Senate Finalizes Work on Budget

Yesterday and today, the Senate took up their Appropriations Committee’s rewrite of H.439, the Big (Budget) Bill. “This is as complicated a budget as I ever put together in the Senate,” said Senate Appropriations Committee Chair Sen. Jane Kitchel. The legislation includes reallocations of Coronavirus Relief Fund moneys, more than $1 billion in American Rescue Plan Act (ARPA) funds, and one-time General Fund revenues that exceed $211 million. It also includes an Education Fund that is $7.7 million ahead of projections in the first three months of the year, largely due to sales tax and lottery revenues.

As new legislation was passed at the federal level, the appropriations process in Vermont evolved. In January, Governor Phil Scott proposed a total budget of $6.8 billion. The House passed a budget of $7 billion and the Senate passed a budget totaling $7.2 billion. And that tells only a portion of the story.

“Complicated” is an understatement. The table on page 3 indicates appropriations of concern to local governments, but it is by no means an exhaustive list. The House-passed version of H.439 lists appropriations sections of the bill that are different from the Senate passed version, which places all ARPA appropriations in a new “G” section. If you want to peruse the myriad details, click the linked resources below.

Of note is that the Senate Appropriations Committee transfers the responsibility for paying “normal” retired teachers’ health benefits (that is, those currently accruing) to the Education Fund at a cost of $14 million. The legislature did the same thing with currently accruing retirement benefits in 2018. As well, S.100, the universal school meals legislation, will represent an $8 million expense to the Education Fund. Negotiations around implementing the Pupil Weighting Factors Report (see page 5) and the potential that the Tax Structure Commission Report will be taken up in 2022 introduce more uncertainty into the Education Fund’s future.

Although property transfer tax revenues are running far ahead of projections, the appropriation for Municipal Planning Grants sadly remains at $457,000, where it has been since 2015.
In addition to the budget, we count 17 other bills that contain appropriations. Those bills still need to be resolved and – presumably – incorporated into the budget before the session ends.

Once H.439 passes the Senate (probably today), it will go back to the House, where a conference committee will be assigned to work out any differences between the House- and Senate-passed versions of the bill.

The Senate bill appropriates $7.1 billion altogether, which includes $479 million in ARPA funds and $207 million in General Fund appropriations and transfers. (See Senate Appropriations Committee Proposed Amendment Highlights below.)

Resources
• FY22 Big Bill Senate Web Report
• Senate Appropriations Committee Proposed Amendment Highlights
• FY22 Senate Appropriations One-Time General Fund Expenditures
• FY22 Senate Appropriations ARPA Funding

The End is Nearly Nigh

The fact that the Budget Bill was on the Senate floor yesterday and will be again today signals that the end of the session is near. We expect that date to be Saturday, May 22.

At the end of each session, bills hurtle around the committees, and legislation previously left for dead finds new life by being tacked onto bills that are only tangentially related to their subject. During every session – but especially in 2021 with the virtual State House – deals are cut behind the scenes that produce results no one anticipated. Committees stop taking testimony. Conference committees, when assigned, are urged to act fast … except when they aren’t. Some legislator’s priority bill will almost certainly be taken hostage in order to convince recalcitrant conferees to bend to the other chamber’s will. What is exceptional this year is the mind-boggling amounts of money being discussed in multiple committees – from the Coronavirus Relief Fund, the COVID-19 Economic Relief Bill, the American Rescue Plan Act, the state General Fund, Transportation Fund, Education Fund, as well as a few we have probably forgotten.

At some point, you just need to sit back and watch it all happen: The action is no longer in the hands of advocates.

We should have one or two more Weekly Legislative Reports this session, and our final Advocacy Chats are scheduled for May 3 and 17 – but we won’t know the final results of many negotiations until after the session has ended and the legislative dust has settled.

