



**STATE OF VERMONT**  
GENERAL ASSEMBLY  
LEGISLATIVE JOINT FISCAL COMMITTEE

Wednesday, September 21, 2022

Minutes

Hybrid Meeting: Room 24 and [Videoconference](#)

Members present: Representatives Ancel, Briglin, Fagan, Hooper, and Kornheiser and Senators Baruth, Sears, and Westman.

Other attendees: Senators Lyons and Sirotkin and Representative Marcotte via videoconference, Joint Fiscal Office and Administration staff, and various viewers in-person and through live streaming.

The Chair called the meeting to order at 10:00 a.m., and Representative Fagan moved to adopt the minutes of July 28, 2022. Senator Sears seconded the motion, and the Committee accepted the motion and adopted the minutes.

**A. Community Recovery and Revitalization Grant Program Overview {1:40}**

Joan Goldstein, Commissioner, Department of Economic Development (DED), reviewed the Community Recovery and Revitalization Grant Program explaining that the grants were available for for-profits, nonprofits, and municipalities. Representative Fagan asked for clarity on eligibility of an organization for the grant program. The Commissioner explained that organizations that had a history prior to the pandemic or were in a qualified census tract were eligible for the grant. Representative Kornheiser asked how the Department was communicating about the informational webinars regarding the program. The Commissioner replied that the Department would rely on its current network of organizational partnerships to share the press release on the webinars. Senator Baruth inquired when the online portal would be available to applicants. The Commissioner stated the target was for mid to late October. The Chair asked for clarity on the plan to roll out the program and whether the DED was confident in its ability to process the workload required to turnaround applications within the planned 30 days of the first batch of applicants. Commissioner Goldstein stated confidence in the Department's ability to adhere to its plan once the online application system was ready. The Chair informed the Committee that the grant program information had been shared with the relevant committees of jurisdiction for comments.

**B. VT Employment Growth Incentive Program – Proposed Enhanced Incentive Cap Increase {19:47}**

Abbie Sherman, Executive Director, Vermont Economic Progress Council (VEPC), and John Kessler, General Counsel, Agency of Commerce and Community Development (ACCD), reviewed the proposal with the Committee. Representative Fagan inquired how the funds would be allocated across the three applicants. Ms. Sherman responded that the applicants would need

to return to VEPC to finalize their applications, at which point the Cost Benefit Model would be run to determine whether their initially approved enhancement amounts are lower than initially approved. When finalizing the applications, the Council would determine whether it was prudent to award 100% of the net fiscal benefit, given the constraints of the cap.

Representative Kornheiser inquired why Vermont would incentivize job creation given the current low unemployment rate and asked how the enhanced Labor Market Area (LMA) is different from other labor market areas. Ms. Sherman explained that VEPC asks applicants for a plan on how they would encourage employees to move to Vermont to fulfill their performance benchmarks and meet incentive requirements. Representative Ancel asked what the unemployment rates and triggers were for the two types of LMAs that had qualified applicants. Ms. Sherman explained the triggers were applicants that had higher unemployment or lower wages than the statewide average. The employment rates were not readily available, but Ms. Sherman suggested the information was sourced through the Vermont Department of Labor, who decided eligibility for applicants. Commissioner Goldstein added that the measurement for qualifying under the unemployment rate was determined at the time of an application. Goldstein noted that the Windsor LMA qualified for both the unemployment and wage criteria, and the Waterbury LMA qualified for one of the criteria. Representative Ancel commented that the information on the unemployment rate was important to the conversation to determine whether applicants located in economically disadvantaged areas. Ms. Sherman stated that statute determined the two types of criteria for economically disadvantaged areas. Representative Ancel asked how the incentive is paid out. Ms. Sherman explained that the LMA and Vermont Employment Growth Incentive (VEGI) incentives are combined and paid out over the course of the five-year grant. Representative Ancel asked if the requirements are different for those applicants that receive the enhanced incentive as opposed to those applicants that receive the normal VEGI incentive.

