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STATE OF VERMONT
GENERAL ASSEMBLY
HOUSE COMMITTEE ON APPROPRIATIONS

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To: House Committee Chairs
From: Representative Mary S. Hooper, Chair, House Committee on Appropriations
Date: December 30, 2021
Subject: Provisions in the Governor's Recommended FY 2022 Budget Adjustment

The House Appropriations Committee will complete its work on the FY 2021 Budget Adjustment (BAA) on January 13th. It will be up for action on the 20th and 21st of January. This aggressive schedule is necessitated by a number of factors, including a state holiday and the presentation of the FY23 budget on 18th of January. As you know, we traditionally move the BAA before we consider the Big Bill.

Unfortunately, we are receiving the BAA proposal in two parts. A portion was presented to House Appropriations in December, the remainder will come on January 5th.

We are providing you with a copy of the Governor's proposal, with the portions relevant to your committee's work noted. In order to meet the schedule, we need to have your committee's comments by the close of business on the 11th of January. We will similarly provide you with the additional BAA proposal from the Governor as soon as possible.

The House Appropriations Committee relies on and values your input in the development of the budget. We have highlighted what is in your committee's jurisdiction. It is not necessary to respond to all of what has been highlighted unless you have concerns or recommendations. We, of course, also welcome comments on other portions of the budget.

If you have no comments please inform Theresa Utton-Jerman of this via email (tutton@leg.state.vt.us)

House Committee on Judiciary
FY 2022 Budget Adjustment – Sections for Review

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Sec. XX 2021 Acts and Resolves No. 74, Sec. D. 101 is amended to read:.....	3
(d) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amounts shall revert to the General Fund from the accounts indicated:	4
<i>Joint Fiscal Office Note: regarding the \$31.53M reversions of funds available for carry forward at the end of FY 2021: “The pandemic impacted the operations of government which resulted in unspent general fund at the close of FY 2021. In addition, in FY 2021, there were significant infusions of federal funding that offset state fund expenditures in some cases. Every year the Finance and Management process of general fund carry forward review and approval take place. These general fund reversions have been identified as part of that process. Last year we carried forward about half of the available funds. Some of these funds represent vacancy savings.”</i>	5

No. XX. An act relating to fiscal year 2022 budget adjustments.

Sec. XX 2021 Acts and Resolves No. 74, Sec. B. 1106(a) is amended to read:

(a) In fiscal year 2022, funds are appropriated from the General Fund for new and ongoing initiatives as follows:

(1) ~~\$38,430,000~~ 39,460,000 to the Agency of Administration for the following:

(A) \$11,580,000 ~~12,420,000~~ for distribution to departments to fund the fiscal year 2022 53rd week of Medicaid.

(B) ~~\$12,450,000~~ 12,640,000 for distribution to departments to fund the fiscal year 2022 27th payroll pay period.

EXPLANATION: Adjust appropriations based on the September 17, 2021 27/53 Reserve Report to the Joint Fiscal Committee.

* * *

(12) \$126,000 to the ~~Agency of Human Services Secretary's Office~~ Department of Children and Families – administration and support services to maintain the 211-call center.

EXPLANATION: Reflect the move of the management of the 211 contracts from the Secretary's Office to the Department of Children and Families.

Sec. XX 2021 Acts and Resolves No. 74, Sec. B. 1107 is inserted to read:

Fiscal year 2022 one-time appropriations from section 9817 of the American Rescue Plan Act for Medicaid home- and community-based services

(a) At the close of Fiscal Year 2022, up to \$66,000,000 of the General Fund in Sec. B.301 of this Act shall revert, and up to \$66,000,000 of the amount reverted shall be appropriated as a one-time appropriation for the Agency of Human Services Central Office in Fiscal Year 2022. This one-time appropriation will be used as match for the American Rescue Plan Section 9817 Home and Community Based-Services (HCBS) Reinvestment activities. Unspent funds from this one-time appropriation shall carry forward until fully expended.