We will summarize all of the 2021 legislative action in our annual Legislative Wrap-Up, which you can expect to see in early June.
## H.439 – Appropriations FY22 (in millions of dollars)

<table>
<thead>
<tr>
<th>Budget Item</th>
<th>Act 154 Adjustment FY21</th>
<th>Governor Proposed FY22</th>
<th>House Passed FY22</th>
<th>Senate Proposed FY22</th>
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<tr>
<td>(GF) Homeowner Rebate (B137)</td>
<td>$16.6</td>
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<td>(GF) Renter Rebate (B138)</td>
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<td>(GF) Tax Dept. Reappraisal and Listing (B139)</td>
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<td>(LOT 30%) PILOT State Buildings (B142)</td>
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<td>(GF, EF, FF, Other) Education Finance &amp; Admin. (B500)</td>
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<td>(EF) Special Education Formula Grants (B502)</td>
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<td>(EF) State-Placed Students (B503)</td>
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<td>(EF) Adjusted Education Payment (B505)</td>
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<td>(EF) Transportation (B506)</td>
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<td>(EF) Small Schools Grants</td>
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<td>(GF, EF) Teachers’ Retirement System (B514, E514)1</td>
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<td>(GF EF) Retired Teachers’ Health/ Medical (B515, E515)2</td>
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<td>(GF, Inter-Dept. Transfer) ANR Lands PILOT (B701)</td>
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<td>(TF) Town Highway Structures (B911, E911)</td>
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<td>(TF, TIB, FF) Town Highway Bridges (B914)3</td>
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<td>(TF) Town Highway Aid (B915)</td>
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<td>(TF, GF) Town Highway Aid Supplement (B1100.a.5)4</td>
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<td>(GF ARPA) CUDs/Broadband (B.1105 G 500)5</td>
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<td>(CRF ARPA) Economic Development (B,1104.A.1 G302)5</td>
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<td>(ARPA State Fiscal) Water &amp; Sewer (G700)5</td>
<td>100.0</td>
<td>115.0</td>
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1. $189,646,629 is the state contribution and $6,559,875 is due from local school systems or educational entities.
2. The Senate Appropriations Bill transfers responsibility for $14 million of normal health care benefits to the Education Fund, replicating action taken in 2018 to transfer normal obligation for teachers’ retirement.
3. This amount does not include local match dollars.
4. Additional $7 million in Town Highway Aid is funded with one-time dollars.
5. One-time items funded with other dollars in FY21 are largely paid for with ARPA in Senate-passed FY22 bill.

CRF = Coronavirus Relief Fund
EF = Education Fund
GF = General Fund
FF= Federal Funds
LOT = 30% local option tax share remitted to state
PILOT = Payment in lieu of taxes
TF = Transportation Fund
TIB = Transportation Infrastructure Bond
ARPA = American Rescue Plan Act

Citations in parentheses refer to the section in the budget bills where those items are found.
ARPA Week 8

The article on page 1 details the Senate-proposed appropriations from American Rescue Plan Act (ARPA) funds coming to Vermont. Vermont will not actually receive those funds until approximately May 10. We anticipate that U.S. Treasury Guidance will also be available May 10, although we are hearing rumors that it may be available next week.

Please note that both state funds and the first half of direct local aid funds will be sent to the state around May 10. The state then has an additional 30 days to deliver direct local aid to Vermont’s cities, towns, and villages. Each city, town and village that is a unit of general local government will need to provide certain certifications to the state before it can receive its funds. Documentation includes the name of the institution to receive funds, a data universal numbering system (DUNS) number, and a contact person for the municipality.

Meanwhile, VLCT continues to move ahead with hiring an ARPA Outreach and Finance Assistance Coordinator. And watch for news next week of our first webinars on the ARPA funds. Please email Karen Horn (Khorn@vlct.org) with any questions regarding ARPA direct local aid. We have already received a number of questions and are relaying several of them to the National League of Cities to help them as they work with the U.S. Treasury on guidance.

