fund's calculation of equalized pupils. That bill was voted out of Senate Finance and is currently in the Senate Appropriations Committee.

As we move into the second half of the session, we can expect many more discussions around education funding, how it is implemented, and what it pays for.

Resources for this article:

- [Education Finance in Vermont, Joint Fiscal Office](#), Feb. 24. 2022
- [Education Fund Balance](#), March 17, 2022
- [Tax Commissioner Testimony on Education Fund Surplus](#), Feb. 24, 2022

[Transportation Bill](#)

This week, the House Transportation Committee voted out the FY23 transportation bill favorably, 11 to 0. On Thursday, Transportation Committee chair Diane Lanpher reported the bill, [H.736](#), to the House Appropriations Committee for further review. Rep. Lanpher explained that, despite the state receiving an influx of federal money in current and future years, its transportation funds will be strained as revenues increasingly can't keep up with the demands required by our transportation network and associated infrastructure. A funding shortfall in next year's FY24 transportation base funding may be anywhere from \$40 to \$80 million.

H.736 makes significant investments in carbon reduction measures, including electric vehicles, charging stations, and bicycle and pedestrian measures. The bill also would make several substantive, technical, and clarifying amendments to transportation and associated laws, several of which affect local governments.

Carbon Reduction Measures. H.736 invests just under \$20 million in electric vehicle supply equipment grants for level 1-3 charging stations. It invests just over \$20 million into new electric vehicle incentive programs including the Incentive Program for New PEVs, MileageSmart, Replace Your Ride, and new eBike, eSnowmobile, and eATV programs. The Mobility and Transportation Innovation Grant Program is funded again to support micro-transit projects and an additional \$1.4 million is appropriated for zero-fare public transit. A new pilot program is established to support the continued development and build-out of bicycle and pedestrian infrastructure. The legislation directs the Agency of Transportation (VTrans) to develop information regarding pedestrian safety funding and programs available to local governments and disseminate that information to regional planning commissions and others.

Right-of-Way and Access Permits; Municipal Site Plan Review. H.736 clarifies language in 19 V.S.A. § 1112(b) related to access permits for direct connections to state highway subsurface stormwater systems to more accurately describe when permits are required, and refers to connections to catch basins, pipes, drop-ins, and other structural stormwater systems. This is considered a technical correction because the state only charges for connections to subsurface stormwater systems and does not want to charge for each individual connection under a permit application. This is VTrans' current practice, and the proposed change would align it with statute.

A small, proposed amendment to 24 V.S.A. § 4416(b) would clarify involvement in certain site plan approval processes. The purpose of 24 V.S.A. § 4416 is to ensure VTrans' early involvement in the site plan approval process when a development project needs access to a state highway. The agency must review the proposal and provide a letter stating whether a permit is required, and, if it is, to identify the conditions that apply to the permit. The statute's intent is to make sure that significant issues that affect the design of the site – such as the location of a driveway – are captured before a project is approved at the local level. The purpose of the amendment is to clarify that VTrans' letter may not enumerate all conditions included in the final access permit. Examples include standard boiler plate conditions that are attached to all permits related to liability, safety, managing traffic during construction, and leaving the site in good condition. It is also possible that a development project's design may

evolve over time, prompting the need for other conditions.

Covered Bridges and Recovery for Expenses for Emergency Services. The bill would update statutory language related to covered bridges and move the regulation of covered bridges from Title 19 to Title 23. Minor technical and clarifying language updates would include requiring any weight, height, or width requirement to be permanently posted with signs that conform to the [Manual on Uniform Traffic Control Devices](#). Weight limit restriction exclusions would be expanded to include law enforcement motor vehicles and an exemption for agricultural service vehicles from operating in excess on covered bridges. The penalties for violating covered bridge regulations are proposed to increase to \$1,500 for a first violation and \$2,000 for a first violation that substantially impedes the flow of traffic, and doubled for a second or subsequent conviction within a three-year period. Current violations are \$200 for a first violation and \$300 for a second or subsequent violation, so these penalty increases are welcome and long overdue.

A section of statute is added to Title 24 that would enable a municipality that deploys rescue services to aid stranded operators or move disabled vehicles to recover the cost of providing those services from the operator or operator's employer.

