May 5: LOT, Flood Bill, and CHIP Approach the Finish Line

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So far, May has been mostly showers, but we might be about to collect some flowers. Last week the proposed Community Housing and Infrastructure Program (CHIP) cleared critical hurdles in the House. In this ***Weekly Legislative Report,*** we show the latest arguments in favor of CHIP, explain a key advocacy moment for LOT and PILOT funds, and share some reading ideas with you.

CHIP Sees Big Changes in House Committees

Last week, the House Committee on Commerce and Economic Development and the House Committee on Housing and General Affairs each heard testimony on the proposed Community Housing Infrastructure Program (CHIP) and voted to advance the bill S.127 with amendments. S.127, now 70 pages, appears to be destined to make it to the finish line as this year's housing omnibus.

Before the vote, Julie Hance, Chester Town Manager, provided testimony on an exciting housing project in Chester likely to benefit from CHIP.

The bill will be picked up by the House Committee on Ways and Means on Tuesday, where VLCT will again take the chair to testify in favor of this vital legislation. Recent changes to CHIP include:

New Definitions:

- **Household of low income:** a household earning up to 80% of area median income, as defined by the U.S. Department of Housing and Urban Development.

- **Household of moderate income:** a household earning up to 120% of area median income, as defined by the U.S. Department of Housing and Urban Development.
- **Low- or moderate-income housing:** housing for which the total annual cost of renting or ownership does not exceed 30% of the gross annual income of a household of low or moderate income.
- **Low- or moderate-income housing development:** a housing development of which at least 20% of the units are low- or moderate-income housing units. Low- or moderate-income housing units shall be subject to covenants or restrictions that preserve their affordability until all indebtedness for the housing infrastructure project of which the housing development is part has been retired.

New State Property Tax Increment Formulas:

- **For low- or moderate-income housing development:** up to 80% may be retained for up to 20 years. The original taxable value plus 20% of new increment will be contributed to the Education Fund annually.
- **For Market Rate Developments:** up to 70% may be retained for up to 20 years. The original taxable value plus 30% of new increment will be contributed to the Education Fund annually.

New Eligibility Requirements:

- At least 70% of the gross floor area of the projected housing development is dedicated to housing.

- The Housing Infrastructure Agreement between the Developer and Municipality include provisions and "sufficient remedies" to ensure that any housing unit within the housing development be initially offered exclusively as a "bona fide domicile" (full-time residence).

- In addition to all Tier 1a and Tier 1b areas and "existing settlement areas", areas that will be eligible for CHIP eligible include Tier 2 areas with permanent zoning and subdivision bylaws ***and*** where the project site would be eligible to become Tier 1 when the public improvements are complete.

You may be thinking that just when we all started to grasp what may or may not be Tier 1a, Tier 1b, or Tier 2, we now have "existing settlement areas" to figure out. Settlement areas exist in most Vermont communities and are already defined in Vermont statute under Title 10.

An "existing settlement area" is a designated center or an existing center that:

- is compact in form and size,

- contains a mixture of uses that include a substantial residential component that are within walking distance of each other,
- has significantly higher densities than densities that occur outside the center, and
- is typically served by municipal infrastructure "such as" water, wastewater, sidewalks, paths, transit, parking areas, and public parks or greens.