(b) Based on the October 2021 HCBS spending plan as submitted to the Center for Medicare and Medicaid Services, the following amounts shall be appropriated in Fiscal Year 2022 as one-time Global Commitment fund appropriations and carried forward until fully expended for the following departments:

(1) \$85,601,939 to the Agency of Human Services – Secretary's Office

(2) \$2,370,000 to Department of Disabilities, Aging and Independent Living

(3) \$6,171,000 to Department of Mental Health

(4) \$390,000 to the Department of Vermont Health Access

(5) \$4,942,586 to the Department of Health

(c) In order to facilitate end-of-year closeout for Fiscal Year 2022, the appropriations in subsections (a) and (b) of this Section shall be included among the Global Commitment appropriations referenced in Sec. E.301.2 of this Act available for transfers.

EXPLANATION: Language to establish Global Commitment spending authority associated with the HCBS spending plan.

Sec. XX 2021 Acts and Resolves No. 74, Sec. D. 101 is amended to read:

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

* * *

(6) From the Clean Water Fund (21932) established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund (21933) created under 6 V.S.A. § 4803: \$4,521,393 5,963,850.

EXPLANATION: The August 12, 2021 Clean Water Board meeting recommended an additional Clean Water Fund appropriation to the Vermont Agency of Agriculture, Food and Markets (AAFV), in the amount of \$1,442,457. This comes to the AAFV in the form of a transfer from the Clean Water Fund to the Agricultural Water Quality Special fund. This adjustment increases the original transfer amount by \$1,442,457 to provide for the B.225.2 appropriation adjusted in Section **XX** of this act.

* * *

(10) From the Transportation FHWA Fund (20135) to the Transportation Infrastructure Bonds Debt Service Fund (35200) established by 32 V.S.A. § 951a for funding transportation infrastructure bonds principal repayment: \$12,554,768.

(11) From the Transportation Fund--Non-Dedicated (20105) to the Transportation Infrastructure Bonds Debt Service Fund (35200) established by 32 V.S.A. § 951a for funding transportation infrastructure bonds principal repayment: \$7,009,388.

EXPLANATION: The 2021 Coronavirus Response and Relief Supplemental Apportionment and Allocation provided \$50.4M dollars to Vermont from the Federal Highway Administration (FHWA). A provision of this apportionment provides for its use toward transportation debt service. The remaining balance of this apportionment, along with \$7M of Transportation Funds, is transferred to the Transportation Infrastructure Bonds Debt Service Fund to repay Transportation Infrastructure Bond debt, which will eliminate both the amount of interest owed

and the \$2.5M annual debt service payment. These State Funds saved will be available for use toward federal match requirements described in the Infrastructure Improvement and Jobs Act of 2021, and ongoing future federal match requirements.

(12) From the General Fund to the Correctional Industries Internal Services Fund (59100):
\$1,877,092.

EXPLANATION: This figure represents \$800,000 of funds reverted from VDH Admin and Public Health appropriations to the General Fund per D.101(d) below, plus an additional amount of \$1,077,092 of General Funds to be transferred to the Correctional Industries Internal Services Fund (59100) to address its deficit balance.

* * *

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2022:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

* * *

<u>21500</u>	<u>Interdepartmental Transfer Fund – 7100000022</u>	<u>\$125,000.00</u>
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EXPLANATION: In 2016, ACCD approved a \$200,000 grant from the VT Enterprise Fund (21944) to BHS Composites, and made a first payment of \$100,000 to the grantee. In June of 2021, \$25,000 of this original payment, along with \$100,000 that had been obligated for a second payment, was returned based on determination that the grantee was unable to meet the obligations of the grant agreement. Because the VT Enterprise Fund was sunset 6/30/2017 and the remaining fund balance was transferred to the General Fund, the \$125,000 being returned to ACCD is likewise requested for transfer to the General Fund.

* * *

(d) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amounts shall revert to the General Fund from the accounts indicated:

2150010000 Military – administration	\$200,000.00 <u>316,556.00</u>
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EXPLANATION: Increase to reversion of \$116,556 is due to a reduction in the amount disbursed to Vermont Student Assistance Corporation in Section **XX** of this act.

