



STATE OF VERMONT
GENERAL ASSEMBLY
LEGISLATIVE JOINT FISCAL COMMITTEE

Agenda

Wednesday, September 21, 2022

[Meeting available by LIVE Stream](#)

Updated 9-21-2022 at 1:59 p.m.

- 10:00 a.m. Call to order and approve minutes of July 28, 2022 [**Approved**]
- 10:05 a.m. A. Community Recovery and Revitalization Grant Program [[Overview](#)]
Joan Goldstein, Commissioner, Department of Economic Development (IP)
- 10:20 a.m. B. VT Employment Growth Incentive Program – Proposed Enhanced Incentive Cap Increase
[\[Gov. Memo\]](#) [\[VEPC Memo\]](#) [\[LMA Cap Info Sheet\]](#) [\[CVEDC Memo\]](#) [\[JFO Memo\]](#)
[\[JFO Presentation\]](#) [**Action Postponed until November 9, 2022**]
Abbie Sherman, Executive Director, Vermont Economic Progress Council (IP)
John Kessler, General Counsel, Agency of Commerce & Community Development (IP)
Graham Campbell, Senior Fiscal Analyst, Joint Fiscal Office (VC)
- 10:50 a.m. C. Agency of Human Services
1. Emergency Housing Program Update
Douglas Farnham, Deputy Secretary, Agency of Administration (VC)
Sean Brown, Commissioner, and
- 11:05 a.m. 2. Transitional Housing Program – [Draft Emergency Rules](#) [[GA Report](#)]
Jennifer Myka, General Counsel, and
Nicole Tousignant, SR. Policy and Operations Manager, Economic Services Division,
Department for Children and Families
- 11:25 a.m. 3. Reach Up Program – [Status of Underutilized Funds](#)
Sean Brown, Commissioner, Department for Children and Families
- 11:40 a.m. 4. Private Nonmedical Institutions – [Plan to Address Costs](#) [[Presentation](#)] [[Testimony](#)]
Andrea DeLaBruere, Commissioner, Department of Vermont Health Access (IP)
Sean Brown, Commissioner, Department for Children and Families
- 11:55 p.m. 5. Child Care Block Grant – [proposal to spend](#) [**Approved**]
Sean Brown, Commissioner, and
Miranda Gray, Deputy Commissioner, Child Development Division, Department for
Children and Families
- 12:10 p.m. D. Administrations Fiscal Updates
Adam Greshin, Commissioner, and

Hardy Merrill, Deputy Commissioner, Department of Finance and Management

1. General Fund and Transportation Fund Balance Reserves [Report](#)
2. 27/53 Reserve [Report](#)
3. FY 2024 Budget [Instructions](#) and Submission Guidelines, and Fiscal Challenges
[\[Supplement\]](#)
4. Coronavirus Relief Fund [Report](#) – reversions and reallocations
5. ARPA - Coronavirus State Fiscal Recovery Fund – [reversions and reallocations](#)
6. FY23 LIHEAP [\[DCF Memo w/attachments\]](#)

12:25 p.m. E. Fiscal Officer's [Report](#)
Catherine Benham, Chief Fiscal Officer, Joint Fiscal Office

12:30 p.m. Adjourn (Next Meetings: November 9, 2022)

Forward to next page for citations and report links

Agenda Citations

A. CAPITAL INVESTMENT COMMUNITY RECOVERY AND REVITALIZATION GRANT PROGRAM

Cite: Sec. H.18 of Act 74 of 2021 as amended by Sec. 46 of Act 183 of 2022

(a) Creation; purpose; regional outreach.