VLCT Testifies that CHIP Will Grow State and Local Revenues

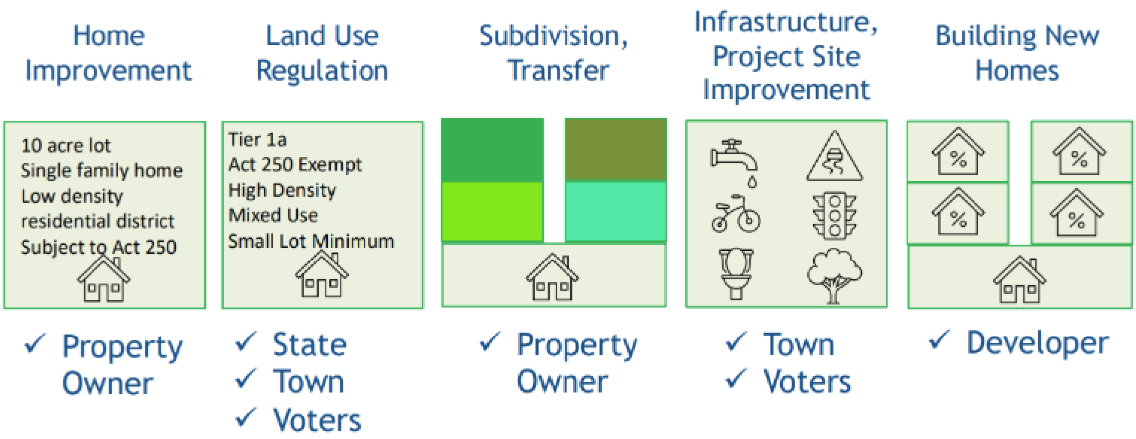
Last week, VLCT provided preliminary testimony to the House Committee on Ways and Means in advance of their receiving custody of the CHIP bill.

Samantha Sheehan testified, highlighting the opportunities that this new tax increment financing authority provides so municipalities can grow grand list revenue and support housing development without seeking new appropriations from the legislature.

Samantha laid out the many new state and local revenues likely to flow from new mixed-use developments, including those that already feed the Education Fund like Sales and Use Tax and Meals and Rooms Tax, and those that already support various state appropriated programs to support affordable housing, like the Property Transfer Tax.

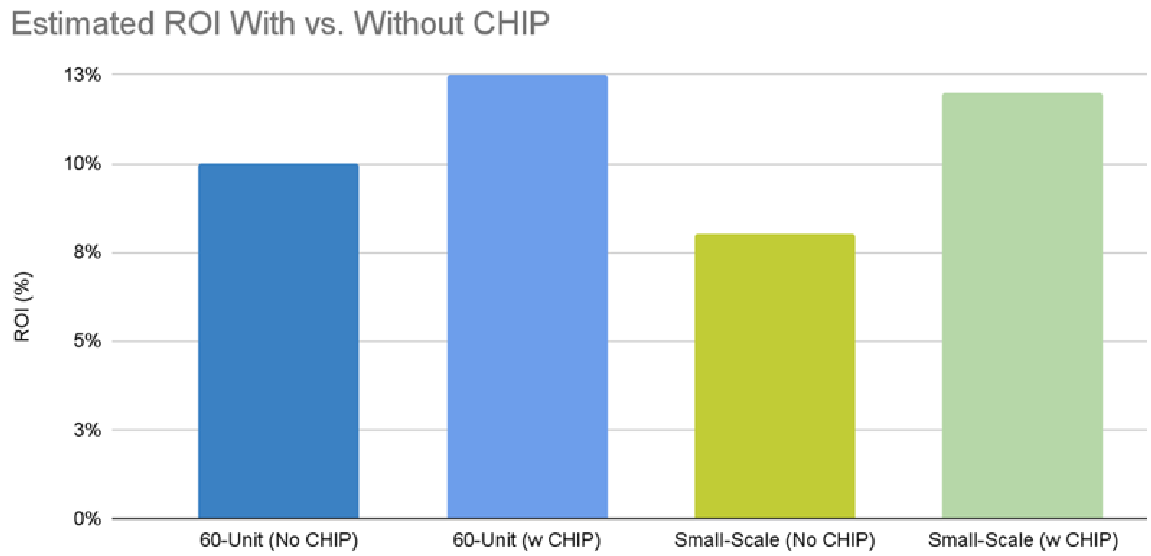
VCLT is making the case that CHIP is the best proposal to spur new housing development because it does not use any state appropriation, does not require an increase in municipal tax rates or water rates, grows other non-property tax state and local revenues, and increases state and local tax capacity long-term by growing the grand list.

