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**Agency of Administration**  
**Department of Finance & Management**  
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*Adam Greshin, Commissioner*

**To:** Members of the Committee of Conference – H.494

**From:** Adam Greshin, Commissioner of Finance & Management

**Date:** May 3, 2023

**RE: H.494 Technical Comments**

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I am writing to suggest the following clarifications and technical edits to H.494, *An act relating to making appropriations for the support of government*. Our recommended edits to bill language are highlighted in red text.

**Sec. A.101 PURPOSE** is recommended for amendment as follows:

(a) The purpose of this act is to provide appropriations for the operations of State government during fiscal year 2024 and, notwithstanding 32 V.S.A. § 701a, capital appropriations during fiscal years 2024 and 2025 per Section B.1105 of this act. It is the express intent of the General Assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2023. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2024 to meet this condition unless otherwise directed by specific language in this act or other acts of the General Assembly.

**EXPLANATION:** This comment assumes certain appropriations made in Sec. B.1105 are intended to be established as capital appropriations. If this is the case, notwithstanding language is necessary because 32 V.S.A. § 701a requires capital appropriations to be presented as part of a “capital construction bill.”

**Sec. A.102 APPROPRIATIONS** is recommended for amendment as follows:

(a) It is the intent of the General Assembly that this act serve as the primary source and reference for operating appropriations for fiscal year 2024 and for capital appropriations not funded with bond proceeds for fiscal years 2024 and 2025.



(b) The sums stated in this act are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the operating appropriations are single-year appropriations, only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the Commissioner of Finance and Management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending on June 30, 2024.

**EXPLANATION:** Assuming certain appropriations made in Sec. B.1105 are intended to be established as capital appropriations, Sec. A.102 should be amended to clarify that capital appropriations are not subject to the same requirements as operating appropriations. Additionally, Sec. B.1105 would need to be amended in accordance with A.102(c) to clearly specify that any appropriations intended to be established as capital appropriations would not apply only to the fiscal year ending on June 30, 2024.

**Sec. A.108 LEGEND** is recommended for amendment as follows:

(a) This act is organized by functions of government. The sections between B.100 and B.9999 contain appropriations of funds for the upcoming budget year and, with respect to capital appropriations made in Sec. B.1105, for the subsequent fiscal year. The sections between E.100 and E.9999 contain language that relates to specific appropriations or government functions, or both. The function areas by section numbers are as follows:

(b) The C sections contain any amendments to the current fiscal year, the D sections contain fund transfers, reversions, and reserve allocations for the upcoming budget year, the F sections contain workforce and economic development policies, ~~and~~ the G sections contain changes to transportation fees, and the H section provides the effective dates.

**EXPLANATION:** Provide references to capital appropriations in Sec. B.1105 and to the H section for effective dates. This comment assumes that certain appropriations made in Sec. B.1105 are intended to be established as capital appropriations.

**Sec. B.316** is recommended for amendment as follows:

**Sec. B.316 Department for children & families - administration & support services**

Personal services	<u>44,440,362</u>	<u>44,446,942</u>
Operating expenses	<u>17,168,731</u>	<u>17,162,151</u>
Grants	<u>3,919,106</u>	<u>3,919,106</u>
Total	65,528,199	65,528,199
Source of funds		
General fund	37,090,554	37,090,554



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Special funds	2,781,912	2,781,912
Federal funds	23,540,549	23,540,549
Global Commitment fund	1,659,321	1,659,321
Interdepartmental transfers	<u>455,863</u>	<u>455,863</u>
Total	65,528,199	65,528,199

**EXPLANATION:** Adjustments for the Senate’s technical adjustment that removed the federal funding associated with the House’s removal of the Governor’s childcare proposal.

Sec. B.318 is recommended for amendment as follows:

**Sec. B.318 Department for children & families - child development**

Personal services	<del>5,668,525</del>	<u>5,670,999</u>
Operating expenses	<del>812,971</del>	<u>810,497</u>
Grants	95,860,842	95,860,842
Total	102,342,338	102,342,338
Source of funds		
General fund	35,016,309	35,016,309
Special funds	16,745,000	16,745,000
Federal funds	37,419,258	37,419,258
Global Commitment fund	13,161,771	13,161,771
Interdepartmental transfers	<u>0</u>	<u>0</u>
Total	102,342,338	102,342,338

**EXPLANATION:** Adjustments for the Senate’s technical adjustment that removed the federal funding associated with the House’s removal of the Governor’s childcare proposal.