Local Funding. Investments in local roads and programs are a mixed bag. The biggest winner is the Town Highways Bridge Program, which would be increased by 96.7 percent over last fiscal year, with a total funding of \$30,314,187, \$25,529,514 of which is federal money. The large increase in funding to the Town Highway Bridge Program is wholly due to the Infrastructure Investment and Jobs Act. That legislation includes a new program that brings \$225 million to Vermont for bridges over five years. At least 15 percent of that amount must go to local bridges, funded at 100 percent. By and large, the remainder of municipal programs will be level funded. General Town Highway Aid, Class 2, and Structure programs are funded at statutory levels. Total funding for town highways programs for FY23 is proposed to be \$83,525,540 – a 4.8 percent increase over FY22. By comparison, the total funding of VTrans programs is proposed to be \$708,753,855, an 18.9 percent increase over FY22.

Once the House Appropriations Committee votes the bill out, it will head to the House floor for consideration. This will likely take place next week.

Resources for this article:

- [H.736, as passed out of House Transportation](#)
- [FY23 House v. FY22 as passed House Appropriations](#)

[Municipal Energy Resilience Program](#)

On Thursday, the House took up H.518, which passed second reading and which is expected to be approved by the House today. Your Advocacy staff received many inquiries from local officials about the status of this particular legislation and the likelihood that towns would receive funding to make energy improvements to their buildings.

The bill would direct the Department of Buildings and General Services (BGS) to issue a request for proposals for a comprehensive energy resilience assessment of municipal buildings and facilities by September of this year. The consultant that BGS contracts with would be required to complete that assessment by January 15, 2024. Municipalities – in coordination with regional planning commissions that would help them develop plans – would apply to BGS for an assessment of their buildings and facilities.

The assessment would include a scope of work for the cost and timeline to complete the projects. It would also include recommendations to reduce operation and maintenance costs; enhance comfort; reduce energy use by improving heating, cooling, and ventilation systems; renewable energy opportunities; improvements to thermal envelopes; and the potential for on-site renewable energy generation options. The scope of work would include the costs for these assessment components.

In order to qualify for an assessment, a municipality would need to have access to high-speed internet, or a plan to have access by 2024; and also at least one space in the assessed building available for the public to work in, pursue education, and health monitoring or telehealth for a period of at least five years, both of which are requirements of the funding source – the federal Capital Projects Fund. As well, any assessed building must be compliant with the Americans with Disabilities Act by the time the project is completed.

A Municipal Energy Resilience Grant Program would provide funding of up to \$250,000 to complete approved projects and up to \$4,000 to facilitate community meetings and communication on municipal energy resilience. The program – cooperatively designed by BGS, Efficiency Vermont, and VLCT – would establish an equitable system for distributing

grants, giving priority to municipalities with the highest energy burdens and lowest resources and to municipalities that may not have administrative support to apply for grants.

The bill includes an appropriation of \$48 million from the American Rescue Plan Act (ARPA) Capital Projects Fund, of which \$40 million would be available for grants to municipalities. The bill would also create a Municipal Energy Loan Program to make energy and efficiency improvements, and a Municipal Energy Revolving Fund to finance the program. The revolving fund would be initially capitalized with \$2.8 million allocated in the federal Infrastructure Investment and Jobs Act.

VLCT and local officials want to thank the House Energy & Technology Committee for their hard work in developing an innovative program that will help municipalities make significant improvements to their buildings, ensuring that they are cost-effective, resilient, and sustainable, and that they continue to serve their constituents in the future.

[Support for Ukraine](#)

On Tuesday evening in front of the State House, the governor signed H.717, a bill that would provide humanitarian assistance to the people of Ukraine, even as the horrors of the unprovoked war there continued unabated. The State House was illuminated in blue and yellow lights with the golden dome above, the first time that the seat of the Vermont legislature had been lit in that manner. The Vermont event was also live-streamed to the Ukrainian Parliament, which was in session at the time. The bill appropriated \$644,826, one dollar for each Vermont resident, plus \$1,749 the amount of sales of Russian-sourced products from February 24 to March 2.