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~~(d) Data model; approval.~~

~~(1) The Agency shall collaborate with the Legislative Economist to design a data model and related methodology to assess the fiscal, economic, and societal impacts of proposals and prioritize them based on the results.~~

~~(2) The Agency shall present the model and related methodology to the Joint Fiscal Committee for its approval not later than September 1, 2021.~~

~~(e)(g) Application process; decisions; awards.~~

~~(1)(A) The Agency shall accept applications on a rolling basis for three month periods and shall review and consider for approval the group of applications it has received as of the conclusion of each three month period. Under the grant program established in this section, a municipality, upon approval of its legislative body, may apply to the Vermont Economic Progress Council pursuant to the process set forth in this section to use grant funding for a project.~~

~~(B) The Agency shall make application information available to the Legislative Economist and the Executive Economist in a timely manner. The Agency shall accept applications from for-profit or nonprofit entities on a rolling basis until Program funds are expended.~~

~~(2) Using the data model and methodology approved by the Joint Fiscal Committee, the Agency shall analyze the information provided in an application to estimate the net State fiscal impact of a project, including the following factors:~~

~~(A) increase to grand list value;~~

~~(B) improvements to supply chain;~~

~~(C) jobs impact, including the number and quality of jobs; and~~

~~(D) increase to State GDP. [Repealed]~~

~~(3) The Secretary of Commerce and Community Development shall appoint an interagency team, which may include members from among the Department of Economic Development, the Department of Housing and Community Development, the Agency of Agriculture, Food and Markets, the Department of Public Service, the Agency of Natural Resources, or other State agencies and departments, which team shall review, analyze, and recommend projects for funding based on the estimated net State fiscal impact of a project and on other contributing factors, including consistent with the guidelines the Agency develops in coordination with the Joint Fiscal Office and the following:~~

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(j) Implementation.

(1) The Agency of Commerce and Community Development shall consult with the Legislative Joint Fiscal Office to develop guidelines and approval processes for the Capital Investment Grant Program and shall submit the proposed guidelines and processes to the Joint Fiscal Committee and the chairs of the relevant legislative committees of jurisdiction prior to accepting applications for grants through the Program.

(2) When considering whether and how to prioritize economic sectors that have suffered economic harm due to the COVID-19 pandemic, the Agency may designate one or more sectors for priority consideration through the Program, including the arts and culture, travel, lodging, tourism, agriculture, and child care sectors.

(j) Implementation.

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B. VT EMPLOYMENT GROWTH INCENTIVE PROGRAM – ENHANCED INCENTIVE CAP

Cite: [32 V.S.A. Sec. 3334](#)

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

- (1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or
- (2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

- (1) \$1,500,000.00 for one or more initial approvals; and
- (2) \$1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than \$500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

(f) The purpose of the enhanced incentive for a business in a qualifying labor market area is to increase job growth in economically disadvantaged regions of the State, as provided in subsection (a) of this section.

C. AGENCY OF HUMAN SERVICES

2. TRANSITIONAL HOUSING PROGRAM DRAFT EMERGENCY RULES

Cite: [Sec. 325.1 of Act 185 of 2022](#)

(a) Notwithstanding 2022 Acts and Resolves No. 83, Sec. 54(c)(1), the Department for Children and Families may withdraw its permanent rule filing and shall file a second emergency rule to be effective upon the expiration of the Transitional Housing Program Emergency Rules (22-E07), adopted by the Department on March 31, 2022 and effective until September 28, 2022. The Department shall be deemed to have met the emergency rulemaking criteria in 3 V.S.A. § 844 if a second emergency rule that is substantially similar to the Transitional Housing Program Emergency Rules (22-E07) is adopted. The Department shall file permanent rules pursuant to 3 V.S.A. chapter 25 if the availability of federal ERAP funding extends beyond March 31, 2023.

(b) Prior to filing a second emergency rule pursuant to this section, the Department shall:

(1) send a draft of the second emergency rule to the Joint Fiscal Committee 30 days prior to its September 2022 meeting;

(2) present the second emergency rule and an update on the funding forecast for the transitional housing program at the Joint Fiscal Committee's September 2022 meeting and consider any input and recommendations offered by the Joint Fiscal Committee; and

(3) inform the General Assistance working group described in 2021 Acts and Resolves No. 74, Secs. E.321 and E.321.2 of any inconsistencies between the first and second emergency rules and consider any input on the changes offered by the working group.

