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Susanne R. Young, Secretary

February 12, 2021

Honorable Mary Hooper
Chair, House Committee on Appropriations

Vermont State House
115 State Street
Montpelier, VT 05602

Dear Representative Hooper,

I write with respect to H.138, *An Act Relating to Fiscal Year 2021 Budget Adjustments*, (BAA), as passed by the Senate on February 11, 2021. The Administration appreciates the continued collaboration and offers the following feedback on the Senate passed bill, as well as a request for an additional proposal of amendment to help verify the accuracy of thousands of 1099-G forms before they are sent to taxpayers by the Department of Labor.

Additional Proposal of Amendment, Confidentiality Waiver Between Vermont Department of Taxes and Vermont Department of Labor:

Under current law (32 V.S.A 3102), the Department of Taxes and the Commissioner are prohibited from sharing confidential tax information with other Departments. As the Department of Labor works to provide Vermonters their proper 1099-G tax forms, they have discovered between 4% and 7% rates of mismatch in claimants' information. These discrepancies are likely typos or mistakes made when claimants filled out unemployment insurance applications. In the Budget Adjustment Act, we are asking the Legislature to consider the attached amendment, which will allow the Department of Taxes to share taxpayer information with the Department of Labor to reconcile these inconsistencies. This will greatly expedite VDOL's work to get correct 1099-G tax forms to Vermonters.

With this exemption, VDOL would share the unemployment claimant file with Tax, in a limited, secure way. Tax would then validate names and social security numbers using their VTax system. For non-matches, Tax could correct the information in the file. Tax would return a file to VDOL through the secure exchange, and VDOL could proceed with additional manual verifications, and processing of the new 1099s.



Economic Recovery Grants:

It is a disappointment that neither the House nor the Senate passed versions of the Budget Adjustment Act included funding for economic recovery grants, but we are optimistic that we can work together to get this critical funding to businesses in a subsequent appropriation bill. The Governor's recommendation included \$10 million in one-time General Funds for this purpose because Vermont businesses need this funding right now. They do not have the luxury of time.

As a reminder, this \$10 million proposal will support businesses who still have ongoing, unmet need and are ineligible for, or have otherwise been closed out of, the COVID-19 Paycheck Protection Program or other Small Business Association grant programs. These grants will help new businesses that were not in operation before February 15, 2020 as well as businesses that do not have 2019 revenue figures to calculate the required revenue loss percentages in the Paycheck Protection Programs.

We look forward to working with you on this initiative in a separate spending bill.

Department of Public Safety, 'Use of Force' and Body Cameras for All Enforcement Officers:

The Administration has a sense of urgency to fund 'use of force' training and modernize law enforcement – both in response to current events relating to criminal justice and to meet the statutory deadlines set in Act 165 of 2020. This new law requires the Vermont State Police implement new standards for 'use of force' and 'justifiable homicide' by no later than July 1, 2021. Neither Act 165 nor Act 154 allocated money for this important work.

The Senate restored the Governor's recommended appropriations of \$409k and \$198k for 'use of force' training and body cameras for enforcement officers, respectively. The Administration requests these initiatives remain funded in the Budget Adjustment Act.

Vermont State Colleges – Source of Funds and Other Coronavirus Relief Fund Expenditures:

The Administration continues to advocate for using Coronavirus Relief Funds to support the Vermont State College System in the Budget Adjustment Act. In the time between when the House passed the BAA and the Senate passed the BAA, more CRF reverted to the state. At this time, we are confident we can fund the following initiatives using CRF:

- The Vermont State College's ask of \$5 million:
 - \$3.6 million in the Governor's recommend plus the \$1.4 million contingency;
- The House's \$2.8 million initiative for rental housing arrearage support for December 2020 and January 2021; and
- The \$750k of Department of Motor Vehicle operating costs to free up Transportation Fund monies.

The Senate passed version of the bill uses CRF to fund the Vermont State College System budget request, which the Administration also supports.

Consolidated Appropriation Act and Other Federal Funds, Retroactivity:

The need for information about the ability of the State to use federal funds from sources other than CRF whenever possible is understood. Until there is guidance from the federal government around retroactive use of funds allocated through the Consolidated Appropriations Act – or additional federal funds yet to be determined – it is unclear at this time what could be conveyed in the report required in section 44. The Senate’s modifications to this section, requiring that the report be provided as soon as federal guidance is provided, similar actions are taken by other states, or recommendations are made from knowledgeable consultants or contractors, are an improvement. However, the Administration, the Joint Fiscal Office and Joint Fiscal Committee have worked collaboratively over the last 10 months to stay informed and act when needed and yet another report requirement seems unnecessary.