Tools for Adding Property Tax Capacity to the Grand List



New Analysis Shows CHIP Will Make Vermont More Affordable to Live In

A recent report released by AARP of Vermont and Smart Growth America (SGA) shows that the proposed 80/20 increment formula for low- and moderate-income developments would incentivize new projects and significantly leverage the common funding stacks available for affordable housing development. SGA modeled a $25 million, 60-unit project, with 25% affordable units, achieved by utilizing existing 4% Low Income Housing Tax Credits (LIHTC), one of the most effective, available, and broadly used subsidies for new affordable housing.



The SGA analysis finds that "the CHIP program significantly improves the project's feasibility and financing structure," and that "the lower equity requirement means the developer could, for example, offer more affordable rents or accept a slightly lower profit and still move forward, because the financial gap is smaller."

Through existing state programs, the General Fund already pays for substantial public infrastructure costs for affordable housing developments. Throughout CHIP testimony, developers have demonstrated a $60,000–$80,000 per unit cost just for public infrastructure. Allowing this enhanced tax increment for public infrastructure that supports affordable housing projects will alleviate those existing expenses and allow the $127 million dedicated to affordable housing development in FY24 to stretch farther and support actual home construction.

The bottom line is that CHIP improves project feasibility for most housing use cases, but especially for subsidized affordable housing projects by:

- **Supercharging recent state land use reforms to incentivize inclusionary units in Tiers 1a & 1b**: Act 47 of 2023 (the HOME Act) requires municipalities to provide a 40% density bonus and one floor bonus of habitable space to affordable housing projects on municipal water and sewer. See the DHCD summary here. This is enhanced by Act 181 reforms that exempt those same areas from Act 250, and by CHIP, which would provide public financing for the water and sewer upgrades needed to realize housing.

- **Combining with existing income-verified state subsidy to achieve deeper affordability or higher feasibility**: Most state affordable housing dollars are obligated to include smart growth criteria that use location-based eligibility to incentivize affordable housing in downtowns and villages. Nothing in CHIP would prohibit affordable or mixed-income developments from accessing other programs such as those offered by VHCB, DHCD, VHIP, or the VHFA-subsidized loans including for missing middle and designated areas; Vermont State Housing Authority rental vouchers; municipal housing trust fund dollars (several exist); LIHTC tax credits; Vermont Downtown & Village Tax Credits; Historic Tax Credits; and CBDG grants. CHIP not only improves feasibility for these projects but enhances this long-held state policy to make affordable housing available in the places we most want growth to happen.

The Vermont Housing Finance Agency (VHFA) has determined that we need to build 36,000 new homes over the next five years – just as global and local market forces are colliding against the feasibility of home construction. Our construction workforce is aging, tariffs and lingering pandemic effects are driving up the cost of building materials, and the scarcity of housing keeps pushing the cost of developable parcels higher and higher. According to Smart Growth America, the total cost to construct a modest apartment or small home in Vermont has surged to approximately $500,000, up from about $370,000 in 2022.

For too long, Vermont communities have been powerless to bend these curves. That is why VLCT members are calling CHIP a “gamechanger”. VLCT will keep pushing to ensure that this transformative new policy passes through the legislature and to Governor Scott with broad support and becomes state law before another construction season passes us by.

Last Chance for LOT Refund and PILOT Surplus

As the session winds down, next week may be the last chance to return Local Option Tax (LOT) payments and PILOT surplus funds to the municipalities that generated these overpayments to the state.

Local budgets need relief! Now is the time to let your Senator know how important returning these municipally generated tax dollars is to your community.

Last week, the Senate Committee on Government Operations heard testimony from Barre City Manager, Nicolas Storellicatro and Vermont Emergency Management on H.397 (the Flood Bill), which contains many provisions VLCT has been fighting for throughout this session including:

- **Reform of Local Option Tax formula:** H.397 includes a revision to the Municipal/State 1% LOT formula, moving it from 70/30 to 75/25. An additional 5% return of these locally raised taxes to municipalities is welcome and will help support stressed budgets, but we believe municipalities should be receiving a larger share of the 1% LOT that their voters have approved. On behalf of all municipalities, VLCT supports an 80/20 LOT formula and believes current PILOT Surplus funds and newly approved LOTs in five Vermont municipalities will ensure fully funded PILOT payments going forward.

