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Adam Greshin, Commissioner

TO: Senator Andrew Perchlik
CC: Rep. Robin Scheu, Rep. Jim Harrison, Emily Byrne, Aimee Pope, Erin Pedley, Elle Oille-Stanforth
FROM: Adam Greshin
DATE: February 13, 2025
RE: **Technical Corrections to H.141 – An act relating to fiscal year 2025 budget adjustments**

I write to suggest the following clarifications and technical edits to H.141 – *An act relating to fiscal year 2025 budget adjustments*, as passed by the House.

Sec. 4. 2024 Acts and Resolves No. 113, Sec. B.205 is amended to read:

Sec. B.205 State’s attorneys

Personal services	17,309,679	17,503,709	<u>17,548,979</u>
Operating expenses	2,034,016	2,247,786	<u>2,202,516</u>
Total	19,343,695	19,751,495	

Source of funds

General fund	18,734,634	19,142,434	
Federal funds	31,000	31,000	
Interdepartmental transfers	578,061	578,061	
Total	19,343,695	19,751,495	

EXPLANATION:

The \$45,270 additional General Fund for court ordered mental health evaluations is subject to the provisions of a personal services contract held by the Department of Mental Health. As such, this increase should be added to Personal Services not Operating Expenses.

Sec. 52. 2024 Acts and Resolves No. 113, Sec. D.100 is amended to read:

Notwithstanding 24 V.S.A. § 4306(a), amounts in excess of ~~\$7,772,373~~ \$9,052,113 from the property transfer tax deposited into the Municipal and Regional Planning Fund shall be transferred into the General Fund. The ~~\$7,772,373~~ \$9,052,113 shall be allocated as follows:

(A) ~~\$6,404,540~~ \$7,459,063 \$7,300,858 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);



(B) ~~\$931,773~~ ~~\$1,085,192~~ \$1,187,721 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b); and

(C) ~~\$436,060~~ ~~\$507,858~~ \$564,034 to the Agency of Digital Services for the Vermont Center for Geographic Information.

EXPLANATION:

Due to technical complications arising between 2024 Acts 113 and 181, the Agency of Commerce and Community Development and the Department of Finance and Management used Excess Receipts to establish spending authority in accordance with what was believed to be legislative intent. This was done to ensure Regional Planning Commissions, municipalities and the Vermont Center for Geographic Information did not have to wait until the passage of the FY25 Budget Adjustment Act to receive funding. The Regional Planning Commissions and the Agency of Commerce and Community Development agreed to the amount provided in this adjustment and, as such, all grants have been established. Adding additional funds at this point would require amending all agreements already mutually agreed to and established. The Agency of Commerce and Community Development and the Department of Finance and Management ask that the amounts provided above be enacted as a technical adjustment necessary to make current law align with actual practice in fiscal year 2025.

Sec. 55. 2024 Acts and Resolves No. 113, Sec. E.100 is amended to read:
Sec. E.100 POSITIONS

(~~ed~~) The conversion of eight (8) limited-service positions to exempt permanent status is authorized in fiscal year 2025 as follows:

- (1) Office of the Defender General:
 - (A) one Administrative Svcs Tech
 - (B) two DG IT Specialist II
 - (C) one ODG Legal Assistant I
 - (D) two Staff Attorney I
 - (E) one Financial Specialist III
 - (F) one Admin Secretary

EXPLANATION:

The Administration added the Defender General's position conversions as Subsection (d). The House moved the existing Subsection (c) to Subsection (d) and made the Governor's Subsection (d) the House's Subsection (c). This creates a significant amount of administrative work for no gain as references to the actions regarding these positions in Act 113 must now be changed throughout existing documentation and the VTHR system. The administration requests the sequence be returned to the original Governor's recommendation.



Sec. 64: Amends 2024 Acts and Resolves No. 181, Sec. E.113b.
Sec. 113b. APPROPRIATION; ~~NATURAL RESOURCES~~ LAND USE REVIEW BOARD

The sum of ~~\$1,300,000.00~~ \$400,000 is appropriated from the General Fund to the ~~Natural Resources~~ Land Use Review Board in fiscal year 2025.