Sec. B.1100 (a)(2) is recommended to be struck:

~~(2) \$5,000,000 General Fund for the purpose of supporting the Community Violence Prevention Program established by 18 V.S.A. § 13. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose. All or part of this appropriation may be transferred to the Department of Health for this program if necessary;~~

~~(3) \$15,000,000 General Fund to be used to offset the cost of denied claims for Federal Emergency Management Agency (FEMA) reimbursement.~~

**EXPLANATION:** Sec. E.312.2 establishes the Community Violence Prevention Program in the Department of Health. Finance & Management recommends the \$5,000,000 General Fund appropriation in B.1100(a)(2) be struck and be reappropriated in subsection (n) to the Department of Health rather than the Agency of Administration.



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**Sec. B.1100 (j)(2)** is recommended for amendment as follows:

(2) \$9,225,000 General Fund to continue construction of the Southwest Vermont Medical Center (SVMC) Youth Inpatient Facility, or another appropriate facility as determined by an executed contract following a Request for Proposal process, to increase the number of psychiatric youth inpatient beds in the State.

**EXPLANATION:** AHS recommends an adjustment to the appropriation language to ensure alignment with the RFP and contracting process.

**Sec. B.1100 (m)** is recommended for amendment as follows:

(m) \$366,066 General Fund and \$372,048 Federal Revenue Fund #22005 to the Department of Vermont Health Access ~~in the non-waiver or state-only lines~~ for a two-year pilot to expand the Blueprint for Health Hub and Spoke program and \$15,583,352 Global Commitment Fund #20405 to the Department of Health Access Medicaid program for a two-year pilot to expand the Blueprint for Health Hub and Spoke program.

**EXPLANATION:** Technical amendment to simplify proposed language.

**Sec. B.1100 (n)(7)** is recommended for insertion as follows:

(7) \$5,000,000 General Fund for the purpose of supporting the Community Violence Prevention Program established by 18 V.S.A. § 13. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose. Costs associated with the administration of the program may be charged to this appropriation.

**EXPLANATION:** Moves the appropriation in B.1100(a)(2) from AoA to VDH as described in a prior comment and authorizes VDH to charge administrative costs to the appropriation. VDH will reallocate an existing limited-service position to administer the program.

**Sec. B.1100 (o)(5)** is recommended for amendment as follows:

(5) \$2,500,000 General Fund to the Housing Opportunity Grant Program to expand and provide wraparound supports and services for homeless households ~~participating in the General Assistance Emergency Housing program~~;

**EXPLANATION:** AHS advises the language limiting eligibility to General Assistance recipients would impair the deployment of funds and prevent community organizations from serving homeless households that do not meet this criterion.

**Sec. B.1100 (aa)** is recommended for amendment as follows:

(aa) \$450,000 Global Commitment Fund to the Department of Disabilities, Aging, and Independent Living to continue the SASH pilot for another year. \$195,660 General Fund and



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\$254,340 Federal Funds are appropriated to the Agency of Human Services Secretary's Office - Global Commitment program for the State and federal shares for this SASH pilot extension.

**EXPLANATION:** Technical edit to clarify entity name.

**Sec. B.1101(c)(3)** is recommended for amendment as follows:

**Sec. B.1101 WORKFORCE AND ECONOMIC DEVELOPMENT – FISCAL YEAR 2024 ONE-TIME APPROPRIATIONS**

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(3) In fiscal year 2024, the amount of \$3,800,000 is appropriated from the General Fund to the Vermont State Colleges to provide Critical Occupations Scholarships for eligible students with a household income of \$75,000 or less enrolled in education programs that lead to a career in ~~an occupation with critical need, including the following:~~ early childhood occupations, clinical mental health counseling, criminal justice occupations, dental hygienists, and all levels of nursing.

**EXPLANATION:** If the intent is to restrict the scholarships to only the listed occupations, the language should be amended as described above. If the intent is not to limit the scholarships to only these occupations, it is unclear who would determine what is “an occupation with a critical need,” or how a “critical need” would be defined. Would these determinations be made at VSC’s sole discretion?

The Governor’s recommended budget language specified a mechanism in Sec. E.602.1 (quoted below) for annual determination of programs that would qualify for a tuition reduction program. If the scholarships are intended to support a broader range of education programs than those listed, the Committee may wish to consider E section language providing a similar mechanism.

(a) For the appropriation in B.1100(a)(3)(B), those programs eligible for the 50% tuition reduction will be determined annually in consultation with the Commissioner of the Vermont Department of Labor, the Secretary of Commerce and Community Development, and the Executive Director of the State Workforce Development Board. Community Colleges of Vermont (“CCV”) will report annually on December 15<sup>th</sup> to the Governor and General Assembly on enrollment, and degree or certificate completion, in programs that receive 50 percent tuition reduction, including any enrollment or graduation growth trends as compared to the previous five years.

**Sec. B.1101.1** is recommended for amendment as follows:

**Sec. B.1101.1 TRUTH AND RECONCILIATION COMMISSION**



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(a) In fiscal year 2024, \$240,000 General Fund is appropriated to the Truth and Reconciliation Commission. These funds, in combination with carryforward funds, ~~are intended to~~ shall provide fiscal year 2024 funding for the Commission’s activities.