Governor’s Emergency Response Fund:

The basis of this proposal was twofold. First, it meant to give the Governor access to, and authorization over, resources as we continue to manage and respond to the many public health variables of this pandemic. The language we proposed sought to establish a narrow standard for when and how the Governor could use these funds, or specifically when ‘health and safety, critical timing, and the emergency nature of needs are issues.’

While your Committee felt these parameters were too broad, balancing these concerns with the ability of the Executive to be swift and nimble in responding to public health needs of the state is a big challenge. The Senate’s version of section 45 comes closer to our original policy intent by giving some discretion to the Administration for expenditures under \$100k and prescribing a quick review by the Joint Fiscal Committee for proposed expenditures exceeding \$100k.

Second, this proposal sought to make accounting for Coronavirus Relief Funds easier by allowing all reversions to accrue in this one fund except as otherwise indicated in this bill. When it comes time to reconcile the balance of this fund – either on April 30, 2021 in the House version or May 15, 2021 in the Senate version – we should have net positive CRF funds, a clear understanding of potential emergency pandemic response needs, and an opportunity to strategically appropriate for the state’s recovery from this pandemic.

Use of Coronavirus Relief Fund Balances:

The Administration supports the language extending Agencies’ and Departments’ authority over CRF balances, specifically:

- Sec. 13 and 47: COVID-19 Response, Accelerated Broadband Connectivity Program and COVID-19 Response, Temporary Broadband Subsidy Program (Public Service Department)
 - One detail to note: the \$200 million in funding under the Consolidated Appropriations Act for housing and utility arrearages cannot be applied to broadband and internet utility bills.
- Sec 48: Agency of Commerce and Community Development; Everyone Eats
- Sec. 7: Agency of Human Services; Health Care Provider Stabilization Grants
- Sec. 51 Department for Children and Families; Housing for Households Experiencing Homelessness



Conclusion:

We have appreciated working with you on this bill and we are particularly appreciative of your support for the \$200 million Housing and Rental Assistance Grant through the grant approval process with the Joint Fiscal Committee. These funds can immediately be put to work on behalf of Vermonters in need of assistance. Of the many disruptions to our usual budgeting process that we have endured this past year, it has been refreshing to go through a seemingly ‘normal’ budget adjustment for fiscal year 2021. That probably will not be the case for the remainder of this legislative session with so much federal money to reconcile – and likely more federal money that will need to be appropriated strategically to continue to provide economic recovery from the pandemic. Thank you for your commitment to seeing the state through these challenging times.

Sincerely,

Susanne Young
Secretary, Agency of Administration

Attachments: v2-21-0896; Senate Economic Development Tax Information for UI Administration
Memo Senate Economic Development 1099 Incident Legislative Request

Cc: Representative Jill Krowinski, Speaker, House of Representatives
Representative Janet Ancel, Chair, House Committee on Ways and Means
Senator Rebecca Balint, Senate President Pro Tempore
Senator Jane Kitchel, Chair, Senate Committee on Appropriations
Senator Ann Cummings, Chair, Senate Committee on Finance
Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office
Stephanie Barrett, Associate Fiscal Officer, Joint Fiscal Office
Adam Greshin, Commissioner, Department of Finance and Management
Governor's Cabinet

1 Introduced by Committee on Economic Development, Housing and General
2 Affairs

3 Date:

4 Subject: Labor; taxation; Department of Taxes; disclosure of tax records;
5 unemployment insurance

6 Statement of purpose of bill as introduced: This bill proposes to permit the
7 Commissioner of Taxes to disclose tax information to the Department of Labor
8 for purposes of determining the amount of benefits that individuals are eligible
9 to receive through Pandemic Unemployment Assistance and for purposes of
10 issuing tax documents for unemployment insurance and related federal and
11 State benefits programs.

