WLR Jan 26: Governor's Budget Address, Housing, and Eduction Fund

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The Budget Adjustment Act and S.160, a bill to reimburse municipalities for properties taxes abated due to flood damage, both continue to move rapidly through the state house and provide much needed support and relief for municipalities recovering from the floods. **Read more about what happened this week below.**

This week VLCT provided testimony to:

- House Government Operations and Military Affairs Regarding Municipal Ethics Legislation
- House Ways and Means Regarding Municipal Tax Sales (H. 629)
- House General Regarding Homeless Bill of Rights (H. 132)
- Senate Government Operations Regarding County Governance Study Committee (S. 159)
- Senate Government Operations Regarding Changes to Open Meeting Law (S. 55 Draft 1.2 dated 1/16/24)

You can read more from VLCT Advocacy about the Governor's Budget Address in What Governor Scott's Proposed Budget Means for Municipalities.

The content of the Weekly Legislative Report *below is provided by our advocacy partners. For more detail and commentary from VLCT Advocacy staff, visit the* ***Legislative Reports*** *webpage to access our topical Advocacy Updates.*

Overview of Housing, Public Safety, and Affordability Discussions

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We want to give you the 10,000-foot view of the three important priorities we've been summarizing over the last few weeks: housing, public safety, and affordability. We cover some of these items in more detail in the full newsletter.

Public Safety and Quality of Life Continue to be About Managing Symptoms, Not Causes

- The Governor included a discussion of public safety in his budget address, straying outside financial policy to propose repealing 2018 bail changes, increasing accountability for violating conditions of release and adjusting the "Raise the Age" threshold while taking some accountability that he himself signed these changes.
    - The House Committee on Judiciary continued their attention on three bills. The Committee is still struggling with how to prevent recidivism and heard from the Chief Superior Judge of Vermont reiterating that they do not have the ability to use bail for anything other than flight risk.
    - The Committee continued to work on their retail theft bill, H.534, with testimony from law enforcement that it could be a helpful tool, from the Chief Superior Judge against mandatory minimum, the Department of State's Attorney that it should be amended to one or more locations within one county within a 14-day period.

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    - The Committee is also considering an auto theft bill, as Vermont does not have this specific crime, only operating a vehicle without an owner's consent, which some State's Attorneys are reluctant to try to prove.
    - They continued to discuss the possibility of bringing work crew back as an option to be presented to folks committing these offenses during arraignment
    - Finally, the Committee continues the discussion around expanding restorative justice via H.645.
- While the Committee struggles to ***grapple with these symptoms of the problem of recidivism in Vermont***, an egregious example of what the problem was on full display Monday in Burlington when an individual with 111 previous interactions with police spanning identity theft, domestic assault, arson involving 18 vehicles, and two attempted carjackings in broad daylight, escalated their activity to an armed standoff involving two hostages in a Burlington bar.
    - The individual was wanted on violations of conditions of release (VCR). VCRs are an underlying factor in most major crimes in our state now, and this individual, while incredibly egregious, is not unique.
- Meanwhile, across the hall from them, the House Committee on General and Housing continued work on the Homeless Bill of Rights and heard testimony from an advocate who ***expressed excitement that this legislation would legalize activities such as public urination.*** You truly cannot make this stuff up… **VLCT also testified regarding the Homeless Bill of Rights.**

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Housing Discussions Focus on Appeals

Special attention this week was paid to the appeals processes.

- The Senate Committee on Economic Development, Housing, and General Affairs spent time further discussing the concept of a Housing Board of Appeals to handle appeals of municipal zoning decisions on housing projects, which we covered in last week's update, as part of their committee bill on housing and land-use, the Be Home Act.
    - They heard from the Chief Superior Judge of Vermont that even if a project successfully defended a municipal permit at the new board, it would still face an Act 250 permit, highlighting the need to consider the overall permit process.
- Upstairs in House Energy and the Environment, the committee worked through, H. 687, outlining primary changes related to forest block mitigation, tier distinctions, and adjustments to the future land map section. Notably, discussions included the mitigation of forest blocks, changes to location-based jurisdiction, and modifications to the future land map section. The committee explored issues such as the Takings Clause and questioned the implementation of fees for forest protection.
- The Governor used his budget address this week to pitch his tri-partisan bill H.719 again with investments, tax credits, zoning changes, and increased funding for housing programs.
- **VLCT testified to the House Ways and Means Committee regarding H. 629 Municipal Tax Sales**

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Budgeting & Affordability – Investments & Clean-Up

This week was a pivotal week for the financial conversation as the Budget Adjustment Act (BAA) passed the House, the Governor gave his budget address, and things heated up around the potential 18%+ property tax increase legisaltors want to avoid. Read VLCT's update: **What Governor Scott's Proposed Budget Means for Municipalities**.