1210002000 Legislature	\$140,000.00 <u>435,000.00</u>
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EXPLANATION: Increase to reversion of \$295,000 is intended to fund increased appropriations to B.126 and B.127 in Section **XX** of this act.

Joint Fiscal Office Note: regarding the \$31.53M reversions of funds available for carry forward at the end of FY 2021: "The pandemic impacted the operations of government which resulted in unspent general fund at the close of FY 2021. In addition, in FY 2021, there were significant infusions of federal funding that offset state fund expenditures in some cases. Every year the Finance and Management process of general fund carry forward review and approval take place. These general fund reversions have been identified as part of that process. Last year we carried forward about half of the available funds. Some of these funds represent vacancy savings."

<u>1215001000 Legislative Counsel</u>	<u>\$ 50,000.00</u>
<u>1220000000 Joint Fiscal Office</u>	<u>\$ 50,000.00</u>
<u>1225001000 Legislative IT</u>	<u>\$ 120,000.00</u>
<u>1230001000 Sergeant at Arms</u>	<u>\$ 60,000.00</u>
<u>1100010000 Secretary of Administration</u>	<u>\$ 50,000.00</u>
<u>1110003000 Budget & Management</u>	<u>\$ 117,075.64</u>
<u>1110006000 University of Vermont</u>	<u>\$ 1.00</u>
<u>1110007000 UVM– Morgan Horse Farm</u>	<u>\$ 1.00</u>
<u>1110009100 Vermont State Colleges</u>	<u>\$ 3.00</u>
<u>1130030000 Libraries</u>	<u>\$ 26,000.38</u>
<u>1140010000 Tax Operation Costs</u>	<u>\$ 200,000.00</u>
<u>1140040000 Homeowner Rebates</u>	<u>\$ 333,503.02</u>
<u>1140330000 Renter Rebates</u>	<u>\$ 1,712,964.82</u>
<u>1240001000 Lieutenant Governor's Office</u>	<u>\$ 20,672.89</u>
<u>1260891901 Pension Grp Membership</u>	<u>\$ 65,000.00</u>
<u>2130200000 Sheriffs</u>	<u>\$ 542,914.55</u>
<u>2140010000 DPS – State Police</u>	<u>\$13,666,973.39</u>
<u>2170010000 Criminal Justice Trng Council</u>	<u>\$ 62,049.00</u>

<u>2280001000 Human Rights Commission</u>	<u>\$ 35,422.68</u>
<u>3150891901 Copeland Center</u>	<u>\$ 5,803.03</u>
<u>3330010000 Green Mountain Care Board</u>	<u>\$ 0.44</u>
<u>3400001000 Secretary's Office Admin Costs</u>	<u>\$ 50,000.00</u>
<u>3400002000 RSVP Appropriation</u>	<u>\$ 1,035.00</u>
<u>3400891902 Elec Med/Health Records Syst</u>	<u>\$ 3,894.00</u>
<u>3410017000 DVHA-Programs-ST-Only Funded</u>	<u>\$ 76,450.02</u>
<u>3420010000 Administration</u>	<u>\$ 650,000.00</u>
<u>3420021000 Public Health</u>	<u>\$ 1,784,782.61</u>
<u>3420892110 VDH-Data Collection</u>	<u>\$ 134,000.00</u>
<u>3440060000 DCFS - General Assistance</u>	<u>\$ 4,374,450.77</u>
<u>3440891903 Parent Child Centers</u>	<u>\$ 18,089.40</u>
<u>3440891906 Incentivizing Child Care Profs</u>	<u>\$ 96,628.40</u>
<u>3440891908 Weatherization Assist Bridge</u>	<u>\$ 290,035.94</u>
<u>3460020000 Advocacy & Indep Living Grants</u>	<u>\$ 241,585.88</u>
<u>3480004000 Correctional Services</u>	<u>\$ 6,361,238.22</u>
<u>5100010000 Administration</u>	<u>\$ 118,500.00</u>
<u>5100060000 Adult Basic Education</u>	<u>\$ 63,476.19</u>
<u>5100070000 Education Services</u>	<u>\$ 51,719.84</u>
<u>5100210000 Ed - Flexible Pathways</u>	<u>\$ 10,675.00</u>
<u>5100891807 Restorative Justice Grants</u>	<u>\$ 75,867.34</u>
<u>5100891901 AOE New Positions</u>	<u>\$ 214,729.59</u>
<u>6100040000 Property Tax Assessment Approp</u>	<u>\$ 0.93</u>