3. REACH UP FISCAL YEAR 2022 ONE-TIME USE OF UNDERUTILIZED FUNDS

Cite: [Sec. E.323 of Act 74 of 2021](#)

(a) To the extent that funds appropriated to the Reach Up program in fiscal year 2022 are not encumbered or expended, or both, in fiscal year 2022, funds shall carryforward and be used for a one-time payment to participating families in fiscal year 2023. *The Department for Children and Families shall report to the Joint Fiscal Committee at its September 2022 meeting on the status of funds available and timing of one-time payments to participating families.*

4. PRIVATE NONMEDICAL INSTITUTIONS; COSTS

Cite: [Sec. E.300.1 of Act 185 of 2022](#)

(a) *On or before September 1, 2022, the Agency of Human Services shall report to Joint Fiscal Committee on a plan to address costs associated with contract staffing for private nonmedical institutions. The plan shall include a timeline to address the rate setting process for future ongoing base costs starting in State fiscal year 2023.*

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5. CHILD CARE BLOCK GRANT – CCDBG ARPA DISCRETIONARY FUNDS

**AMERICAN RESCUE PLAN ACT OF 2021; CHILD CARE STABILIZATION GRANTS:
APPROPRIATION**

Cite: Sec. [E.318 of Act 74 of 2021](#)

(b) *... Excess receipts authority may be granted only in the event that the appropriation in subsection (a) of this section is not sufficient to support childcare providers prior to the fiscal year 2022 budget adjustment process and the funds are used consistent with an approved plan required to be presented to the Joint Fiscal Committee on or before September 1, 2021 in legislation enacted during the 2021 legislative session.*

D. ADMINISTRATION FISCAL UPDATES

1. GENERAL FUND AND TRANSPORTATION FUND BALANCE RESERVES

Cite: [32 V.S.A. § 308c\(d\)](#)

(a) There is hereby created within the General Fund a General Fund Balance Reserve, also known as the "Rainy Day Reserve." After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year General Fund surplus shall be reserved in the General Fund Balance Reserve. The General Fund Balance Reserve shall not exceed five percent of the appropriations from the General Fund for the prior fiscal year without legislative authorization.

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(d) *Determination of the amounts of the General Fund and Transportation Fund Balance Reserves shall be made by the Commissioner of Finance and Management and reported, along with the amounts appropriated*

pursuant to subsection (a) of this section, to the legislative Joint Fiscal Committee at its first meeting following September 1 of each year.

2. 27/53 RESERVE

Cite: [32 V.S.A. Sec. 308e\(a\)\(2\)](#)

(a)(1) There is hereby created within the General Fund a 27/53 Reserve. The purpose of this reserve is to meet the liabilities of the reoccurring 27th State payroll and the 53rd week of Medicaid payments. These liabilities will be funded by reserving a prorated amount of General Fund each year, before the liability comes due.

(2) Beginning in September, 2016 and annually thereafter at the September Joint Fiscal Committee meeting, the Commissioner of Finance and Management will report on the anticipated liability for the next 27th payroll and 53rd week of Medicaid Payments, provide the current reserve balance and a schedule of annual amounts needed to meet the obligation of these payments.

(b) As part of the Governor's budget submission under section 306 of this title, the amount prorated for the upcoming fiscal year identified in subdivision (a)(2) of this section shall be included as an appropriation and transferred to the 27/53 Reserve.

(c) In a fiscal year where a 27th State payroll or 53rd week of Medicaid payment is due, the General Assembly shall appropriate the funds from the 27/53 Reserve to meet the expenditures within the year that these payments are due.

4. CORONAVIRUS RELIEF FUND APPROPRIATIONS; REVERSION AND REALLOCATION; REPORTS

Cite: [Sec. E.107 of Act 185 of 2022](#)

(a) From July 1, 2022 through September 30, 2022, the Commissioner of Finance and Management is authorized to revert all unobligated Coronavirus Relief Fund (CRF) appropriations and allocate the monies for expenditure pursuant to 32 V.S.A. § 511 to any agency or department for CRF-eligible costs incurred from March 1, 2020 through December 31, 2021.

(b) The Commissioner of Finance and Management shall report at the September meeting of the Joint Fiscal Committee on final CRF activity and if any monies will be returned to the federal government.