**EXPLANATION:** If the General Assembly is requiring residual spending authority to carry forward, “shall” language should be used. Intent is not binding, and funds could still be reverted.

Sec. B.1102(b) is recommended for amendment as follows:

**Sec. B.1102 AFFORDABLE HOUSING DEVELOPMENT – FISCAL YEAR 2024 ONE-TIME APPROPRIATIONS**

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(1) \$10,000,000 to provide support and enhance capacity for emergency shelter and permanent homes for those experiencing homelessness. ~~The intent is~~ **These funds shall be used** to expand Vermont’s shelter capacity, provide homes for those experiencing homelessness, and decrease reliance on the General Assistance Emergency Housing hotel and motel program. The Vermont Housing and Conservation Board shall consult with the Agency of Human Services to ensure new investments in homes and shelters are paired with appropriate support services for residents, including services supported through Medicaid. Funded projects ~~may~~ **shall** utilize a range of housing options, including the expansion of shelter capacity, the conversion of hotels to housing, creation of permanent supportive housing, and utilization of manufactured homes on infill sites.

**EXPLANATION:** Statements of intent are not binding, nor are “may” statements in this case, and should either be more definitive or included in the legislative intent document.

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(2) \$40,000,000 to provide support and enhance capacity for the production and preservation of affordable mixed-income rental housing and homeownership units, including improvements to manufactured homes and communities, permanent homes for those experiencing homelessness, recovery residences, and housing available to farm workers and refugees. The Board ~~is authorized to utilize up to~~ **shall use not more than** 10 percent of these resources for innovative approaches to helping communities meet their housing needs.

**EXPLANATION:** Clarifying amendment.

Sec. B.1104 is recommended for amendment as follows:

**Sec. B.1103 CLIMATE AND ENVIRONMENT – FISCAL YEAR 2024 ONE-TIME APPROPRIATIONS**

(b) In fiscal year 2024, the amount of \$900,000 General Fund is appropriated to the Agency of Natural Resources – Climate Action Office for technical analyses, tools, and training. Funds shall be used for investments in ongoing evaluation, implementation support and tracking of the



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impact of programs, and policy approaches needed to reduce greenhouse gas emissions and improve landscape level resilience consistent with the Global Warming Solutions Act.

**EXPLANATION:** Grammatical correction.

Sec. B.1104 is recommended for amendment as follows:

**Sec. B.1104 FISCAL YEAR 2024 VERMONT STATE TEACHERS' RETIREMENT SYSTEM; SUPPLEMENTAL COST OF LIVING PAYMENT; FISCAL YEAR 2024 APPROPRIATION**

(a) In fiscal year 2024, notwithstanding 16 V.S.A. § 4025(d), the amount of \$3,000,000 is appropriated to the Vermont State Teachers' Retirement System from the Education Fund for Calendar Year 2023 supplemental payments made in Sec. E.514.2(b) of this act and associated costs.

~~(b) In fiscal year 2024, notwithstanding 16 V.S.A. § 4025, the amount of \$9,100,000 is reserved in the Education Fund to fund future supplemental cost of living payments to qualifying retired members and beneficiaries of the Vermont State Teachers' Retirement System or the present value of any changes made to the methodology for calculating the postretirement adjustments allowance set forth in 16 V.S.A. § 1949, or both.~~

**EXPLANATION:** Provides correct citation for notwithstanding language. Also, (b) subsection is a reserve and should be included in the D section of the bill as provided in D.104 below.

**Sec. B.1105 CAPITAL PROJECTS – FISCAL YEAR 2024 ONE-TIME**

**APPROPRIATIONS:** It is unclear whether the appropriations made in this section are to be established as capital appropriations pursuant to 32 V.S.A. § 701a (the statute that defines the attributes and reporting requirements particular to “the spending authority authorized by a capital construction act”), as suggested by the “capital projects” language in the section heading, or whether they are to be established as “fiscal year 2024 one-time appropriations,” as also suggested by the section heading language. Finance & Management recommends the language be amended to clearly establish, for each appropriation in this section, whether the appropriation is a capital appropriation or a one-time appropriation.

While not related specifically to the language of this section, Finance & Management has additional questions pertaining to appropriations from the Cash Fund for Capital and Essential Investments. Prior to fiscal year 2024, the Administration will require legislative guidance concerning how budget recommendations for use of the fund are to be made. Specifically, are Cash Fund recommendations to be included in the form of the budget report pursuant to 32 V.S.A. § 306 and 307, or the capital budget report pursuant to 32 V.S.A. § 309 and 310? Will the answer vary depending on which subaccount of the fund the expenditure is made from? Will the answer vary depending on the nature of the investment (i.e., whether defined as a capital



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investment pursuant to 32 V.S.A. § 309)? Further clarification of the subaccount definitions and eligible uses could help inform the statutory guidance to be followed.