<u>6130010000 Administration</u>	<u>\$ 0.70</u>
<u>7100892107 ACCD-Public Access TV</u>	<u>\$ 30,450.10</u>
<u>7120892001 ThinkVermont Initiative</u>	<u>\$ 45,000.00</u>

EXPLANATION: Additional amounts, totaling \$31,530,994.77, remaining for reversion to General Fund after Finance & Management approval of expenditure plans for carry-forward from SFY21 to SFY22.

(e) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amounts shall revert to the Education Fund from the accounts indicated:

<u>1140060000 Reappraisal & Listing Payments</u>	<u>\$ 0.13</u>
<u>5100010000 Administration</u>	<u>\$ 950,949.54</u>
<u>5100040000 Special Education Formula</u>	<u>\$ 5,824,528.53</u>
<u>5100050000 State-Placed Students</u>	<u>\$ 880,000.00</u>
<u>5100090000 Education Grant</u>	<u>\$ 0.69</u>
<u>5100110000 Small School Grant</u>	<u>\$ 614,965.00</u>
<u>5100190000 Essential Early Educ Grant</u>	<u>\$ 41,295.67</u>
<u>5100200000 Education-Technical Education</u>	<u>\$ 1,841,126.00</u>
<u>5100210000 Ed - Flexible Pathways</u>	<u>\$ 1,579,282.05</u>

EXPLANATION: Amounts, totaling \$11,732,147.61, remaining for reversion to Ed Fund after carry-forward of \$44,418,308.78 from SFY21 to SFY22.

(f) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amount shall revert to the Transportation Fund from the account indicated:

<u>2140010000 DPS-State Police</u>	<u>\$ 3,933,026.61</u>
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EXPLANATION: Unobligated balance remaining from Transportation Fund appropriation to State Police at SFY21 year end is reverted to Transportation Fund for transfer to TIB Debt Service Fund in Section **XX** of this act.

(g) Notwithstanding any provision of law to the contrary, in fiscal year 2022, the following amount shall revert to the Clean Water Fund from the account indicated:

6140040000 Environmental Conservation – Office of Water Programs \$675,149.73

EXPLANATION: In FY 2021 the Municipal Grant-in-Aid program was moved from the Department of Environmental Conservation to Vtrans. The funds that remain after all DEC Grant-in-Aid agreements were closed are reverted in this section. These funds are appropriated to the Agency of Transportation in Section B. 919 of this budget adjustment proposal.

Sec. XX 2021 Acts and Resolves No. 74, Sec. D.102 is amended to read:

Sec. D.102 27/53 RESERVE; TRANSFER AND USE

(a) ~~\$3,740,000~~ 4,770,000 from the General Fund shall be reserved in the 27/53 reserve in fiscal year 2022. This action is the fiscal year 2022 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(b).

(b) ~~\$24,030,000~~ 25,060,000 shall be unreserved from the 27/53 Reserve in in fiscal year 2022 to provide for the appropriations described in Secs. B.1106(a)(1)(A) and B.1106(a)(1)(B) of this act.

EXPLANATION: Amounts updated to provide for the appropriations adjusted in Sec. XX of this act.

Sec. XX 2021 Acts and Resolves No. 74, Sec. E. 215 is amended to read:

Sec. E.215 Military – Administration

(a) The amount of ~~\$1,119,834~~ \$934,290 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard educational assistance program established in 16 V.S.A. § 2856 and the National Guard Tuition Benefit Program established in 16 V.S.A. § 2857.

EXPLANATION: Reduction of disbursement to VSAC based on actual need. Note: the \$68,988 variance between the additional amount available for reversion in D.101(d) above (\$116,556) and the reduced disbursement to VSAC in this section (\$185,544) is due to the filling of vacant Executive Director and Veterans Service Officer I position.