Senator Sears inquired if the incentives were causing greater competition between Vermont and its neighboring states and towns for recruiting employees. Ms. Sherman responded there was competition from Vermont's neighboring states. The goal of the incentive program was to provide an opportunity to Vermonters for better wages and benefits.

Representative Briglin asked if the entire incentive was accounted for in the first award year or with each of the five-year payout years. Ms. Sherman explained that the full amount was applied against the VEGI enhancement cap in the year the incentive is awarded and accepted by the applicant. Representative Briglin inquired if awarded enhancements were ever increased in subsequent years because of amendments to the original award. Ms. Sherman stated that the incentives did not change once they were awarded. Representative Briglin asked if awards could be delayed until 2023 with the lateness in the season. Ms. Sherman responded that if an awarded applicant's project were delayed, it could return to VEPC with a new activity commencement date for 2023. The two current awarded applicants had already begun their projects. The third prospective applicant planned to decide on applying within the next couple of months.

Mr. Kessler further clarified the response to Senator Sears' question that the jobs created by the program are net new jobs that benefit the entire State. Representative Kornheiser asked for

clarification on the types of jobs within the enhanced LMAs. Ms. Sherman stated it was outlined in statute that jobs in enhanced LMAs were set at a lower bar because it was harder for those LMAs to compete with other areas of the State.

Senator Cummings queried if applicants included in their proposal a plan for housing employees and the necessary wage gap for living in areas with strained housing. Ms. Sherman offered that those could be policy questions to the Legislature. Senator Baruth asked if the Legislature could amend statute and allow deliberations of awards to become an open public process as compared to the current process done in executive session. Ms. Sherman offered that VEPC awarded incentives were conducted through executive session with complex information from the cost-benefit model. Senator Baruth commented that he supported the program but encouraged a change to statute to allow for more transparency of deliberations. Representative Ancel inquired of the amount of discretion the VEPC board has in deliberating the net benefit and enhancement allocation amounts for applicants. Ms. Sherman explained that the award amount was limited by the cost-benefit model and then the VEPC board weighed in on the questions posed to the model and other factors, including competitive offers by other states. Commissioner Goldstein offered that the original legislation was crafted with the intent to encourage development outside of the Chittenden County area.

Graham Campbell, Senior Fiscal Analyst, Joint Fiscal Office, [presented](#) an analysis of the proposal. Representative Kornheiser asked for clarification on the net revenue benefit to the State when there was a 100% award to an applicant. Mr. Campbell explained there would be a zero or a very small amount of net revenue benefit to the State over the course of the incentive. Representative Fagan inquired of the types of taxes included in the calculation of the net revenue benefit. Mr. Campbell would follow up and confirm the parameters in which the net revenue benefit was calculated with the Legislature's Economist, Tom Kavet. Mr. Campbell added that the calculation was an offsetting benefit that included a level of revenue and additional costs to the State. He added that VEGI worked through an input-output model that was based on assumptions.

The Chair encouraged the Committee to wrap up the discussion. Representative Ancel gave recognition to the program's value and explained that her preference was to have more time for the Joint Fiscal Office to gather the necessary information for the Committee to make an informed decision on the request. Representative Ancel requested that the Joint Fiscal Office further evaluate and review the request and for the Committee to postpone action on the request until its November meeting. The Chair commented that the statute obligated the Committee to review the net benefit to the State, but agreed the Committee needed additional information through staff research prior to deliberation.