**Sec. C.101** is recommended for amendment as follows:

**Sec. C.101 DEPARTMENT OF CORRECTIONS FISCAL YEAR 2022 OUT OF STATE BEDS CARRYFORWARD FUNDS AND JUSTICE REINVESTMENT II FUNDING**

~~(a) Notwithstanding 2021 Acts and Resolves No. 74, Sec. E.335, as amended by 2022 Acts and Resolves No. 83, Sec. 62, and by 2022 Acts and Resolves No. 185, Sec. C.111, \$1,000,000 of the Department of Corrections Out of State Bed General Fund appropriation carried forward from fiscal year 2022 shall be used 70 for the development and implementation of the Offender Management System (OMS) intelligence layer. 2023 Acts and Resolves No. 3 Sec. 106 is amended as follows:~~

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(b) ~~\$290,000~~\$1,290,000 of the funds appropriated to the Justice Reinvestment II in fiscal year 2023 are for the Department's Offender Management System (OMS) intelligence layer consistent with the actions of the Joint Legislative Justice Oversight Committee.

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~~(e) \$1,000,000 of the funds appropriated to the Justice Reinvestment II in fiscal year 2023 shall be left unallocated. Any allocation shall be subject to review by the House Committees on Judiciary and on Corrections and Institutions, Senate Committees on Judiciary and on Institutions and the Joint Legislative Justice Oversight Committee and approval by the General Assembly.~~

**EXPLANATION:** The BAA already reverted the \$1M and provided it to JR II for future allocation by the General Assembly. This adds the unallocated \$1M to the \$290K already provided for the OMS and eliminates the (e) subsection language reserving the unallocated balance for future action by the General Assembly.

**Sec. C.105:** Finance & Management has consulted at length with the Joint Fiscal Office to seek technical clarification of numerous aspects of this section as passed by the Senate. We understand JFO intends to provide revised C.105 language for the Committee's consideration. As such, DFM will refrain from commenting on the current version of this section.

**Sec. C.113** is recommended for amendment as follows:

**Sec. C.113 2022 Acts and Resolves No. 185, Sec. B.1100 is amended to read:**

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(3) ~~It is the intent of the General Assembly that the Department of Public Safety seek to draw and deploy the \$9,000,000 in Congressionally Directed Spending to support Vermont's transition to a modernized, regional communications network in a manner that coordinates with and advances the goals of the statewide public safety communications system designed by the E[1]911 Board.~~ The Commissioner of Public Safety shall consult with the Executive Director of the E-911 Board as the federal parameters for expending ~~the funds~~ \$9,000,000 in Congressionally Directed Spending become available and as the Commissioner develops a plan to expend such funds. In addition, the Commissioner of Public Safety shall update the Joint Fiscal Committee on planned expenditures.

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**EXPLANATION:** The recommended edits provide a clear directive for execution. Statements of intent are not directives to be executed and should be included in the Statement of Legislative Intent.

Sec. C.115 is recommended for amendment as follows:

**Sec. C.115 2022 Acts and Resolves No.185, Sec. G.600(a)(2), as amended by 2023 Acts and Resolves No. 3 Sec. 67, is amended to read:**

Sec. G.600 CLIMATE ACTION INVESTMENTS

(a) In fiscal year 2023, \$129,760,000 is appropriated from the American Rescue Plan Act - Coronavirus State Fiscal Recovery Funds for climate change mitigation initiatives as follows:

\* \* \*

(2) \$35,000,000 to the Department of Public Service ~~to grant~~ to grant or to contract with Efficiency Vermont an energy efficiency organization for the purpose of weatherization incentives to Vermonters with a moderate income. These funds shall be deposited in the Electric Efficiency Fund established under 30 V.S.A. § 209(d)(3) and shall be available for ~~use by Efficiency Vermont~~ this purpose through December 31, 2026. Households approved for assistance in this section will also be offered services outlined in subdivision (4) of this subsection.

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**EXPLANATION:** Act 3 citation detail is added to the header. The Agency of Administration recommends that rather than striking “to grant” and replacing it with “to contract,” the language should be amended to “to grant or to contract.” The relationship between the Federal grantee (State) and the entity it disburses Federal receipts to determines the form of agreement. While the Federal government will concede that the State has the authority to change the form of agreement through legislation, the Federal government will *not* concede that the State has the authority to use Federal funds to pay for the agreement if the State disregards Federal regulations. Rather than legislative language dictating a change to the nature of this existing relationship, for risk mitigation purposes it is recommended that it should be the responsibility of the executive branch to determine the exact nature of the relationship to ensure Federal compliance. The specific naming of “Efficiency Vermont” is removed since if this ends up



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being a contract, it would have to go out to bid, which makes it unwise to name a recipient in legislation.