Sec. XX 2021 Acts and Resolves No. 74, Sec. E. 301 is amended to read:

* * *

(b) In addition to the State funds appropriated in this section, a total estimated sum of ~~\$24,993,734~~ \$25,220,180 is anticipated to be certified as State matching funds under the Global Commitment as follows:

* * *

(2) ~~\$2,773,734~~ \$3,000,180 certified State match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

(c) Up to ~~\$4,618,437~~ \$4,034,170 is transferred from the AHS Federal Receipts Holding Account to the Interdepartmental Transfer Fund consistent with the amount appropriated in Sec. B.301 of this act – Secretary's Office – Global Commitment.

EXPLANATION: Subsections (b) and (c) are amended to reflect current estimates.

Sec. XX 2021 Acts and Resolves No. 74, Sec. E.316 is inserted to read:

(a) \$2,000,000 of federal spending authority for the Department of Children and Families' administrative division, to be established pursuant to 32 V.S.A. § 511, will be used for federal matching funds to implement the first phase of the Comprehensive Child Welfare Information System in Vermont in accordance with 45 CFR § 1355.55.

EXPLANATION: DCF's federal partner requests current law intent of the state's commitment to building the CCWIS in its entirety over time. This portion of funding is intended for the first module encompassing the fiscal components of the system, including IV-E eligibility, financial & contract management, and federal & agency reporting.

Sec. XX 2021 Acts and Resolves No. 74, Sec. E.602.2(c) is inserted to read:

(c) Vermont State Colleges shall use funds remaining with Vermont Technical College, provided in 2019 Acts and Resolves No. 80, to continue to study a model for course delivery at Career and Technical Education Centers in Vermont, and pilot up to two programs that offer these degree programs in up to two CTE centers.

On or before January 15, 2023, the VSCS shall submit a written supplemental report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations from the pilot programs.

EXPLANATION: Proposed language to enable VSCS to investigate course delivery at CTEs.

Sec. XX 2021 Acts and Resolves No. 74, Sec. G.400(a) is amended to read:

Sec. G.400 HOUSING AND HOMELESSNESS INVESTMENTS

(a) ~~\$99,000,000~~ 174,000,000 in fiscal year 2022 is appropriated from the American Rescue Plan Act (ARPA) - Coronavirus State Fiscal Recovery Funds as follows:

(1) ~~\$94,000,000~~ 144,000,000 to the Vermont Housing and Conservation Board (VHCB) to provide housing and increase shelter capacity, with priority given to populations who may be displaced from the hotel/motel voucher problem or are currently without housing, including by providing permanent homes in mixed-income settings. VHCB shall distribute the funds in consultation with the Secretary of Human Services and may subgrant a portion to other

entities, including the Department of Housing and Community Development, the Vermont Housing Finance Agency, and regional nonprofit housing organizations, for one or more of the following purposes:

- (A) if necessary, to help ensure that households and areas impacted by the pandemic are served;
- (B) to undertake additional housing initiatives, such as home ownership, to the extent permitted by ARPA and related regulations and guidance; or
- (C) to provide for the efficient use of the funds.

EXPLANATION: \$50M increase to support additional mixed income, multifamily rentals, and shelter expansion. Continued focus on properties to serve households exiting homelessness; goal is to create over 250 units.

(2) ~~\$5,000,000~~ 25,000,000 to the Agency of Commerce and Community Development--
Department of Housing and Community Development for the Vermont Housing ~~Incentive~~
Improvement Program (VHIP).

EXPLANATION: \$20M increase to support affordable apartment and accessory dwelling unit creation in existing properties, with a focus on vacant and code violating properties; goal is to create over 400 units to serve households existing homelessness and families in need of affordable housing. Also, a technical correction to properly reflect the VHIP program name.

(3) \$5,000,000 to the Agency of Commerce and Community Development – Department of Housing and Community Development to grant to the Vermont Housing Finance Agency to establish a Missing Middle Home Ownership Development pilot to support the development of new homes for purchase by middle class families.