Representative Fagan asked for the impact of postponing action on the request for the Brattleboro applicant. Ms. Sherman opined that the Brattleboro applicant could choose to leave the State if it did not receive the enhancement within its anticipated timeline. Representative Kornheiser inquired if the applicants could receive a VEGI award without the approval of the LMA enhancement cap increase. Ms. Sherman responded the applicant could receive a VEGI award and added that the additional enhancement award could mean the difference of whether

the business stayed in Vermont or relocated to a neighboring state. Representative Kornheiser commented there was not enough information on the VEGI process for enhancement awards to respond to the request for increasing the LMA enhancement cap. The Legislature may need to review and update the statute to coincide with the current Labor Market conditions and for better transparency of the process. Senator Baruth agreed with Representative Ancel's unofficial motion to postpone action on the request until more information was available on the request. Senator Sears commented there could be a better process devised in the future for submitting requests to the Committee. The Chair commented that VEPC was contending with the challenges of the statute that guides them in the process.

Commissioner Goldstein explained that statute allowed for the Committee to request further information on individual applicants, the approval process, or other confidential information regarding applicants in advance of meeting. The Chair noted the request was submitted on September 12 which did not allow sufficient time for the Committee to respond. Catherine Benham, Chief Fiscal Officer, Joint Fiscal Office, pointed out that within the statute, the JFO needed authorization from the Committee to request this additional information from VEPC, per 32 V.S.A. § 3341(b).

Senator Baruth moved to authorize that distribution of the confidential information to the staff, and Senator Sears seconded the motion. Representative Ancel moved to postpone action on the request until the Committee's November meeting, and then asked if the motion should be separate from Senator Baruth's motion or combine the two motions. **{1:29:01}**

The Chair recognized the motions separately and asked for the roll call on the first motion. The Clerk announced the vote as 8-1-1 with Representative Fagan voting no (himself), and Senator Kitchel was absent. Representative Ancel restated her motion to postpone action on the request to increase the LMA enhancement cap until the Committee's November meeting, and Senator Baruth seconded it. The Clerk announced the vote as 7-2-1 with Representative Fagan (himself), and Senator Westman voting no, and Senator Kitchel was absent.

### **C. Agency of Human Services**

#### **1. Emergency Rental Housing Program Update {1:33:10}**

The Chair explained the intent, for requesting the update on the Emergency Rental Housing Program (ERAP), was to gather information on a recently announced proposal of the Administration to change the benefits for some program recipients.

Sean Brown, Commissioner, Department for Children and Families, and Douglas Farnham, Deputy Secretary, Agency of Administration, gave an update to the Committee on the recent planned change to ERAP. Deputy Farnham gave background on the federal grant funds provided to the State regarding housing disruptions from the COVID-19 Pandemic.

Deputy Farnham explained that the federal housing funds were being depleted after a U.S. Treasury reduction of grant funding, in March of 2022, and a 50% increase in program recipients that resulted in a \$12 million per month in expenditure, which was higher than originally estimated. The Administration created a plan to mitigate the harm to the State's most vulnerable

by freeing up \$20 million in the Emergency Rental Assistance (ERA) #1 closeout process, to cover the gap in ERA #2. The Administration planned to first reach out to the JFO to review and understand the calculations and then work with the State's community housing partners on planning priorities. The Administration planned to extend the funding to the 30% Area Median Income (AMI) population through April 2023. Mr. Farnham explained that recipients who received a Section 8 housing voucher would step down from the ERA benefit to 70% of their normal coverage. In November, households above 30% AMI would step down to 50% of the ERA benefit, and, in December, those same households would transition off the program. However, there was time to work with community partners and adjust according to new funding options or solutions identified to create additional capacity.

Representative Kornheiser showed appreciation for the Administration's openness to finding solutions for Vermonters, and then pointed out that all Vermonters were vulnerable because of the tough housing market Vermont faced. She then asked for the implications of delaying action on plan to allow the full Legislature to weigh in on the issue, then the timelines for consulting with community partners and the implementation of the plan. Mr. Farnham explained that the State was approaching \$19 to \$20 million a month in ERA expenditures, and there was no way to restructure the program without depleting the funds prior to the 2023 legislative session. The priority was to first fund the 0% to 30% AMI population through March 2023, and then allow the Legislature to react in the FY23 Budget Adjustment Act (BAA) on remedies for other vulnerable Vermonters. Households would receive 30 days', and possibly 45 days', notice on reductions but it was important to not overpromise. If there was a potential for reductions sooner, the Administration would be extra vocal on the change.

