

# WEEKLY LEGISLATIVE REPORT



VERMONT LEAGUE OF CITIES & TOWNS

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## American Rescue Plan: Week 5

It has been a busy week in the American Rescue Plan Act (ARPA) world.

On Tuesday, Governor Phil Scott unveiled his proposal for use of the \$2.7 billion in ARPA funds to Vermont. “With \$198 million in direct funds to local governments,” he said, “we have tremendous opportunities to work with our communities to be strategic and spend this money in the most advantageous and transformative way.” His proposed budget focused on five categories:

- economic development (\$143million),
- climate change (\$200 million),
- water and sewer infrastructure (\$170 million),
- housing (\$249 million), and
- broadband/telecom/connectivity (\$250.5 million).

The proposal avoids using one-time funds for ongoing programs, something the governor has cautioned against as COVID-19 relief money has begun to flow to the state.

VLCT created an [American Rescue Plan webpage](#), which we urge you to visit for the most up-to-date information. The webpage will also serve as a focal point for the new VLCT ARPA Coordination and Assistance Program. If you have suggestions for additional information, please let us know!

On Thursday, Rebecca Ellis, State Director for U.S. Representative Peter Welch, and your Advocacy staff testified before the legislative rural caucus. Ellis explained the funding in the legislation and updated the status of local aid going to towns. She indicated that the county allocation of \$121 million in Vermont will likely be distributed to towns and cities, including metro-Burlington. To get an idea of how much that might mean to your own community, look at Vermont’s total population according to the 2019 American Community Survey of the Census (because 2020 Census numbers are not expected to be published before September). That number, 623,989, means that approximately \$199 per capita is due to the towns in each county. In Vermont, that amount will be added to the local direct aid going to the towns.

The Senate and House agreed on the terms of H.315, the COVID-19 aid bill that will shortly be on its way to the governor's desk for his signature. According to that legislation:

- a. The sum of \$950,000 is appropriated from the American Rescue Plan Act of 2021 – Coronavirus State Fiscal Recovery Fund to the Agency of Commerce and Community Development to be granted as follows:
  1. \$650,000 to establish a support program through state fiscal year 2024 for the use of federal funds received under 42 U.S.C. 801 603, the Coronavirus Local Fiscal Recovery Fund. These resources shall be used to work with local governments to facilitate the local communities' efforts to:
    - A. respond to the public health emergency with respect to COVID-19 and its negative economic impacts;
    - B. assist with fund reporting, accountability, transparency, and usage technical assistance where necessary;
    - C. provide for other guidance to ensure the funds received pursuant to 42 U.S.C. 801 section 603 funds are used in accordance with federal law and regulations; and
    - D. provide guidance; model templates and policies; and training on ARP compliant finance and program management.

VLCT has begun recruiting for the position of ARPA Outreach and Finance Assistance Coordinator (see advertisement on the [American Rescue Plan webpage](#)), and we expect the program to be up and running in the near future. In the meantime, send any questions regarding ARPA funding to [khorn@vlct.org](mailto:khorn@vlct.org).

#### Resource

- [Rebecca Ellis's presentation on ARPA funding to the legislative rural caucus](#)

## **Accelerated Community Broadband Deployment**

The Senate Finance Committee spent this week thoroughly examining [H.360](#), a bill that would accelerate broadband deployment in Vermont. (See [Weekly Legislative Report No. 12](#) for our own review of the bill.). The committee compared H.360 with [S.118](#), a senate bill that also addresses broadband, deployment, to determine the merits of both. They discussed whether prioritizing communication union districts (CUDs) over other internet service providers (ISPs) is the best way to deliver broadband to the last mile. Committee members also considered how broadband deployment should be funded by comparing S.118 with the [governor's proposal](#) that would use funds from the American Recovery Plan. Testimony from CUDs, ISPs, and the Department of Public Service mainly concerned how broadband can be made more affordable to Vermonters.

The House Energy and Technology Committee spent two months crafting H.360, and although a review of the bill will not take as long, Senate Finance will likely spend the next several weeks reviewing it along with related proposals.