In recognition of the fact that Ukrainian mayors and local officials are targets as their communities are being assaulted, the VLCT Board of Directors at their Thursday board meeting adopted this resolution: “The Vermont League of Cities and Towns stands in solidarity with the city, town and village leaders of Ukraine fighting to protect their people and their democracy.”

Vermonters from every corner of the state are showing support for Ukraine. One effort is “Vermont Plants Sunflowers for Ukraine.” The proposal’s creator hopes that cities and towns around the state, as well as other organizations, will plant sunflowers throughout their spaces this spring. St Johnsbury and St. Albans City, which has a sunflower week celebration in August, have already signed on to that effort.

Resource for this article

- [Vermont Plants Sunflowers for Ukraine](#)

[Regional Dispatch](#)

The House Appropriations Committee is considering a proposal to move forward with a \$11 million appropriation to the Department of Public Safety (DPS) to implement a regional public safety dispatching model. **All** communities need to pay close attention to this proposal as it will – to some degree – affect **every** EMS, fire, and police agency. The DPS proposal would transition the entire state to a regional emergency dispatch system and end the current practice of the state providing dispatching services to more than 100 non-state public safety agencies.

Communities that receive dispatching from the state would have to find another dispatching provider themselves. DPS envisions new regional communication centers in geographically dispersed areas of the state. Both existing and new centers would vie for funding from the one-time proposed \$11 million appropriation in the governor's budget. This money would fund the initial transition and operational costs for agencies moving to regional services or to existing dispatch centers that become de facto regional centers. DPS would provide technical assistance during this transition.

The committee is taking this appropriation request very seriously and appears intent on moving it forward. However, they want to ensure that the proposal is vetted thoroughly and that the process from transition to implementation is done transparently and that it involves stakeholders. A working group would develop a proposal to transition to a regional dispatch model, or, alternatively, to a state-run dispatch model. The working group would need to document for each town (1) how much is currently spent on dispatch services in contrast to the projected costs under both models, (2) which responder services have been provided for that funding, and (3) to which entity payment has been made. The working group also would need to identify a transitional timeline and the tasks to be completed within that timeline for both models. By next January, the group must recommend the dispatch model to the legislature. If the legislature approves the working group's recommendation, then the \$11 million held in reserve may be released to DPS to move forward with implementation.

VLCT generally supports this proposal and believes that all stakeholders will be given the time and opportunity to understand and vet the regional dispatch proposal. Stakeholders include

public safety agencies and the local governments they serve and that fund those agencies. And while we believe that the \$11 million will be a good start to implementing regional dispatch centers, it won't be enough to fully implement the proposal or provide long-term support. A long-term funding source should be a part of this plan. We also support regionalization of public safety services, including dispatch. A state-run dispatch model likely will not be the best answer for Vermont. With at least two municipally run regional dispatch centers (in Chittenden and Washington counties) excited about the opportunity to receive funding and go live, it makes sense for some level of funding to be appropriated this year to get these centers functioning as soon as possible. Enough funds should be left in reserve for those regions that need more time to more thoroughly consider the regional dispatch model.

Resource for this article:

- [Regional Dispatch Model Language](#), March 17, 2022

[Elsewhere in the State House](#)

Redistricting. On Wednesday, the House passed H.722, a bill to reapportion the House of Representatives in accordance with the decennial census. The vote was 129 to 13. [Click this link](#) for detailed maps and other information about the districts created by H.722

Budget Adjustment. Also on Wednesday, Governor Scott signed the budget adjustment bill, H.679. For details, read our article in [Weekly Legislative Report No. 9](#).

[New Bills](#)