- Governor Phil Scott presented his $8.6 billion Fiscal Year 2025 budget, emphasizing strategic investments and funding for existing services. The budget addresses three key areas outlined in the State of the State address: affordability, public safety, and housing.
    - Despite acknowledging challenges and budget pressures, as well as the influence of a supermajority in the democratic-progressive coalition, noting their potential disregard for his suggestions.
    - Despite this, the proposal avoids imposing new taxes or fees on Vermonters
- The Budget Adjustment Act (BAA) passed the House, focusing on strategic investments of $132 million in one-time revenue upgrades. Key allocations in the BAA include $85 million for housing needs and $56 million for addressing the aftermath of the July 2023 flooding.
- Vermont faces a looming financial crisis in education funding due to unintended consequences of Act 127, which could result in an over 18.5% increase in property taxes.
    - Originally aimed at reducing disparities in education spending, the act created a temporary cap on tax rates to ease the transition for

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certain schools; however, many districts it was not intended to help saw this as a perverse incentive for districts to spend more.
    - Business groups, in a memo to chairs, opposed placing the burden on their members and called for legislative clarification of the intent of the 5% cap in the Budget Adjustment Act.
    - Various other factors also contribute to rising education costs.
- The Chair of the Ways and Means Committee is hoping to raise at least $100 million with two proposals: one to impose a 3% tax on individuals with adjusted gross income of more than $500,000 and a second that would add a tax on capital gains at 10% on assets above $10 million.

Education Funding Headed for a Cliff Due to Unintended Consequences

The most difficult matter at hand in this legislative session is the financial cliff that our education fund is heading toward. With nothing done, all property taxpayers will see substantial property tax bills, ***with non-homestead ratepayers (businesses and renters) seeing the majority of the increase.***

The Background

It's helpful to have a quick history refresher on why Vermont's education spending is the way it is.

- In 1997, in Brigham v. State, the Vermont Supreme Court concluded the state's education funding system, which relied heavily on local property

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taxes, violated the common benefits clause of the Vermont Constitution by creating significant disparities in educational resources and opportunities between school districts.
    - The legislature responded with the implementation of Act 60 in 1997 and Act 68 in 2003, which introduced a **statewide education property tax** and a funding formula aimed at reducing disparities in education spending between school districts.
- The Legislature revisited the system with Act 127 in 2022 to create **per-pupil weighting**, a mechanism that adjusts for variations in the cost of educating students involving assigning different student weights based on their needs or circumstances, which then influences a school district's tax rates
    - Some communities would see a dramatic shift in the *effective* number of students enrolled with the new weighting factors and thus would see a dramatic change in tax rates.
    - To counter this, legisaltors created a **temporary cap on tax rates of 5%** so long as a district's spending did not increase by more than 10%. This is where the unintended consequences start.

Where We Are Today

As if Vermont's education funding system wasn't complicated enough, Act 127 has given everyone a perverse incentive to spend with abandon.

- Districts read Act 127 and saw an opportunity to **follow a perverse incentive and make new investments**, so long as they stay in the sweet

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spot of that cap outlined above.

    - In what can be described as a tragedy of the commons, if everyone makes use of this loophole, it means that all collective spending increases, and with a statewide system, everyone needs to make up the difference, driving the statewide rate up.
        - TODAY (Friday), the Agency of Education will have the combined cost of all the warned budgets, which are estimated to be as high as $275 million.
- **What can most easily be described as a circuit breaker in the property tax system means that, at a certain point, non-homestead property taxpayers pick up the bulk of the increase in taxes.**
- Business groups sent a memo to the chairs of the committees of jurisdiction this week pushing back on their members being the potential solution to this mess and urging legislators to take the initial step of clarifying legislative intent in the Budget Adjustment Act.

Other Factors Contributing to the Cost of Education

There are also many factors that increase cost of education in the state, including but not limited to;

- Many districts used one-time, pandemic-era ESSR funds for positions in schools that they are now seeking to retain.
- As an employer, you are well aware that healthcare costs are climbing for everyone, including the large education workforce.

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- As we've covered numerous times, capital construction is slated to be about a $6 billion (that's a b) commitment over the next decade to renovate many schools.
- It's worth noting that all of this is at a time when our state's student population is shrinking, and we have only about 5,000 first graders.
- More broadly, the tragedy of the commons we are experiencing due to the unintended consequences of Act 127 is emblematic of the legacy of the Brigham decision in that local voters' decisions are not directly felt, be those decisions to spend more, not grow their grand list, or forgo efficiencies.
    - The state needs to revisit entirely how it funds education spending to make it easier to understand and have proper economic nudges.

Governor Scott Delivers Budget Address

Governor Phil Scott delivered his eighth budget address, proposing strategic investments and funding for current services in his $8.6 billion Fiscal Year 2025 budget The Governor's Budget Address continued working through the three areas he highlighted in his State of the State address: affordability, public safety, and housing, without imposing new taxes or fees on Vermonters. Read VLCT's update: **What Governor Scott's Proposed Budget Means for Municipalities**.

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Affordability

- Urged lawmakers to collaborate on addressing core challenges and acknowledged the budget pressures after record spending and reduced pandemic aid. The proposed budget is $8.6 billion, with a 3.57% growth in the General Fund.