## Eliminating the Local Option Sales Tax?

On Thursday, Rep. Janet Ancel, Chair of the House Ways and Means Committee, opened a discussion on eliminating the local option sales tax and replacing it with a grant program that would allocate one percent of sales tax revenues to a revenue sharing program for cities and towns. Sales tax revenues are far outpacing projections right now and all sales tax revenues – except for the one percent locally adopted option sales tax in sixteen towns – are dedicated to the Education Fund.

According to Ancel, one percent of the sales tax would be dedicated to municipalities and distributed to all cities and towns. The sixteen municipalities with a local option sales tax would theoretically continue to receive the amount their tax generates now. Vermont's Payment in Lieu of Taxes (PILOT) to towns and cities for state-owned buildings would also be taken out of the one percent sales tax revenues. The current six percent sales tax might be broadened and reduced. Any voter-adopted local option sales tax would be eliminated.

Several committee members of the Ways and Means expressed interest in pursuing the idea because it could produce a more equitable distribution of revenues to towns. Others wanted to know how the cities and towns would use any funds that the legislature "gave" to them. They also were concerned that hub communities (shire towns) – whose taxpayers pay for services that also benefit surrounding communities such as commercial and retail centers, social services, courts, full-time fire departments, and emergency medical services – need the revenues from their adopted local option sales tax to broaden the revenue supporting those services beyond just the municipal property tax. The concept appealed to one committee member if it were coupled with the Tax Structure Commission's recommendation to move the education tax for owners of residential properties entirely to an income tax. And Rep. Masland reminded the committee of [H.425](#), a bill that would create a local revenue distribution working group to study and propose a new structure for the state to distribute funds to municipalities.

The harsh reality is that local governments have good reason to be wary of the purported largess of a one percent sales or any other tax dedicated to local government purposes. The legislature has generally been unable to sustain the dedicated purpose of a proposed or actual increased tax in order to fund municipal programs. An idea that sounds good when revenues are flush quickly loses legislative appeal when revenues decline or when priorities change.

In 1988, as part of Act 200, the comprehensive rewrite of Vermont's land use planning law, a property transfer tax was imposed on the principal residence of a transferee of property at a rate of one-half of one percent of the first \$100,000 of value, and a rate of 1¼ percent of the value of the property transferred in excess of \$100,000. In that same year, \$1 million was distributed to municipalities from that dedicated source to support municipal planning efforts. In 1990, the law was changed and all property transfer tax revenues were deposited into the General Fund. Also in 1990, the Municipal Planning Fund was allocated \$1.125 million to be distributed in grants to municipalities. In 1994, 1995, and 1996, the Municipal Planning Fund received *no* money; since 2015, the fund's annual appropriation has averaged \$457,482.

After searching for a revenue source for several years, the legislature in 2015 imposed a 0.2 percent property transfer tax surcharge on certain properties; revenues from that surcharge went to the Clean Water Fund to help finance construction of mandated stormwater management projects. That surcharge

is in place until 2027. In 2016, the first \$1 million in revenue was repurposed to Vermont's Housing and Conservation Trust Fund to help finance the construction of housing, an absolutely worthy cause that benefited from a result of a shift in legislative priorities to the detriment of the Clean Water Fund.

Last year, Rep. Ancel adamantly opposed the Senate proposal in S.54 that gave a portion of a new tax on retail sales of cannabis to municipalities that host retail facilities. As a result, no share of those taxes accrues to host municipalities. Instead the Vermont Cannabis Control Board will establish fees that municipalities may charge.

The bottom line is that what the legislature gives, the legislature can – and frequently does – take away. While a revenue sharing program would help towns across the state, several questions remain: How long would such a program last, and why would it be dependent on taking the local option tax away from those towns and cities that have enacted it?

It is harder to take away voter-enacted revenue sources. VLCT's Municipal Policy states at section 1.02 (4) "VLCT supports providing each municipality the authority to adopt local option taxes through a vote of the local voters."

Clearly this is an enormously important issue for local governments across the state, regardless of whether or not they assess a local option sales tax today. And there is likely to be far more discussion to come.