Sec. C.116 is recommended for amendment as follows:

Sec. C.116 2022 Acts and Resolves No. 182, Sec. 3, as amended by 2023 Acts and Resolves No. 3, Sec. 75 is amended to read:

#### MANUFACTURED HOME IMPROVEMENT AND REPLACEMENT PROGRAM

Of the amounts available from ~~federal COVID-19 relief~~ the American Rescue Plan Act (ARPA) recovery funds, ~~the following amounts are~~ \$4,000,000 is appropriated to the Department of Housing and Community Development for the purposes specified:

- (1) ~~\$2,500,000.00 for m~~ Manufactured home community small-scale capital grants, through which the Department may award not more than \$20,000.00 for owners of manufactured housing communities to complete small-scale capital needs to help infill vacant lots with homes, which may include projects such as disposal of abandoned homes, lot grading/preparation, site electrical box issues/upgrades, E911 safety issues, legal fees, transporting homes out of flood zones, individual septic system, and marketing to help make it easier for home-seekers to find vacant lots around the State.
- (2) ~~\$750,000.00 for m~~ Manufactured home repair grants, through which the Department may award funding for minor rehab or accessibility projects, coordinated as possible with existing programs, for between 250 and 400 existing homes where the home is otherwise in good condition or in situations where the owner is unable to replace the home and the repair will keep them housed.
- (3) ~~\$750,000.00 for n~~ New manufactured home foundation grants, through which the Department may award not more than \$15,000.00 per grant for a homeowner to pay for a foundation or HUD-approved slab, site preparation, skirting, tie-downs, and utility connections on vacant lots within manufactured home communities.

**EXPLANATION:** Sec. C.116 as passed by the Senate did not refer to 2022 Act 182 Sec. 3 as amended by 2023 Act 3, which changed the fund name from “federal COVID-19 relief funds”. Finance & Management recommends the citation and language be updated accordingly. DFM notes three separate appropriations exist from which expenditures have been made. Consequently, the implementation of Sec. C.116 is technically complicated. The proposed language will collapse these three Dept ID’s into a single Dept ID, and journal entries will need to be made to move all existing expenditures. Chartfields will need to be developed to account for expenditure purposes.

Sec. D.100.1 is recommended for amendment as follows:



**Sec. D.100.1 LEGISLATIVE INTENT FOR FISCAL YEAR 2024 PLANNING FUNDS**

(a) ~~It is the intent of the General Assembly that at least~~ \$500,000 of the increased planning funds provided in Sec. D.100 of this act shall be available-used for municipal bylaw modernization.

**EXPLANATION:** Intent is not a directive. This language should either be removed from the bill and put in the Statement of Legislative Intent or amended, as above, to provide an executable action.

**Sec. D.101(a)** is recommended for amendment as follows:

(1) From the General Fund to:

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(E) the Tax Computer System Modernization Fund #21909: ~~\$2,7000,000~~ \$3,650,000.

(2) From the Education Fund to:

(A) the Tax Computer Modernization Fund #21909: ~~\$1,100,000~~ \$1,350,000.

**EXPLANATION:** The Department of Taxes presumes the legislative intent of the transfers is to fund the Computer Modernization Fund to the extent proposed by the Department, but to do so with discrete transfers from the General Fund and the Education Fund to the Computer Modernization Fund, as opposed to diverting 0.21% of all tax revenues to the Computer Modernization Fund as proposed in the Governor’s budget. The Department’s proposal establishes a total FY24 need of approximately \$5 million. Notwithstanding the apparent typographical error in D.101(a)(1)(E), which shows an extra zero in the General Fund transfer amount, the transfers of \$2.7M and \$1.1M do not fully fund the proposal. It appears the language may have inadvertently referred to the \$2.7M and \$1.1M figures in the “Net Impact” row of the table pictured below. These values represent the net increases realized from each fund by the proposed 0.21% revenue diversion. However, the values in the “Existing Funding FY22” row will no longer be realized since the existing collections mechanism is to be repealed. To fully fund the Tax proposal with a transfer from the General Fund, a transfer from the Education Fund, and no transfers from special funds, Tax recommends the adjusted amounts.

<b>Tax CMF Proposal Budget Impacts</b>				
<b>Funding Structure</b>	<b>GF</b>	<b>EF</b>	<b>SF</b>	<b>Total</b>
<b>Existing Funding FY22</b>	830,969	183,331	15,240	1,029,540
<b>Proposed .21% - FY24</b>	3,555,837	1,314,758	151,829	5,022,423
<b>Net Impact - FY24</b>	2,724,867	1,131,427	136,589	3,992,883



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**Sec. D.101** is recommended for amendment as follows:

**Sec. D.101 FUND TRANSFERS, REVERSIONS, AND RESERVES**

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2024:

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(2) The following estimated amounts, which may be all or a portion of unencumbered fund balances, shall be transferred to the General Fund. The Commissioner of Finance and Management shall report to the Joint Fiscal Committee at its July meeting the final amounts transferred from each fund and certify that such transfers will not impair the agency, office, or department reliant upon each fund from meeting its statutory requirements.