Number Summary

**Current
Location**

<u>H.721</u>	Would allow natural persons who own non-homestead property in a municipality to enroll their child in a public school in the municipality even though the property owned is not their homestead. For a non-homestead owner, in order to enroll the owner's child in a public school in that municipality, the owner would have to own not less than one acre of undeveloped land in the municipality and pay either the non-homestead property tax rate for the undeveloped land or an amount equal to the average homestead tax bill in that municipality, whichever is higher.	House Education
<u>H.722</u>	Would reapportion the members of the House of Representatives.	Passed House, in Senate
<u>H.723</u>	Would require the Agency of Agriculture, Food and Markets to establish a pilot program to explore providing financial assistance to farmers to implement year-round agricultural practices in various regions of Vermont.	House Agriculture and Forestry
<u>H.725</u>	Would require a landlord, cable company, cell phone company, or any other entity that accesses consumer credit and has a contract with a fee for early termination to report the results of the entity's consumer transactions to credit reporting companies.	House Commerce and Econ. Development
<u>H.726</u>	Would require the Secretary of Natural Resources to submit to the House and Senate Natural Resources committees a detailed proposal to test for the presence of polychlorinated biphenyls (PCBs) in Vermont schools by April 15, 2022.	House Nat. Resources, Fish, and Wildlife
<u>H.727</u>	Would update the education statutes on the exploration, formation, and organization of union school districts and unified union school districts.	Passed House, in Senate

H.728	Would expand the locations in which an organized community-based needle exchange program can operate; prohibit a health insurance plan from requiring prior authorization during the first 60 days of initiating medication-assisted treatment when the prescribed medication is for opioid or opiate withdrawal; establish the Overdose Prevention Site Working Group; and appropriate funds for three pilot programs specific to mobile medication-assisted treatment, supports for justice-involved individuals, and overdose emergency response support.	House Appropriations
H.729	Would make a number of miscellaneous amendments related to civil and criminal procedure statutes.	House Appropriations
H.731	Would make non-substantive, technical amendments to the Vermont Statutes Annotated. (420 pages!)	Passed House, in Senate
H.733	Would lower the legal blood alcohol concentration limit to operate a motor vehicle in the State of Vermont to below 0.05 and change the current prohibition on operating a motor vehicle from the current blood alcohol concentration limit of 0.08 or more.	House Transportation
H.734	Would adopt the recommendations of the Council of State Governments in its Nov. 2021 report to the Justice Reinvestment II Working Group: apply a race equity lens to lower-to-mid level felony drug possession offenses and reevaluate the highest level of possession and sales to better reflect significant amounts of drugs intended for distribution; pursue either nonbinding sentencing guidance or presumptive probation for certain offenses; require the collection and reporting of race and ethnicity data; and develop guidance to increase consistency in charging and plea-bargaining decision with state's attorneys' offices.	House Judiciary

<u>H.736</u>	<p>Would adopt the State's annual Transportation Program and make miscellaneous changes to laws related to transportation. The Agency of Commerce and Community Development would be authorized to spend up to \$10 M in the FY23 budget to administer grant programs to build upon the existing EVSE (electric vehicle supply equipment) Grant Program, support the continued buildout of level 1 and 2 EVSE at multiunit dwellings, including multiunit affordable housing, and workplaces and level 1, 2, and 3 EVSE at public venues and attractions. The purpose is to respond to negative economic impacts to the tourism, travel, and hospitality industries caused by the COVID-19 public health emergency or to provide assistance to low- and moderate-income households that were impacted by COVID-19, or both.</p>	House Appropriations
<u>H.737</u>	<p>Would set the property dollar and income dollar equivalent yields for the purpose of setting homestead property tax rates and set the non-homestead property tax rate. Would reserve monies within the Education Fund to fund universal school breakfast and lunch programs.</p>	House Ways and Means
<u>H.738</u>	<p>Would clarify that the property transfer tax applies to enhanced life estate deeds in the same way as conventional life estate deeds.</p> <p>Would amend penalty provisions and filing due dates for estimated tax payments. The Vermont income tax and the estate tax codes would be made to conform to federal tax statutes in effect at the end of 2021.</p>	House Ways and Means

S.287

Would improve student equity by adjusting pupil weights beginning in FY24 with a 5-year transition period; create the Education Fund Advisory Committee to monitor Vermont's education financing system, conduct analyses, recalibrate the pupil weights and categorical aid amounts as necessary, and make annual recommendations to the legislature; add 6 Agency of Education staff positions to support school districts in the provision of English Language Learner services, support school food programs and the development of the universal income declaration form, and provide financial and data support to the agency and the Education Fund Advisory Committee; and require the state auditor to conduct a performance audit under generally accepted government auditing standards that identifies the successes and failures of this legislation.

Senate
Appropriations