Project-Based TIF Legislation

This week, the House Commerce and Economic Development and Ways and Means committees ripped the heart out of S.33, the project-based tax increment financing (TIF) legislation that the Senate passed in March. Explained Rep. Michael Marcotte, chair of the House Commerce and Economic Development Committee, the Ways and Means Committee is concerned that “municipalities will use this [program] without any real understanding of the full ramifications of getting into a TIF.” [emphasis added] Apparently, if a municipality is interested in undertaking a project-based TIF, it may petition the House Ways and Means Committee for permission to do so. That committee would then determine if the municipality had “any real understanding of the full ramifications of getting into a TIF” and if it deserved to be granted one. Manchester, Middlebury, and Westford are among the municipalities that we have heard are interested in pursuing project-based TIFs.

House committee members also said they are also concerned that, because of the local direct aid from American Rescue Plan Act (ARPA) to municipalities, now is not the time to institute a new project-based TIF program. Even with ARPA dollars coming to Vermont towns and cities, the needs and lists of potential projects to revitalize their communities have been decades in the making and far outstrip available federal one-time funds. The project-based TIF is a tool that would allow municipalities to undertake one infrastructure project to spur redevelopment in a center designated by the Downtown Development Board, and generate a revenue stream for up to twenty years in order to repay that debt and grow the local economy.

The amendment to S.33 deleting the project-based TIF continues a disturbing trend of the legislature to doubt local officials’ competence and thus constrain the authority they may exercise. It would deny
smaller municipalities an economic development tool that has been refined over the course of several years.

Readers will recall that the project-based TIF would authorize the Vermont Economic Progress Council (VEPC) to approve up to ten project-based TIF districts between January 1, 2022, and December 31, 2026, in smaller and more rural communities. The TIF could incur debt for a public improvement that totals up to $5 million. A town approved for a project-based TIF would be enabled to use not less than 85 percent of municipal property taxes that are newly generated as a result of the infrastructure investment, and up to 70 percent of newly generated education property taxes (the increments) to repay debt that is incurred to finance construction of one qualifying infrastructure project. Smaller communities that don’t fit the size and structure of the regular TIF district program under 24 V.S.A. §§ 1891-1904 would have access to tax increment financing to pursue needed public infrastructure improvements, such as wastewater, stormwater, brownfield remediation, transportation enhancements, streetscapes, and utilities.

If your town is interested in a project-based TIF program, please contact your representatives today. Tell them in no uncertain terms how that program would enable you to build infrastructure in your downtowns. The names and contact information of the committee members are listed below.

**Ways and Means**
- Rep. Janet Ancel
- Rep. Emilie Kornheiser
- Rep. William Canfield
- Rep. Scott Beck
- Rep. Patrick Brennan
- Rep. David Durfee
- Rep. Caleb Elder
- Rep. Carol Ode
- Rep. James Masland
- Rep. Christopher Mattos
- Rep. George Till

**Commerce and Economic Development**
- Rep. Michael Marcotte
- Rep. Charles Kimbell
- Rep. Eileen Dickinson
- Rep. Warren Kitzmiller
- Rep. Paul Martin
- Rep. Emma Mulvaney-Stanak
- Rep. Logan Nicoll
- Rep. Michael Nigro
- Rep. Patrick Seymour
- Rep. Kirk White

Contact information: [https://legislature.vermont.gov/people/search/2022](https://legislature.vermont.gov/people/search/2022)

**Pupil Weighting**

The House Education and Ways and Means committees spent the last few weeks addressing the 2019 Pupil Weighting Factors Report. The report found that the current system for assigning weights to students (for the purpose of calculating aid to school districts) is deeply flawed and has been for years, resulting in underfunding of some districts, particularly those in rural areas, those with significant proportions of economically disadvantaged students and English language learners. The inconvenient truth is that revising the way pupils are counted by applying new weights will result in fluctuations in education property tax rates across school districts. And these changes will be applied to already burdensome education property tax obligations. In many (if not most) towns, the education property tax makes up 70-85 percent of the entire property tax bill.
On Thursday, the House Education Committee voted out a strike-all amendment to S.13 that came over from the Senate. (A strike-all amendment removes everything after the title and inserts a whole new bill.)