#### Resource

- [House Ways and Means Committee Meeting](#) (April 8, 2021)

## Bernie Meets with Vermont Municipalities

On Thursday, U.S. Senator Bernie Sanders held a virtual meeting with local officials around the state to discuss the impacts of the coronavirus on their governments and residents. Introduced by new VLCT Executive Director Ted Brady, the discussion highlighted the experiences of municipal officials – from the perspectives of the clerk's office in Barre City, the town manager in Wilmington, the recreation director in Rutland City, and the mayor in Winooski. As Sanders emphasized, we are living in crazy times. Clearly, however, local governments have risen to the challenge and are committed to continuing that work as money from the American Rescue Plan Act (ARPA) comes to the state and local governments.

Sanders is especially concerned with how the ARPA funding to towns can help with recreation and after-school opportunities and with deploying broadband service to underserved areas, particularly for lower income households who will need help accessing available resources.

"A lot is going to come down onto your desks, guys," understated the senator at the conclusion of the hour-long session. ... "If I have my way, and Senator Leahy and Congressman Welch have their way, we're talking about trillions of dollars, trillions of dollars, a lot of money coming into the state of Vermont and you're going to have to balance so many things – it ain't gonna be easy. But I would think we can all agree we would rather be in that position of figuring out how we spend money than not having any money

to spend. So we are going to give you that challenge – make your lives difficult – but I think it’s a good difficulty that you will appreciate having.”

The meeting is archived on the senator’s Facebook page, [www.facebook.com/senatorsanders](http://www.facebook.com/senatorsanders).

## Public Safety Vehicles and Blue Lights

The House and Senate Transportation committees are working on two different bills, [H.56](#) and [S.40](#), that address colored signal lamps on certain vehicles used by emergency public safety personnel, an issue that has been the subject of legislative discussion many times in the past. Both bills address the use of blue and amber colored signal lamps on law enforcement, emergency medical service (EMS), and fire department vehicles. Under current law, law enforcement vehicles are permitted to display blue and white lights, while fire and EMS vehicles may display red and white lights. Both bills would expand the use of blue signal lamps to non-law enforcement rescue vehicles. The bills deviate in terms of how much the use of the lamps would be expanded, however the Senate Transportation Committee is considering altering the language of S.40 to more closely align with that of H.56.

[“Effects of Warning Lamp Color and Intensity on Driver Vision,”](#) a 2008 report written by the University of Michigan and supported by several federal agencies, has shown that the use of blue signal lamps are the most visible of colored signal lights and most effective in different lighting and weather conditions. Those benefits conflict with the expectation by the general public in Vermont that a blue light signifies the presence of law enforcement. The question the committees are grappling with is whether the safety benefits outweigh the value of public recognition of law enforcement vehicles. Both committees appear to be moving in the direction of permitting blue lights on non-law enforcement public safety vehicles, and determining the details of such a switch is the issue at hand. The Legislative Council crafted a [comparison of the bills](#).

Both committees will continue to review both bills in the coming weeks.

## Elsewhere in the State House

Several bills of concern to local governments moved from the Senate to the House ahead of the Crossover deadline, and House committees are now taking them up.

**Rental Housing.** Last week, the House General, Housing, and Military Affairs Committee heard testimony in support of [S.79](#), the bill to establish a rental housing registry and shift responsibility for rental housing inspections from the local health officer to the Fire Safety Division of the Department of Public Safety. Members of the Rental Housing Advisory Committee (which includes a VLCT representative and health officers from a large and a small community) testified about the unreasonable expectation that volunteer health officers without professional training would ensure that rental housing meets state standards. The longstanding problem has been accentuated during the pandemic as health officers have either resigned or have been unwilling to enter people’s homes to conduct inspections.

According to a report of that committee from last year, there are approximately 80,000 rental units in the state, of which 70,000 are occupied. An estimated 7,000 occupied units are substandard. Another 4,000 units are both unoccupied and substandard. Readers may recall that several initiatives of the Department of Housing and Community Development, including the Vermont Housing Investment Program, would send funds to owners to help them undertake the retrofitting work to bring those units up to standard.

Those towns and cities that have regular inspection programs in place may continue to administer them and to collect rental unit fees. They would provide any data they collect to the state rental housing registry maintained at the Department of Housing and Community Development.