5. AMERICAN RESCUE PLAN ACT (ARPA) - CORONAVIRUS STATE FISCAL RECOVERY FUND (SFR) APPROPRIATIONS; REVERSION AND REALLOCATION; REPORTS

Cite: [Sec. G.200 of Act 185 of 2022](#)

(a) On or before September 15, 2022 and annually thereafter until September 15, 2026, the Commissioner of Finance and Management shall submit a report to the Joint Fiscal Committee on the status of all appropriations made from the Coronavirus State and Local Fiscal Recovery Fund (SLFR) provided to the State from the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (ARPA). The report shall include updates on project eligibility, obligated funds, actual expenditures, and any compliance or reporting issues.

(b) On or before January 15, 2023, the Commissioner of Finance and Management shall provide an update to the September 15, 2022 ARPA report described in subsection (a) of this section to the House and Senate Committees on Appropriations, including recommendations, if any, for reallocation of ARPA SLFR funds in the fiscal year 2023 budget adjustment act.

Reports

Update memorandum regarding the following report:

REPORT ON REGULATION OF PCB RELEASES FROM BUILDING MATERIALS IN NONSCHOOL BUILDINGS

[Memorandum Link](#)

[Cite: Sec. E.709.2 of Act 185 of 2022](#)

On or before January 15, 2023, the Secretary of Natural Resources shall submit to the Senate Committees on Appropriations and on Natural Resources and Energy and the House Committees on Appropriations and on Natural Resources, Fish, and Wildlife a report regarding the indoor air quality testing of buildings for releases of polychlorinated biphenyls (PCBs) from building materials. The report shall include:

- (1) a proposal for the best method for regulating releases of PCBs from PCB-containing building materials in non-school buildings;
- (2) a proposal of who will be required to test for a release or potential release of PCBs from building materials, including whether and how testing will be required under the Brownfields Reuse and Environmental Liability Limitation Program or as part of an environmental assessment for a property transaction;
- (3) a summary of when during a corrective action or property transaction testing would be required and why it would be required;
- (4) the standard or standards that would be utilized to determine if a release occurred;
- (5) the action or remediation that would be required if PCBs are identified in excess of the proposed standard;
- (6) how responsive action or remediation would be funded, including potential federal or State sources of funding; and
- (7) how the requirement to test may affect investment in the redevelopment of historic downtowns or similar areas.

COMPLEX LITIGATION SPECIAL FUND

[Report Link](#)

[Cite: 3 V.S.A. § 167a](#)

(a) There is established the Complex Litigation Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 5 to be available for expenditure by the Attorney General, as annually appropriated or authorized pursuant to 32 V.S.A. § 511, to pay nonroutine expenses, not otherwise budgeted, incurred in the investigation, prosecution, and defense of complex civil and criminal litigation. These expenses may include, for example, costs incurred for expert witnesses and for support staff and technology needed to review and manage voluminous documents in discovery and at trial in complex cases.

(b) The Fund shall consist of:

- (1) Such sums as may be appropriated or transferred by the General Assembly.
- (2) Settlement monies other than consumer restitution collected by the Office of the Attorney General, except for those recoveries that by law are transferred or appropriated for other uses pursuant to 9 V.S.A. § 2458(b)(4), and subject to the Fund balance cap in subsection (c) of this section.

(c) The unencumbered Fund balance shall not exceed \$1,000,000.00.

(d) *The Attorney General shall submit a report of the amount and purpose of expenditures from the Fund at the close of each fiscal year to the Joint Fiscal Committee annually on or before September 1. As part of the annual budget submission, the Attorney General shall include a projection of the Fund balance for the current fiscal*

year and upcoming fiscal year and may recommend appropriations as needed consistent with the purpose of the Fund.

CLEAN WATER INVESTMENT REPORT

[Report Link](#)

Cite: [10 V.S.A. § 1389a](#) as amended by [Sec. 3 of Act 170 of 2022](#)

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish a Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the prior calendar year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

* * *

(b) The Report shall include:

* * *

~~(5) A summary of available federal funding related to or for water quality improvement efforts in the State. [repealed]~~

(6) Beginning on January 2023, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

* * *

(d)(1) The Secretary of Administration shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section.