- **Municipal authority to create and maintain an Unassigned Fund Balance:** Establishing an Unassigned Fund Balance is a prudent practice recommended by numerous auditors and governmental finance professionals that would assist municipalities in cash flow management, stabilize the local property tax rate, improve emergency response, and significantly strengthen their financial resiliency in the case of unexpected negative economic trends.

- **Municipal authority to borrow for emergency response for up to five years of debt service:** In the wake of flooding and other hazard events, municipalities cannot wait to rebuild vital town infrastructure or to restore municipal services. State law substantially limits the authority of local legislative bodies to acquire funding for emergency response as they can only take on debt for up to one year without a town vote, while FEMA public assistance reimbursement can take much longer.

- **Extends reimbursement to municipalities of state Education Property Tax abatement for flood-damaged properties:** Extends the date for eligible flood-abated properties for declared federal disaster between July 1, 2023, and December 31, 2024.

- **Municipal grand list stabilization for flood sales:** Allows the Vermont Department of Taxes to reimburse municipalities for local property taxes assessed (for up to 10 years) for flood-prone properties acquired by a municipality under a voluntary buyout program operated by the Division of Emergency Management. The Grand List Stabilization Program is funded from a $1million transfer of PILOT surplus funds.

- **VLCT is still advocating the return of a provision, once in H.397, to establish level debt service:** Current statute requires municipal loans to be level principal, meaning that debt payments start high and decrease yearly as the cost of interest goes down. Municipalities should have the option to structure level debt by amortizing the debt to allow for consistent repayment amounts. This would help stabilize local property tax bills and is more within the national norms of government borrowing.

Next Up for Senate Committees

In the week ahead, the Senate Government Operations Committee is scheduled to hear a series of proposed charter changes and consider the miscellaneous elections bill, while the Senate Finance Committee (hopefully) wraps up its work on the "mega bill", H.454, an act relating to transforming Vermont's education governance, quality, and finance systems – which includes the new reappraisal law and changes to property classes for the purpose of the state education grand list.

Once the Charters, Elections, and Education bills move, these two committees are expected to make final mark-ups and vote out the Flood Bill. So far, advocates and bill sponsors working on the Flood Bill expect to avoid conference committee and see the bill off from the Senate floor to the governor's desk for signature. With drafting work for the Yield Bill and Big Bill (for FY26 appropriations) already wrapped up, the Flood Bill represents our last chance to fix the LOT formula and send home PILOT surplus dollars to the cities and towns that need them.

What We're Reading

Here are a few bills and recent reporting on legislative happenings that we are interested in:

- Property Tax Yield Bill: H.491

- Vermont Education Transformation and New Reappraisal Districts: H.454 (and see recent VLCT Testimony to Senate Finance)

- Flood-related expenses and lost revenue could resound for years – and not just in Barre, VTDigger

- Some Lawmakers Want to Revamp How Real Estate is Assessed as Part of VT's Ed Reform, Seven Days

Take Action

Normally we have just a few more weeks to go. Can the key housing, property tax, education reform, and budget bills make it in time? Stay up to date on the status of VLCT's priorities by reading our weekly legislative reports and testimonies and attending our advocacy chats. (The last regularly scheduled chat is today. We plan to extend advocacy chats if the legislative session is extended through May).

Take action by contacting your local representatives and sharing how critical bills will help your community.

Stay up to date on VLCT's ongoing advocacy work:

- Remember to register for and attend our **bi-weekly Advocacy Chats**, which are held via Zoom every other Monday at 1 PM during the legislative session.

- You can find (and share) this legislative report and future reports and alerts on our main Advocacy webpage.

- To support VLCT's advocacy work; participate in policy development, testimony, and legislative actions; or just learn more, reach out to Josh and Samantha by email at jhanford@vlct.org and ssheehan@vlct.org.

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