21638 AG-Fees and reimbursement – Court order	\$1,000,000
621000 Unclaimed Property Fund	\$1,743,425

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**EXPLANATION:** Fund code correction

**Sec. D.102** is recommended for amendment as follows:

**Sec. D.102 27/53 RESERVE**

(a) \$5,350,000 General Fund shall be ~~transferred to~~ reserved in the 27/53 reserve in fiscal year 2023. This action is the fiscal year 2024 contribution to the reserve for the 53rd week of Medicaid as required by 32 V.S.A. § 308e and the 27th payroll reserve as required by 32 V.S.A. § 308e.

**EXPLANATION:** Proceeds already exist within the fund and are being reserved, not transferred.

**Sec. D.104** is recommended for insertion as follows:

**Sec. D.104 VSTRS COLA RESERVE**

(a) In fiscal year 2024, notwithstanding 16 V.S.A. § 4025(d), the amount of \$9,100,000 is reserved in the Education Fund to fund future supplemental cost of living payments to qualifying retired members and beneficiaries of the Vermont State Teachers' Retirement System or the present value of any changes made to the methodology for calculating the postretirement adjustments allowance set forth in 16 V.S.A. § 1949, or both.

**EXPLANATION:** Moves the adjusted reserve language to Section D of the bill from the one-time appropriations in B.1104 of the bill. Also corrected to notwithstand subsection (d) of section 4025.

**Sec. E.100(a)** is recommended for amendment as follows:



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(a) The establishment of ~~80~~ 79 permanent positions is authorized in fiscal year 2024 for the following:

(1) Permanent classified positions:

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~~(M) Agency of Natural Resources:~~

~~-(i) one Aquatic Invasive Species Prevention Specialist;~~

**EXPLANATION:** The Lake Champlain Basin Program recently (April 13, 2023) approved a three-year limited-service Aquatic Invasive Species position that negates the need for ANR to create this position for the same purpose.

**Sec. E.100(b)** is recommended for amendment as follows:

(b) The conversion of ~~46~~ 49 limited-service positions to classified permanent status is authorized in fiscal year 2024 as follows:

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~~(7) Agency of Natural Resources – Central Office:~~

~~(i) one Environmental Justice & Civil Rights Director~~

~~(ii) two Environmental Justice Coordinators~~

**EXPLANATION:** Both the House and Senate versions of H.494 funded these positions in the B.700 base appropriation rather than the Governor’s recommendation for the positions to be limited service and funded by a one-time appropriation. If legislative intent is to fund the positions in base, the positions should be permanent rather than limited service.

**Sec. E.107** is recommended for amendment as follows:

**Sec. E.107~~6~~ 3** V.S.A. § 473 is amended to read:

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Annually, on or before ~~September~~ November 15, the Commissioner of Finance and Management shall provide to the Joint Fiscal Committee a breakdown of the components of the payroll charge applied to each department’s budget for the current and next fiscal year.

**EXPLANATION:** The section number change is recommended to align with B.106 Finance and Management - budget and management, which is the division responsible for calculation of the employer contribution rate and for reports to the JFC. Since the actuarial valuations that inform this calculation are not available until the month of October, the due date for the report is recommended to be changed to a feasible date.

**Sec. E.107.1** is recommended for amendment as follows:



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**Sec. E.1076.1 DEPARTMENT OF FINANCE AND MANAGEMENT; PENSION PLUS APPROPRIATION DIRECTIVE**

**EXPLANATION:** Finance & Management is responsible for calculation of the employer contribution rate. DFM has other technical questions regarding the intent of the language passed by the Senate; however, we understand the Joint Fiscal Office plans to offer a revised version of this section to the Committee of Conference that addresses the input of both DFM and the Treasurer's Office.

Sec. E.111.1b should be struck:

**Sec. E.111.1b TAX COMPUTER SYSTEM MODERNIZATION FUND TRANSFER**

~~(a) Any remaining funds on June 30, 2023 in the Tax Computer System Modernization Fund established by 2007 Acts and Resolves No. 65, Sec. 282, and amended from time to time, shall be deposited into the fund established by 32 V.S.A. § 3209.~~

**EXPLANATION:** The language of Sec. E.111.1a(a) confirms that an existing fund, “the Tax Computer System Modernization Fund #21909, as established in the State Treasury per 2007 Acts and Resolves No. 65, Sec. 282 as amended” is being codified in statute. A new fund is not being created. The fund “established by 2007 Acts and resolves No. 65, Sec. 282” and the “fund established by 32 V.S.A. § 3209” are one and the same. Furthermore, Sec. E.111.1a(s) establishes that “Balances in the Fund at the end of each fiscal year shall be carried forward and remain part of the Fund.” This section is unnecessary and confusing.