EXPLANATION: Program will provide construction and development financial subsidies for new construction or substantial rehabilitation of owner-occupied homes. Funds will be used to support homebuilders' access to up-front construction capital through Vermont banks and credit unions and will provide a direct project subsidy for up to 35% of eligible development costs. The program will serve a broad spectrum of affordability for households up to 140% AMI; the sales price for a home through the program will not exceed four times the applicable area median income, and will include incentives to extend affordability.

Sec. XX 2021 Acts and Resolves No. 74, Sec. G.700(a)(4)(B)(i) is amended to read:

(i) \$1,000,000 to increase the funds available for grants and loan forgiveness to replace failed or inadequate residential on-site wastewater and water supply systems.

EXPLANATION: The ARPA program is currently written to only include loan forgiveness to replace failed residential on-site wastewater and water supply systems. The department would like to add grants as a mechanism to fund these projects (this is in line with the treasury guidance and the direction of the program). Additionally, the department wants to expand the program to

include “inadequate” so that these funds can be used for systems that may not meet the definition of “failed” but do not meet the needs of the household.

Sec. XX 2021 Acts and Resolves No. 74, Sec. G.700(a)(5) is amended to read:

(5) \$10,000,000 to the Department of Environmental Conservation for allocation by the Clean Water Board established under 10 V.S.A § 1389, as part of their budget process in fiscal year 2022 for water quality initiatives to be allocated as follows:

(A) \$6,500,000 to the Department of Environmental Conservation for municipal water control grants and storm water project delivery, planning and implementation.

(B) \$3,500,000 to the Agency of Agriculture, Food and Markets, for water quality grants to partners and farmers.

EXPLANATION: In 2021 Act 74 Sec. G. 700 (a)(5), the General Assembly appropriated \$10 million to ANR-DEC to be allocated by the Clean Water Board. The Clean Water Board adopted an allocation of these funds on August 12, 2021 that requires an appropriation change to provide the required spending authority to AAFM. This amendment reduces the DEC appropriation to \$6.5M, and provides AAFM with a \$3.5M appropriation, consistent with the allocations made by the Clean Water Board.

Sec. XX 2020 Acts and Resolves No. 136, Sec. 7, as amended by 2020 Acts and Resolves No. 154, Sec. B.1121, and as amended by 2021 Acts and Resolves No. 3, Sec. 50, is further amended to read:

(a) Appropriation. The sum of \$247,500,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for purposes of establishing the Health Care Provider Stabilization Grant Program as set forth in this section. The Agency shall disburse these funds to eligible health care provider applicants as expeditiously as possible using a needs-based application process, or as deemed necessary by the Agency due to emergent and exigent circumstances attributable to the COVID-19 pandemic.

* * *

(d) Specific allocations. Notwithstanding any provisions of this section to the contrary, of the funds appropriated in subsection (a) of this section, the Agency of Human Services shall make the following allocations for the following purposes:

* * *

(3) Up to \$3,000,000.00 for COVID-19-related expenses incurred by designated and specialized service agencies through ~~December 30, 2020~~ December 31, 2021.

EXPLANATION: These changes broaden the Provider Stabilization Grant disbursement process to accommodate emergent needs and extend the end date for expenditures authorized by this section.

Sec. XX 9 V.S.A. § 4452 is amended to read:

§ 4452 EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

* * *

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance temporary housing assistance, or occupancy in a hotel or motel funded by federal Emergency Rental Assistance, regardless of whether the occupancy is subject to a tax levied under 32 V.S.A. chapter 225;

EXPLANATION: Expand the scope of the statutory exclusions pertaining to Residential Rental Agreements to include occupancy in housing funded by federal Emergency Rental Assistance Funds.

Sec. XX 16 V.S.A § 4028. is amended to read:

* * *

(b) Payments made for special education under chapter 101 of this title, for career technical education under chapter 37 of this title and in support of COVID-19 recovery, and for other aid and categorical grants paid for support of education shall also be from the Education Fund.

EXPLANATION: Ensure that the use of Education Funds in the appropriation of 2021 Act 74 Sec. B.505 as proposed for adjustment by this act is a permissible use according to statute.