The Chair commented that the Legislature had thought there was a plan in place for housing, and Vermonters had the expectation that they were covered in the short term, but now feared to become homeless. She suggested that other possible areas of funding could include the Federal Emergency Management Agency (FEMA) non-congregate sheltering or the \$15 million of General Funds that was set aside in the FY23 budget to cover emergency housing from March to June of 2023. The Chair suggested that community partners may need a direct infusion of funds to shore up programs no longer receiving benefits. Senator Cummings asked about the process for moving recipients off transitional housing to permanent housing. Commissioner Brown responded that the Department assigned caseworkers to each recipient/family to identify barriers and needs of the family and added them to the waiting list for permanent housing.

The Chair thanked the Administration for working with the community partners to understand the best use of the available funds. Commissioner Brown stated the Department would work with community partners to use resources in the most economical and best way.

## **2. Transitional Housing Program – Review of Draft Emergency Rules {2:02:47}**

Jennifer Myka, General Counsel, and Nicole Tousignant, Senior Policy and Operations Manager, Economic Services Division, Department for Children and Families, reviewed the draft emergency rules for the transitional housing program. Senator Cummings asked if there were specific amenities covered by the program. Ms. Tousignant explained that the program does not

have specific requirements for hotels to include certain amenities, however hotels were bound by the hotel and motel lodging rules under the Department of Health regulations.

Representative Kornheiser inquired if new applicants, after the October 1 deadline for the program, would be subject to General Assistance rules for the cold weather exception. Ms. Myka agreed that General Assistance rules would be the process for applicants after the program deadline. Representative Kornheiser asked about regulating the prices of those hotels that were charging above market rates. Ms. Tousignant responded that the Department did not have the authority to dictate prices for rental units under the program by federal law. Senator Baruth inquired if the Department could investigate price gouging of hotels. Ms. Tousignant explained that the Department could investigate price gouging but had not done so. Senator Baruth requested the Department investigate if there was price gouging happening to the program by hotels. Ms. Tousignant responded that the Department would follow up with the Attorney General's Office on pricing, but some hotels are sensitive to the price and a lot of thought went into the current rate for hotel rooms.

### **3. Reach Up Program – Status of Underutilized Funds {2:10:17}**

Commissioner Brown reviewed a memorandum that outlined the status of underutilized funds in the Reach Up Program. *(no questions from the Committee)*

### **4. Private Nonmedical Institutions - Plan to Address Costs {2:11:45}**

Andrea DeLaBruere, Commissioner, Department of Vermont Health Access, and Commissioner Brown, presented a plan to address costs for private nonmedical institutions (PNMI). Senator Sears gave a historical account of his personal experience with the PNMI process and asked for an update at a future meeting on hard-to-handle youths. He added that the State of New Hampshire planned to close its youth program in March 2023. The Senator expressed concern for a plan that was not the intent of the Legislature. Commissioner DeLaBruere agreed with the Senator on how critical the PNMI program was to the State. The best path to sustainability of PNMI was through a robust stakeholder engagement to determine program needs and long-term sustainability options. Senator Sears suggested that contractors were not a long-term solution for staffing because they were not trained to the degree of permanent staff, and the lack of consistency from staff turnover. The Chair agreed with the Senator's suggestions that the rate setting should coincide with the programs costs as that have increased from inflationary pressures. Commissioner DeLaBruere stated the plan was a more collaborative process but was contingent on future appropriations. Commissioner Brown added that DCF was in collaboration with DVHA on the plan, but everything is costing more and affecting decisions of the PNMI process.