**Sec. E.131 STATE TREASURER'S OFFICE – VCBB ESCROW ACCOUNT**

Both Finance & Management and the Treasurer's office had concerns with this section as passed by the Senate. Alternative language written by DFM in consultation with the Treasurer's office has been provided to the Joint Fiscal Office, and our understanding is that it will be presented to the Committee for consideration.

**Sec. E.204.1:** This section proposes to change the amounts of fees as defined in 32 V.S.A. § 602. Because 32 V.S.A. § 606 establishes that the legislative vehicle for fee increases is an annual fee bill, notwithstanding or repeal language related to 32 V.S.A. § 606 is recommended to retain these fee increases in H.494.

Sec. E.208 is recommended for amendment as follows:

**Sec. E.208 PUBLIC SAFETY – ADMINISTRATION**



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(a) The Commissioner of Public Safety ~~is authorized to~~ shall (OR may) enter into a performance-based contract with the Essex County Sheriff's Department to provide law enforcement service activities agreed upon by both the Commissioner of Public Safety and the Essex County Sheriff.

**EXPLANATION:** Is "is authorized to" a directive or a suggestion? If this is a directive, then the term "shall" should be used but if the decision is at the Commissioner's discretion, then "may" should be used. The language is contained under section E.208 implying that it is associated with the appropriation in section B.208 but it is unclear whether any funding has been provided in the appropriation for this purpose (shall) or whether it is a discretionary use of existing base funding (may).

Sec. E.323.7 Sec. E.338.4 is recommended for amendment as follows:

**Sec. E 323.7 REACH AHEAD PILOT PROGRAM**

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(b) This program is funded with one-time money per Sec. B.1100(o)(1) of this act, and is only in effect for fiscal years 2024 and 2025, unless additional funding is authorized.

**EXPLANATION:** Provides the citation for the one-time appropriation.

Sec. E.335 is recommended for amendment as follows:

**Sec. E.335 28 V.S.A. § 126 is added to read:**

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(c) Except as provided by subsection (d) of this section, any communication made by a participant or peer support specialist in a peer support session, including any oral or written communication, such as notes, records, and reports related to the peer support session, shall not be admissible in a judicial, administrative, or arbitration proceeding. Limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding. Limitations on disclosure imposed by this subsection shall not include knowledge acquired by the Department or staff members from observations made during the course of employment or information acquired by the ~~by the~~ Department or staff members during the course of employment that is otherwise subject to discovery or introduction into evidence.

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**EXPLANATION:** Typographical error

Sec. E.338.4 is recommended for amendment as follows:

**Sec. E.338.4 28 V.S.A. chapter 11 is amended to read:**



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(a) “Absconded” has the same meaning as “absconding” as defined in subdivision ~~722(1)~~ 724(d)(2)(C) of this title.

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**EXPLANATION:** The citation is inaccurate: “absconding” is not defined in 28 V.S.A. § 722(1). 28 V.S.A. § 724(d)(2)(C) does provide a definition of “absconding.”

Sec. E.500.1 is recommended for amendment as follows:

**Sec. E.500.1 16 V.S.A. § 4018 is added to read:**

§ 4018. AFTERSCHOOL AND SUMMER LEARNING PROGRAMS

(a) ~~Revenue from Education Fund grants; in an amount equal to the receipts from~~ the sales and use tax imposed by 32 V.S.A. chapter 233 on retail sales of cannabis or cannabis products in this State, net of any administrative costs per subsection (b)(4) of this section, shall be used to fund grant programs for the expansion of summer and afterschool programs with an emphasis on increasing access in underserved areas of the State.

(b) The Secretary of Education shall administer the grant programs, as follows:

(1) ~~Cannabis sales tax revenue~~ Grants shall be used to support a mixed delivery system for afterschool and summer programming. Eligible recipients can be public, private, or nonprofit organizations.

(2) Grants may be used for technical assistance, program implementation, program expansion, program sustainability, and related costs.

(3) ~~Funds~~ Grants may be used to directly target communities with low existing capacity to serve youth in afterschool and summer settings.

(4) The Agency may use up to \$500,000 for administrative costs to allow for the support of the grant program and technical assistance to communities. This could include subcontracts to support the grant programs.