EXPLANATION:

The section title should be updated for current nomenclature if the section language is being updated.

Sec. 66: Further Amends 2023 Acts and Resolves No. 78, Sec. B.1100.

* * *

(l) Agency of Human Services Central Office. In fiscal year 2024, funds are appropriated for the following:

* * *

(2) \$8,834,000 General Fund and \$11,483,302 Federal Revenue Fund #22005 for a ~~two-year~~ three-year pilot program to expand the Blueprint for Health Hub and Spoke program. Funds shall be used to expand the substances covered by the program, include mental health and pediatric screenings, and make strategic investments with community partners. Unexpended appropriations shall carry forward into subsequent fiscal years and remain available for this purpose;

* * *

(m) Department of Vermont Health Access. In fiscal year 2024, funds are appropriated for the following:

(1) \$366,066 General Fund and \$372,048 Federal Revenue Fund #22005 for a ~~two-year~~ three-year pilot program to expand the Blueprint for Health Hub and Spoke program. Unexpended appropriations shall carry forward into subsequent fiscal years and remain available for this purpose;

(2) \$15,583,352 Global Commitment Fund #20405 for a ~~two-year~~ three-year pilot program to expand the Blueprint for Health Hub and Spoke program. Unexpended appropriations shall carry forward into subsequent fiscal years and remain available for this purpose; and

* * *

(n) Department of Health. In fiscal year 2024, funds are appropriated for the following:

(1) \$4,595,448 Global Commitment Fund #20405 to the Division of Substance Use Programs for a ~~two-year~~ three-year pilot program to expand the Blueprint for Health Hub and Spoke program. Unexpended appropriations shall carry forward into subsequent fiscal years and remain available for this purpose;



* * *

EXPLANATION:

The Department of Finance and Management proposed adding an additional year to the original two-year pilot program since spending authority remained. The Agency of Human Services seeks a technical adjustment to this proposal to allow the pilot program to continue until funding has been exhausted. The clause added to the Health Department portion of the pilot allowing funds to carry forward and remain available for the original purpose has been added to the Agency of Human Services Central Office and Department of Vermont Health Access appropriations to maintain parity among the three.

Sec. 79: Amends 32 V.S.A. § 308b.

* * *

(ed) The Secretary of Administration shall unreserve and transfer funds from the Human Services Caseload Reserve to the Child Care Contribution Special Fund established in section 10554 of this title as necessary to maintain a balance that appropriately supports the State's statutory obligations under the Child Care Financial Assistance Program established in 33 V.S.A. §§ 3512 and 3513.

EXPLANATION:

The language amends codified law by replacing the current Subsection (c) with the proposed language and moving the existing language to a new Subsection (d). The Administration requests that the current statutory sequence remain as is and the proposed language be added as Subsection (d). The proposed change in sequence has no benefit but does require a significant amount of administrative work as all documents referencing this statute, including general guidance, best practices, internal controls, user manuals, ACFR notes, financial policies, financial statements, and VISION internal references would require updating with footnote explanations to explain why, prior to passage of this Act, the Subsection referenced was Subsection (c) but now what was Subsection (c) is now Subsection (d).

Governor's Recommended Sec. 78. 32 V.S.A. §1001b(e) is amended to read:

(e) Spending authority. Any entity authorized to make expenditures from the Capital Infrastructure subaccount shall have not more than two years from the legislative session in which the act authorizing the expenditure was enacted to encumber the funds. Any remaining unencumbered funds shall remain part of the Fund account. The spending authority authorized in the Capital Infrastructure subaccount shall be subject to the provisions of 32 V.S.A. §701a.

EXPLANATION:

Technical amendment to cash fund statute to create parity between the review and reallocation process for capital cash fund appropriations and bonded dollar appropriations. Current language leaves unclear the date cash fund appropriations are to be reallocated—



session adjournment date vs. date of authorizing bill passage—and may have the unintended consequence of prematurely halting ongoing projects.

THIS LANGUAGE WAS REMOVED BY THE HOUSE AND THE ADMINISTRATION REQUESTS THE LANGUAGE BE REINSTATED BY THE SENATE.