### **5. Child Care Block Grant – proposal to spend {2:27:20}**

Sean Brown and Miranda Gray, Deputy Commissioner, Child Development Division, Department for Children and Families, reviewed the Department's proposal to spend the remaining Child Care Development Block Grant containing American Rescue Plan Act discretionary funds. Representative Kornheiser asked if the proposal was one-time money used for an ongoing expense. Ms. Gray responded that the funding was for two years and then DCF,

the Department of Health, and the Agency of Education anticipate applying for a preschool development grant with assistance from Building Bright Futures.

The Chair asked for clarification on the funding timeline of the grant. Ms. Gray clarified that the grant was for a total of 2.5 years because it followed the federal fiscal years, aligning with the FY 2023 and FY 2024 State budgets. Commissioner Brown added that DCF was confident that with efficiencies, the program should be able to continue without requesting new base appropriations.

Senator Baruth moved to approve favorably the Department's request, and Representative Fagan seconded the motion. The committee accepted the motion and approved the proposal on a roll call vote of 9-0-1.

#### **D. Administration Fiscal Updates**

##### **1. General Fund and Transportation Fund Balance Reserves Report {2:36:24}**

Adam Greshin, Commissioner, and Hardy Merrill, Deputy Commissioner, Department of Finance and Management, reviewed the General and Transportation Fund Balance Reserves Report. (There were no questions from the Committee)

##### **2. 27/53 Reserve Report (this report was updated on 9-27-2022) {2:38:49}**

Deputy Merrill reviewed the 27/53 report and highlighted quoted language of a technical correction to be included in the Governor's Recommended FY 2023 BAA. (There were no questions from the Committee.)

##### **3. FY24 Budget instructions and submission guidelines, and Fiscal Challenges {2:43:34}**

Commissioner Greshin reviewed the instructions and supplemental guidance. The target for budget growth in the General Fund for departments was set at 3% and acknowledged the challenges associated with meeting that target. As some relief to departments, the internal service fund (ISF) will remain at the previous year's budgeted amount. The Chair expressed concern on the flat ISF because it may not acknowledge true costs and require catch-up later within department budgets. The Commissioner responded that the Administration planned to allocate additional GF to departments that had increased ISF costs and were not able to absorb them within their budgets.

Representative Ancel referred to the section of the budget instructions on the fee bill and inquired if the instructions were the same as previous years to departments. Commissioner Greshin responded that those were the same instructions as previous years. The Chair offered that within the budget, the Administration was tasked with producing an analysis of State government fees and submitting a report to Legislature in January.

##### **4. Coronavirus Relief Fund Report - reversions and reallocations {2:50:42}**

Commissioner Greshin reviewed the Coronavirus Relief Fund (CRF) report. He added that as of Monday, the bank balance for CRF was zero after the transfer for the Agency of Transportation's payroll expenditure. He noted that there could be other returns in the future. (There were no questions from the Committee).

**5. ARPA – Coronavirus State Fiscal Recovery Fund – reversions and reallocations  
{2:52:53}**

Commissioner Greshin reviewed the American Rescue Plan Act (ARPA) Coronavirus State Fiscal Recovery Fund (CSFRF) reversions and reallocations and noted one reversion.

**6. FY23 LIHEAP Update {2:54:52}**

Commissioner Greshin gave an update on the FY 2023 Low Income Home Energy Assistance Program (LIHEAP). Referring to the update memorandum, he noted that because of the increase in fuel costs that would have decreased benefits to recipients, DCF worked to devise a way to provide the same benefit through \$11 million in excess receipts by way of the FY23 BAA or the Emergency Board. The Chair noted a possible third option of using federal funds

**E. Fiscal Officer's Report {3:01:02}**

Catherine Benham, Chief Fiscal Officer, Joint Fiscal Office, highlighted areas of the report submitted to the JFC.

The Committee adjourned at 1:07 p.m.

Respectfully submitted,  
Theresa Utton-Jerman, Senior Staff Associate  
Joint Fiscal Office

Link to recording: <https://www.youtube.com/watch?v=ncb5cZk0M0k>