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**EXPLANATION:** 100% of the Sales & Use tax, including that imposed upon cannabis, is deposited into the Education Fund. Any grants provided would therefore be Education Fund grants as is appropriated in Section B.509 of the bill. If the legislature wishes to appropriate Cannabis Sales & Use Tax receipts, then they must be deposited into a separate special fund and that fund would then be used to finance the grants. Under Generally Accepted Accounting Principles, states appropriate and spend funds, not fund sources.

Sec. E.504.1 is recommended for amendment as follows:

**Sec. E.504.1 EDUCATION – FLEXIBLE PATHWAYS**





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(b) Notwithstanding 16 V.S.A. § 4025(~~bd~~), of this Education Fund appropriation, the amount of:

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**EXPLANATION:** Corrected citation

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(2) \$2,000,000 is available to support the Vermont Virtual ~~High School Learning Cooperative at the River Valley Technical Center School District~~;

**EXPLANATION:** Correction to reflect the actual name of the grant recipient. Note that this erroneous reference was also present in 2021 Act 74 and 2022 Act 185. The correct name as amended above is consistent with 2020 Act 154.

**Sec. E.605:** The purpose of the reference to “2022” is unclear and may be made in error.

**Sec. E.605 VERMONT STUDENT ASSISTANCE CORPORATION**

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(d) In this act or any other legislation enacted into law this year ~~or in 2022~~, to the extent other funding is appropriated or otherwise provided to VSAC, or is appropriated to the Agency of Human Services or any of its Departments for disbursement to VSAC for the administration of a program or initiative, up to seven percent may be used by VSAC for its costs of administration, and VSAC may recoup its reasonable costs of collecting the forgivable loans in repayment. Funds shall not be used for indirect costs. To the extent these are federal funds, allocation for expenses associated with administering the funds shall be consistent with federal grant requirements.

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**Sec. E.605.1** is recommended for amendment as follows:

**Sec. E.605.1 NEED-BASED STIPEND FOR DUAL ENROLLMENT AND EARLY COLLEGE STUDENTS**

(a) Notwithstanding 16 V.S.A. § 4025(~~bd~~), the sum of \$41,225 in education funds and \$41,225 in general funds is appropriated to the Vermont Student 131 Assistance Corporation (VSAC) for dual enrollment and need-based stipend purposes to fund a flat-rate, need-based stipend or voucher program for financially needy students enrolled in a dual enrollment course pursuant to 16 V.S.A. § 944 or in early college pursuant to 16 V.S.A. § 946 to be used for the purchase of books, cost of transportation, and payment of fees. The Vermont Student Assistance Corporation



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shall establish the criteria for program eligibility. Funds shall be granted to eligible students on a first-come, first-served basis until funds are depleted.

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**EXPLANATION:** Corrected citation

Sec. E.900 is recommended for amendment as follows:

**Sec. E.900 TRANSPORTATION FUND RESERVE – REVERSIONS EXCLUDED**

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(B) \$20,000,000 shall be appropriated to the State Treasurer’s Office and used for redeeming State of Vermont general obligation bonds prior to maturity. ~~Notwithstanding 32 V.S.A. §1001b(e), beginning in fiscal year 2024, to the extent bonds are redeemed, an amount equal to the reduction in payments for debt service required resulting from any redemption shall be transferred and reserved in the Capital Expenditure Cash Fund, as establish in 32 V.S.A. §1001b created in Sec. E. 106.1 of H.740 of 2022.~~

**EXPLANATION:** Misspelling

Sec. F.5 is recommended for amendment as follows:

**Sec. F.5 BROWNFIELDS FUNDING; USE IN FISCAL YEAR 2024**

(a) The Department of Economic Development shall use the funds appropriated in [Section B.1101\(e\)\(4\) of this Act during](#) fiscal year 2024 for brownfields redevelopment for the assessment, remediation, and redevelopment of brownfield sites to be used in the same manner as the Brownfields Revitalization Fund established by 10 136 V.S.A. § 6654 except, notwithstanding the grant limitations in 10 V.S.A. § 6654, projects supported by this appropriation shall not be limited to a maximum amount per site. The Agency of Commerce and Community Development shall award the amount of \$1,000,000 in fiscal year 2024 to regional planning commissions for the purposes of brownfields assessment. In awarding funds under this section, the Secretary, in consultation with the Vermont Association of Planning and Development Agencies, shall select one regional planning commission to administer these funds. To ensure statewide availability, the selected regional planning commission shall subgrant to regional planning commissions with brownfield programs, with not more than 10 percent of the funds being used for administrative purposes.

**EXPLANATION:** Provides citation for where spending authority is appropriated.

Sec. F.9 is recommended for amendment as follows:



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**Sec. F.9 RURAL INDUSTRY DEVELOPMENT GRANT PROGRAM**

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(2)(A) To the extent funding is ~~authorized and~~ appropriated, the Agency shall make grants through the Program to assist local development corporations with business relocation and expansion efforts throughout Vermont.

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**EXPLANATION:** More concise language