The committee is likely to revisit S.79 next week.

**Project-Based TIF.** On Thursday, the House Commerce and Economic Development Committee heard testimony that supports [S.33](#), a bill that would establish a project-based tax increment financing (TIF) program. The program authorizes the Vermont Economic Progress Council to approve up to ten project-based TIF districts over the course of the next five years. Under this pilot program, smaller and more rural communities could use municipal and education tax increment financing to fund one qualifying infrastructure project.

A municipality would be eligible for a project that serves one or more active designations by the Vermont Downtown Development Board under 24 V.S.A. Chapter 76A (downtown, village or growth center, new town center or new neighborhood). Municipalities in the pilot program would be able to use a portion of newly generated education and municipal property tax revenues from the resulting private development projects to repay a portion of the annual debt service for the public improvement project. While the infrastructure debt is being repaid, the education property tax revenue based on the property's original taxable value that was in place before the improvement project would continue to go into the Education Fund. The municipality would retain up to 70 percent of the new, increased education property tax revenue generated by the project to finance the debt incurred to pay for infrastructure costs. The remaining 30 percent would go to the Education Fund.

A project would need to meet one of four criteria:

- include new or rehabilitated affordable housing;
- affect remediation and redevelopment of a brownfield located in the district;
- include at least one entirely new business or business expansion; or
- enhance transportation by creating improved traffic patterns and flow or by creating or improving public transportation systems.

The committee expressed some concern that, because of the federal money flowing into the state, now may *not* be the time to initiate such a pilot program.

**Oath of Municipal Office.** This week, the Senate Government Operations Committee voted out [H.154](#), a bill that would create a municipal office vacancy if an officer failed to take the oath of office. Under the bill, an office would become vacant if a municipal officer refused or neglected to take an oath of office within 30 days of election or appointment. An office would not be deemed vacant until the municipality's legislative body had warned a regular meeting for that purpose and offered the officer an opportunity to

take the oath of office at the meeting. The legislation narrows the offices impacted to clerks, selectboard members, constables, listers, and fence viewers – that is, those offices included in 24 V.S.A. § 831.

The bill passed out of committee favorably and with no amendments. It now heads to the Senate for final consideration.

**Trapping of Nuisance Animals.** In early February, the House Natural Resources, Fish, and Wildlife Committee took testimony on [H.172](#), a bill that would prohibit the trapping of animals unless conducted by a licensed nuisance wildlife control operator, and which would also establish a nuisance wildlife trapping license. VLCT continues to follow this bill because it could potentially affect a municipality’s ability to control nuisance animals, particularly towns that use nuisance trappers to protect critical infrastructure such as culverts and roads. Although the bill did not meet the crossover deadline, some of its provisions could be attached to [H.446](#), a House Natural Resources Committee bill that addresses miscellaneous natural resources provisions and which is now in the House Ways and Means Committee.

## New Bills That Affect Municipalities

BILL NUMBER	BILL SUMMARY	CURRENT LOCATION
<a href="#">H.444</a>	Would approve amendments to the charter of the City of Barre to enumerate the flags that the city may fly; authorize the city to adopt an ordinance that establishes a speed limit of less than 25 miles per hour on city streets; and eliminate certain references to the office of first constable.	House Government Operations
<a href="#">H.445</a>	Would approve an amendment to the charter of the Town of Underhill to establish a procedure for the recall of elected town officers.	House Government Operations
<a href="#">H.446</a>	Would make changes to miscellaneous natural resources and development subjects: (1) increasing the amount that can be disbursed from the Environmental Contingency Fund during an emergency caused by a release of a hazardous material; (2) authorizing for additional purposes than those currently allowed the transfer of funds from the Solid Waste Management Assistance Account to the Environmental Contingency Fund; (3) making technical corrections to solid waste law; (4) municipalities would not be liable for a hazardous material release when participating in the Brownfields Cleanup Program under specified circumstances; (5) amending standard procedures that the Department of Environmental Conservation follows in issuing certain permits; (6) striking the requirement that operators of salvage yards undergo annual training; and (7) amending notice requirements under Act 250.	House Nat. Resources, Fish, and Wildlife