Public Safety

- Acknowledged challenges in the implementation of laws raising the age of criminal accountability and proposes repealing 2018 bail changes, increasing accountability for violating conditions of release, and adjusting “Raise the Age” thresholds.
- Highlighted Vermont’s efforts in addressing the opioid epidemic and proposes using $4.9 million in opioid settlement funds for treatment and recovery services, overdose prevention, and mental health initiatives.

Housing Crisis

- Used this as an opportunity to pitch his tripartisan bills, H.719 for investment in smaller areas, tax credits, zoning changes, and additional funding for housing programs.

He acknowledged that the realities of a super majority mean that the democratic-progressive coalition does not need to listen to him. The tone of the address was not as well received, with the legislative leaders feeling that he took unnecessary jabs.

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Budget Adjustment Act Passes House

The annual true-up to the previous session's $8.69 billion budget, referred to as the Budget Adjustment Act (BAA), passed the House this week. The primary focus of the BAA is strategic investments of the $132 million in one-time revenue forecast upgrades, transfers from other funds, reversions, and interdepartmental transfers to housing and various other areas of need.

- **Housing:** the BAA includes about $85 million in appropriations aimed at housing, including;
    - $13.2 million to address emergency housing needs through the General Assistance Emergency Housing program with language to cap the rates that the DCF can pay for hotel and motel rooms.
    - $4 million to establish shelters in five communities.
    - $30M of unobligated ARPA funds to VHCB for equitable and affordable housing.
    - $25M of unobligated ARPA funds to VHFA for its Middle-Income Homeownership Development and Vermont Rental Revolving Loan Fund programs.
- **Flooding:** In response to the July 2023 flooding event, additional expenditures of $56.59 million from the fiscal year 2024 budget are required for FEMA matching funds ($30 million), Emergency Relief and Assistance Fund (ERAF) ($6 million), and assistance ($15 million)to impacted municipalities.

Read more here.

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Future Economic/Workforce Development Omnibus Bill

It's hard to talk about workforce development when there isn't a workforce to develop, and that is why you may feel as if this topic is neglected. That said, important changes have been proposed for major elements of the state's workforce development ecosystem.

There are multiple pieces of legislation moving independently that will likely be consolidated for time and efficiency into an economic development omnibus bill.

Career Technical Education:

- While we did not cover this in the section about the Governor's budget address, he proposes strategies to enhance Career and Technical Education (CTE) by;
    - mandating pre-tech and exploratory CTE courses in 9th and 10th grades, fostering partnerships with local high schools and CTE centers, and starting it earlier in education ensures career enrichment for 6th-8th grade students.
    - He also advocated for **funding CTE centers directly to eliminate competition for students and tuition dollars**, a long-standing priority of the business community.
- House Commerce heard the report required by Act 55 earlier last week, which outlined reform to the system.

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VEGI:

- The Vermont Employment Growth Program is the only economic development program that the state has and is always under threat from progressive lawmakers despite the fact that there is no such thing as a failed VEGI application.
- Legislation has been introduced to remove the sunset on the VEGI and create a new forgivable loan program incentive targeted at smaller Vermont businesses.

Baby Bonds:

- State Treasurer Mike Pieciak was thinking of long-term economic and workforce development when he introduced this proposal to seed investment accounts for children born into low-income families with an initial deposit of $3,200 for each eligible child, known as a "designated beneficiary."
    - The Treasurer's office would administer the trust, which would grow through investments over time.
    - When a beneficiary turns 18, they can access the funds for certain **approved expenses, including education, buying a home, starting a business, or rolling it over into retirement** savings, *but only after completing a financial literacy requirement.*
- The program would be funded with unclaimed property that currently gets remitted to the general fund, so it is free money, however, it is currently in use and will need to be offset.

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- The proposal has received overwhelming support and is set to glide through the legislature.

Elsewhere In The State House

Hundreds of hours of committee discussion each week culminate into our advocacy update, so not everything makes it into the overall update; however, we often cover what is left on the cutting-room floor here for our most dedicated readers.

- Read updates from Week 1, Week 2, and the last session's recap.
- The Senate **sustained the Governor's veto of the bottle bill** this week in what could be seen as a test of the supermajorities' ability to override vetoes.
- The House Committee on General and Housing took testimony on a pro-union bill, S.102, that would do two things;
    - **Captive audience:** the bill would prevent employers from communicating with employees about political or religious beliefs, which sounds simple on its face, however, then you think about how subjective that is and observe the legal challenges in states that have enacted similar legislation.
    - **Card check:** the bill would allow union organizers to bypass an election process by only receiving signed cards from 50% +1 employees, excluding many employees and depriving those approached privacy when deliberating and selecting their choice as typical in other elections.

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- Speaking of pro-union, expect that after the Senate Economic Committee gets out their Be Home Act, they'll turn their attention to a **constitutional amendment in support of Vermonters' right to unionize.**
- The conversation continues over the changes to the state's **Renewable Energy Standard,** with the current sticking point being the future of the net metering program.
- Speaking of state energy policy, Governor Scott today announced the **appointment of Ed McNamara as chair of the Public Utility Commission (PUC)**. McNamara most recently served as general counsel for the Agency of Natural Resources (ANR), where he worked on a range of legal issues reflecting the significant regulatory diversity covered by the Agency.

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