As the Senate version did, the committee’s proposed amendment would establish a six-member task force on the Implementation of the Pupil Weighting Factors Report. They would be charged with recommending an action plan and legislation to ensure that all public school students have equitable access to educational opportunities. Within eight months, the task force would need to report to the legislature on a range of education funding and quality issues including:

- how to integrate weighting calculations from the report with Vermont’s current equalized pupil, yield calculations, and excess spending threshold;
- how categorical aid (which includes special education, technical education, and transportation aid, small schools support and flexible pathways) can address cost differentials across districts;
- how to define a person from an “economically deprived background”;
- how to make the formula for calculating equalized pupils transparent;
- how to transition to the recommended weights and categorical aid to promote equity and ease the financial impact on school districts during the transition;
- statutory changes in the Agency of Education’s powers and duties to ensure all school districts meet education quality standards and improve student outcomes.

In addition, the House bill would direct the Agency of Education and Joint Fiscal Office to create an uncomplicated weighting factors simulator that would allow users to model the impact of proposed changes in weights to all school district tax rates.

While the Senate version of the bill would appropriate $150,000 to the Joint Fiscal Office for consultant expenses, the House Education Committee version would appropriate $25,000 in the event a consultant is hired.

We anticipate that S.13 will be on the House floor for debate (which may be robust) sometime next week.

**Regional Emergency Management**

The Senate Government Operation Committee is presently contemplating amendments to H.122, this year’s Boards and Commissions Bill. This annual legislation makes various amendments to – and sometimes wholesale repeals of – boards and commissions that exist in state statute. It gives the legislature an opportunity to review state-sanctioned boards and commissions and review whether they need to be updated, amended, or repealed altogether.

The committee is considering an amendment that would modify laws related to local emergency planning committees (LEPCs) and state emergency response commissions to streamline how those bodies handle hazardous materials. The amendment would also better align with federal laws and not duplicate functions that are already the responsibility of Vermont Emergency Management (VEM) and local emergency managers. The amendment introduces the concept of regional emergency management committees (REMC), which would be charged with regional all-hazard planning and preparedness to
improve their regions’ abilities to prepare for, respond to, and recover from any disaster. A consolidated statewide LEPC with local representation would be responsible for hazardous material response.

REMCs is a concept that was introduced to municipalities, local emergency management directors, and regional planning commissions over the past year and is according to VEM, broadly supported by local and regional representatives. The committee would develop and maintain a regional plan, consistent with guidance by VEM, that describes regional coordination and available resources. Committee voting members would comprise the local emergency management director or designee plus one representative from the emergency services community from each town and city in a region. An important difference between an REMC and a LEPC is that the former will not have the federal regulatory burden of adhering to Emergency Planning and Community Right-to-Know Act requirements. Instead, these requirements would fall on the consolidated statewide LEPC to ensure consistency of approach and unity of effort for emergency planning.

Vermont's regional planning commissions recommended additional language in the bill that would require coordination with them and mutual aid associations in developing guidance for the REMCs, a proposal welcomed by the committee.

The committee hopes to vote out the bill and incorporate these amendments as soon as next week.

School Lunches

On Thursday, the Senate took up S.100, a bill to provide universal lunches to public school students. Four weeks ago, the bill was ordered to lie because the price tag of the initiative ranged between $24 and 40 million. That version of the bill required school districts to provide breakfasts and lunches to every student free of charge every day, regardless of the student’s need for assistance.

In taking up the bill again, the Senate was helped by the U.S. Department of Agriculture’s recent announcement that it will extend school meal programs through 2022. The new version of S.100 would require school districts to make breakfasts available to all attending students. The districts would be reimbursed from federal funds for eligible students or from state Education Fund dollars for those not eligible for federal reimbursement.

By 2023, school boards operating breakfast, lunch, or summer meals programs would need to purchase 20 percent of the food from local producers. The bill would appropriate $8 million from the Education Fund for meals reimbursement in FY22. S.100 would establish a full-time position in the Agency of Education to administer school food programs; the position would be funded at $100,000, including benefits and operating expenses. The bill would also create a three-member task force on universal school lunch which would report to the legislature by next January on how to provide universal school lunches for all public school students at no cost to either students or their families by the 2026-2027 school year.