* * *

~~(3) On or before September 1 of each year, the Secretary of Administration shall submit to the Joint Fiscal Committee an interim report regarding the information required under subdivision (b)(5) of this section relating to available federal funding~~ [a summary of available federal funding related to or for water quality efforts in the State.](#)

GREEN MOUNTAIN CARE BOARD BILL-BACK REPORT

[Report Link](#)

Cite: [18 V.S.A. § 9374](#)

* * *

(h)(1) The Board may assess and collect from each regulated entity the actual costs incurred by the Board, including staff time and contracts for professional services, in carrying out its regulatory duties for health insurance rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7 of this title; and accountable care organization certification and budget review under section 9382 of this title.

* * *

(5)(A) Annually on or before September 15, the Board and the Department of Financial Regulation shall report to the House and Senate Committees on Appropriations the total amount of all expenses eligible for allocation pursuant to this subsection (h) during the preceding State fiscal year and the total amount actually billed back to the regulated entities during the same period. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

(B) The Board and the Department shall also present the information required by this subsection (h) to the Joint Fiscal Committee annually at its September meeting.

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VEGI ANNUAL REPORTING

[Report Link](#)

Cite: [32 V.S.A. § 3340](#)

(a) *On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.*

(b) The Council and the Department shall include in the joint report:

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HEALTH IT-FUND

[Report Link](#)

Cite: [32 V.S.A. § 10301](#)

(a) The Vermont Health IT-Fund is established in the State Treasury as a special fund to be a source of funding for Medical Health Care Information Technology Programs and initiatives such as those outlined in the Vermont Health Information Technology Plan administered by the Secretary of Administration or designee. One hundred percent of the Fund shall be disbursed for the advancement of health information technology adoption and utilization in Vermont as appropriated by the General Assembly, less any disbursements relating to the administration of the Fund. The Fund shall be used for loans and grants to health care providers pursuant to section 10302 of this chapter and for the development of programs and initiatives sponsored by VITL and State entities designed to promote and improve health care information technology, including:

* * *

(g) *The Secretary of Administration or his or her designee shall submit an annual report on the receipts, expenditures, and balances in the Health IT-Fund to the Joint Fiscal Committee at its September meeting and to the Green Mountain Care Board. The report shall include information on the results of an annual independent study of the effectiveness of programs and initiatives funded through the Health IT-Fund, with reference to a baseline, benchmarks, and other measures for monitoring progress and including data on return on investments made.*

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GENERAL ASSISTANCE PROGRAM REPORT

[Report Link](#)

Cite: [33 V.S.A. § 2115](#)

On or before of September 1 of each year, the Commissioner for Children and Families shall submit a written report to the Joint Fiscal Committee; the House Committees on Appropriations, on General, Housing and Military Affairs and on Human Services and the Senate Committees on Appropriations and on Health and Welfare. The report shall contain the following:

- (1) an evaluation of the General Assistance program during the previous fiscal year;
- (2) any recommendations for changes to the program; and
- (3) a plan for continued implementation of the program.
- (4) statewide statistics using deidentified data related to the use of emergency housing vouchers during the preceding State fiscal year, including demographic information, client data, shelter and motel usage rates,

clients' primary stated cause of homelessness, average lengths of stay in emergency housing by demographic group and by type of housing; and
(5) other information the Commissioner deems appropriate.

CALCULATING AND ALLOCATING SAVINGS – CHOICES FOR CARE

[Report Link](#)

Cite: [33 V.S.A. § 7602](#)

(a)(1) The Department shall calculate savings and investments in Choices for Care and report the amount of savings to the Joint Fiscal Committee, the House Committees on Appropriations and on Human Services and the Senate Committees on Appropriations and on Health and Welfare on or before September 15 of each year. The Department shall not reduce the base funding needed in a subsequent fiscal year prior to calculating savings for the current fiscal year.

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GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

[See 7/28/22 Reports](#)

Cite: [Sec. E.301.1 of Act 185 of 2022](#)

(a) In order to facilitate the end-of-year closeout for fiscal year 2022, the Secretary of Human Services, with approval from the Secretary of Administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside the Agency of Human Services. At least three business days prior to any transfer, the Agency shall submit to the Joint Fiscal Office a proposal of transfers to be made pursuant to this section. A final report on all transfers made under this section shall be made to the Joint Fiscal Committee for review at the September 2022 meeting. The purpose of this section is to provide the Agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.