12 An act relating to the disclosure of tax information to facilitate the
13 administration of COVID-19-related unemployment insurance benefits

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 32 V.S.A. § 3102 is amended to read:

16 § 3102. CONFIDENTIALITY OF TAX RECORDS

17 * * *

18 (e) The Commissioner may, in his or her discretion and subject to such
19 conditions and requirements as he or she may provide, including any

1 confidentiality requirements of the Internal Revenue Service, disclose a return
2 or return information:

3 * * *

4 (8) To the Commissioner of Labor for the purpose of establishing the
5 identity or liability of employers for unemployment compensation, for the
6 purpose of verifying the earnings of individuals in order to determine the
7 amount of Pandemic Unemployment Assistance they are eligible to receive,
8 and for the purpose of verifying and correcting personally identifiable
9 information necessary for the creation and issuance of tax documents to
10 individuals who received benefits through unemployment insurance and
11 related federal and State benefit programs administered by the Department of
12 Labor.

13 * * *

14 Sec. 2. 32 V.S.A. § 3102(e)(8) is amended to read:

15 (8) To the Commissioner of Labor for the purpose of establishing the
16 identity or liability of employers for unemployment compensation; and for the
17 purpose of verifying the earnings of individuals in order to determine the
18 amount of Pandemic Unemployment Assistance they are eligible to receive;
19 ~~and for the purpose of verifying and correcting personally identifiable~~
20 ~~information necessary for the creation and issuance of tax documents to~~
21 ~~individuals who received benefits through unemployment insurance and~~

1 ~~related federal and State benefit programs administered by the Department of~~
2 ~~Labor.~~

3 Sec. 3. 32 V.S.A. § 3102(e)(8) is amended to read:

4 (8) To the Commissioner of Labor for the purpose of establishing the
5 identity or liability of employers for unemployment compensation ~~and for the~~
6 ~~purpose of verifying the earnings of individuals in order to determine the~~
7 ~~amount of Pandemic Unemployment Assistance they are eligible to receive.~~

8 Sec. 4. EFFECTIVE DATES

9 (a) This section shall take effect on passage.

10 (b) Notwithstanding 1 V.S.A. § 214, Sec. 1 shall take effect on passage and
11 shall apply retroactively to January 15, 2021.

12 (c) Sec. 2 shall take effect on July 1, 2021.

13 (d) Sec. 3 shall take effect on July 1, 2022.

MEMORANDUM

TO: Sen. Michael Sirotkin, Chair, Senate Committee on Economic Development, Housing and General Affairs

FROM: Brittney Wilson, Deputy Chief of Staff, Office of Governor Phil Scott
VDOL 1099 Incident Tactical Team Lead

DATE: February 11, 2021

RE: Legislative change for short-term exemption to Vermont Tax Department confidentiality law

The response to the Vermont Department of Labor (VDOL) 1099-G incident has brought to light restrictions in inter-agency data access, for the purposes of validating and verifying personal information. These restrictions are delaying the reissuance of the new VDOL 1099s and preventing VDOL from obtaining additional validations. The Department of Labor is improving overall quality control processes, but there is an immediate need to access existing Tax Department data to allow VDOL to efficiently produce accurate 1099s, ultimately helping claimants. This change would require a short-term, targeted exemption to the Vermont Tax Department confidentiality law.

A few days ago, we asked the Tax Department to run a validation test on regular UI 1099-G files. Rates of mismatch ranged between 4% and 7% in the various programs, which we believe to be claimant errors or typos made during the application process. However, 32 V.S.A. 3102 prevents the Tax Department from sharing any additional details or records with us. Confidentiality provisions even prevent the Tax Department from providing information on which records did, or did not match. In order for the Tax Department to return the information necessary to correct VDOL records, or even identify which records are incorrect, a confidentiality exemption would be required.

With this exemption, VDOL would share the unemployment claimant file with Tax, in a limited, secure way. Tax would then validate names and social security numbers using their VTax system. For non-matches, Tax could correct the information in the file. Tax would return a file to VDOL through the secure exchange, and VDOL could proceed with additional manual verifications, and processing of the new 1099s. There are just over 100,000 UI claimants that need to receive new 1099s. Given the size and scope of the UI population, an electronic verification, with another state agency, is essential to produce accurate 1099s timely and effectively.

In closing, we believe we owe it to claimants to get their 1099 forms as accurate as possible. It's likely that any remaining data issues are the result of errors made at the time of application, which are typically resolved after taxes were filed. But we believe we have a responsibility, and owe it to claimants, to take additional, proactive steps to ensure the information on new 1099-Gs is as accurate as can be. This will result in a smoother tax filing experience. for them as well. There is concern from claimants that because their 1099s are late, their tax filings will be delayed too. Without the additional verification we are seeking, it is still possible for claimants to file their taxes. However, this could result in longer processing time for the Tax Department to verify that information, resulting in delayed refunds.

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