The Senate is expected to pass S.100 today. Because it is so late in the session, we don't know if the House will have time to take up the legislation before the gavel falls ending the first half of the biennium.
Elsewhere in the State House

**Animal Cruelty.** This week, the Senate voted out H.421, a bill addressing animal cruelty investigation response and training. The bill updates the definition of humane officer under 13 V.S.A. § 351, and humane officers would now have to receive animal cruelty response training developed by the Animal Cruelty Investigation Advisory Board and approved by the Vermont Criminal Justice Council. A humane officer would now include, in addition to law enforcement officers and Attorney General or State’s Attorney investigators, humane society employees and municipal animal control officers if they receive the state mandated training. H.421 also requires the Vermont Criminal Justice Council to provide the Animal Cruelty Advisory Board with the names of individuals who complete the humane officer training. The bill now heads to the governor for his signature.

**Charters.** Municipal charters still up for consideration are in various stages of the legislative process. Charters that the legislature has deemed less “controversial” are moving forward with little fanfare and minimal-to-no amendments. Other charters have had substantive sections removed to hasten passage of the proposed non-controversial components. Our Legislative Wrap-Up, which we expect to publish in June, will fully review all of the legislative action on municipal charters this session.

**ESP Wellness.** The House passed the S.42, the Emergency Service Provider Wellness bill, this week. The House made minor, non-substantive amendments to the legislation that will likely be agreed to by the Senate to ensure final passage. We look forward to the bill’s signing and the subsequent work of the Emergency Service Provider Wellness Commission, which will commence later this summer.

**Cannabis.** The House Government Operations Committee took an initial walk-through of S.25, a bill that makes various amendments to cannabis laws. Included in the bill is a mandate for municipalities to hold local votes to opt in to hosting retail cannabis establishments by March 8, 2023. Municipalities that fail to do so will be deemed to allow such retail operations. Any hope of allowing local cannabis taxes to be levied this year have faded as the House has not supported local taxing authority in the past and has not indicated it plans to change any time soon. It is unclear when the committee will take up the bill again or how serious the committee is about voting the bill out prior to adjournment.

**Elections.** The House Government Operations Committee continued its review of S.15, a bill that proposes to make numerous and substantive changes to elections law. The bill would allow for ballot mailing for statewide and local elections, outdoor and drive-up polling places, ballot drop boxes, and ballot curing measures, amount other measures. (See [Weekly Legislative Report No. 9](#) for an in-depth review of the bill.) The committee appears to have prioritized the bill and will continue taking testimony on it in the coming weeks.

**Advocacy Chat**

There are lots of quickly moving pieces as the legislature heads into the final days of the 2021 session. Don't miss the next Advocacy Chat at 11 a.m. on Monday, May 3, as Karen Horn and Gwynn Zakov, VLCT’s Advocacy team, discuss the progress of legislation important to Vermont’s towns and cities.
Register at [https://www.vlct.org/event/bi-weekly-chat-advocacy-staff](https://www.vlct.org/event/bi-weekly-chat-advocacy-staff) It’s free for VLCT members and affiliates to attend.

## New Bills That Affect Municipalities

<table>
<thead>
<tr>
<th>BILL NUMBER</th>
<th>BILL SUMMARY</th>
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<tr>
<td>S.144</td>
<td>Would establish a process to remove certain restrictive covenants from deeds. Any restrictive covenant or related reversionary interest that restricts occupancy or ownership of property on the basis of race, ethnicity, or religion would be declared void and contrary to the public policy of the State of Vermont.</td>
<td>Senate Judiciary</td>
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<td>S.145</td>
<td>Would permit a town, city, or incorporated village to regulate the open carrying of firearms, provided the regulation doesn’t affect hunting, fishing, or trapping or otherwise regulate the possession of firearms in public places.</td>
<td>Senate Judiciary</td>
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