For reference, 32 V.S.A. 701a(c):

(c) The spending authority authorized by a capital construction act shall carry forward until expended, unless otherwise provided.

(1) All unexpended funds remaining for projects authorized by capital construction acts enacted in a legislative session that was two or more years prior to the current legislative session shall be reported to the General Assembly and may be reallocated in future capital construction acts.

(2) Notwithstanding subdivision (1) of this subsection, any amounts appropriated in a previous capital construction act that are unexpended for at least five years shall be reallocated to future capital construction acts.

Comments:

Section 78 was removed from the House BAA at the request of Chair Emmons of the House Corrections and Institutions Committee, who expressed a desire to take further testimony in her committee on the proposed amendment. The following testimony was provided:

The purpose of the amendment is to establish parity between the reallocation process for Cash Fund funded capital appropriations and those funded by general obligation bonding. Under current law, per 32 V.S.A. §1001b(e), Cash Fund appropriations must be encumbered “not more than two years from the legislative session in which the act authorizing the expenditure was enacted.” This language presents several challenges:

1. 32 V.S.A. §1001b(e) leaves open for interpretation the exact date by which encumbrances must be made. It’s unclear whether spending authority expires on the second anniversary of the date of passage of the Capital Bill, the last day of the regular legislative session, the last day of a veto override session, or the last day of the fiscal year during which the legislative session was held. **Without further clarification on legislative intent, it is impossible for the executive branch to operationalize this language.**
2. One effect, perhaps unintended, of 32 V.S.A. 1001b(e), is to shorten the window for the expenditure of Cash Fund funded capital appropriations relative to that of bond funded appropriations. Whereas, per 32 V.S.A. 701a(c), bond funded appropriations carry forward until expended but are subject to **review and possible reallocation** by the capital committees of jurisdiction two years after the appropriation is made, under 32 V.S.A. 1001b(e), Cash Fund funded capital appropriations **expire automatically** at some date two years following the session in which they were made. The timing of this automatic spending authority expiration coincides, unfortunately, with the beginning of construction season, and means that Cash Fund appropriations have at most two—potentially fewer depending on the timing of the bidding process—construction



seasons in which to be encumbered. This creates a discrepancy between Cash Fund appropriations and bonded dollar appropriations that threatens to undermine the use of the Cash Fund as a long-term alternative fund source for the State's capital needs.

Two illustrative examples:

1. **Project A** is funded with a \$1m **bonded-dollar** appropriation made as part of a capital bill effective April 30, 2023.
 - Following the passage of the capital bill, construction managers put the project out to bid in the summer of 2023 and complete the selection process by fall 2023.
 - Construction on the project begins in spring of 2024 and continues through the 2024 construction season.
 - By spring 2025, the project is 50% complete and the appropriation is 75% encumbered.
 - **Work continues on the project through the 2025 construction season.**
 - **By fall 2025, the project is 100% complete and the appropriation is 95% spent.**
 - **In the spring of 2026, the committees of jurisdiction review the remaining appropriation balance of \$50,000 and reallocate to new capital priorities.**

2. **Project B** is funded with a \$1m **Cash Fund** appropriation made as part of a capital bill effective April 30, 2023.
 - Following the passage of the capital bill, construction managers put the project out to bid in the summer of 2023 and complete the selection process by fall 2023.
 - Construction on the project begins in spring of 2024 and continues through the 2024 construction season.
 - By spring 2025, the project is 50% complete and the appropriation is 75% encumbered.
 - **On April 30, 2025, the \$250,000 in remaining spending authority for the project expires per 32 V.S.A. §1001b(e).**
 - **Work related to prior encumbrances continues through May of 2025, after which all work on the project stops, pending legislative reapproval in 2026.**
 - **In the spring of 2026, the committees of jurisdiction review the remaining project need and approve the completion of the project. Since the original bid in 2023, construction costs have risen and the cost of completing the project is now \$300,000.**
 - **The project is completed during the 2026 or 2027 construction season.**



Deleting the current 32 V.S.A. 1001b(e) language and tying the reallocation process for Cash Fund appropriations to that of bonded dollar appropriations would create parity between the fund sources and help prevent unnecessary project delays that could result in cost increases for the State.

