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MTF Brief

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Analysis of FY 2022 Surplus & Economic Development Bill

House and Senate budget leaders have released a compromise $3.76 billion economic development bill, which also closes the books on fiscal year (FY) 2022. This legislation, which cuts the House and Senate economic development bill proposals by approximately $1.4 billion, does not include any tax relief provisions, even those identical in both versions of the bill.

Economic Development Spending Summary

	Gov.	House	Senate	Conference
Economic development	$1,687.7	$2,940.4	$3,002.4	$2,852.4
Closeout	$1,622.2	$0.0	$0.0	$909.0
Total	***$3,309.9***	***$2,940.4***	***$3,002.4***	***$3,761.4***
$ in millions				

Impact on FY 2022 Surplus & Remaining ARPA Funds

The bill relies on $2.3 billion in FY 2022 surplus revenues, $915 million in assumed federal reimbursements, and up to $510 million in federal Fiscal Recovery Funds to support spending. The Conference report also deposits the remaining FY 2022 surplus, estimated at $2.94 billion, into a "Temporary Escrow Fund." While not effectuated in this bill, these resources are presumably intended to cover the cost of MGL 62F tax rebates in FY 2023.

Summary of FY 2022 Resources

Initial surplus	**$5,331**
EcDev/Closeout Spending	$3,761
ARPA offset	*-$510*
Other offsets	*-$915*
Set aside for 62F Escrow	$2,941
CNS transfers	$30
Estimate remaining	**$24**
$ in millions	

The next Governor will take office with approximately $1.75 billion in ARPA Fiscal Recovery Funds remaining, one-third of the original award. All funds must be obligated by the end of 2024.

Fiscal Recovery Fund Usage to Date

Initial surplus	**$5,286.1**
Chelsea, Everett, Methuen, Randolph	$109.1
VaxMillions	$10.0
COVID Leave	$158.9
Administration Set Aside	$200.0
ARPA 1	$2,550.0
ARPA 2	$510.0
Remaining	**$1,748.1**
$ in millions	

Spending Themes

The final economic development and supplemental spending bill includes $3.8 billion in spending, compared to the $5.7 billion required to cover all spending in the three earlier bills. This means that, with the notable exception of local earmarks, most spending items are reduced from their original levels.

Spending Reductions in Final Bill

	Original bills	**Amount in Final**	**Difference**
Shared spending	$2,101.5	$1,417.4	-$684.1
House unique	$955.2	$534.0	-$421.2
Senate unique	$1,101.9	$800.3	-$301.6
Governor unique	$1,597.4	$918.2	-$679.2
New spending	$0.0	$91.5	$91.5
Total	***$5,756.0***	***$3,761.4***	***-$1,994.6***
$ in millions			

There is $102 million in new spending not included in earlier bills comprised of new funding for home energy costs ($47 million), as well as additional funding for collective bargaining agreements ($28.3 million), local earmarks ($11.8 million) and supportive housing ($5 million).

Major economic development spending priorities include:

- **Hospitals relief ($350 million)** – the bill adopts the House funding level of $300 million for hospital relief payments. The bill retains the House and Senate formula to distribute $300 million based on a hospital's relative price and its share of Medicaid and Medicare patients. The remaining $50 million is dedicated to a subset of high public pay hospitals, as well as non-acute hospitals ineligible under the formula.

- **Local earmarks (approximately $315 million)** – the bill includes approximately 615 local project earmarks. Conferees included all original House and Senate earmarks, as well as $11.8 million in earmarks not included in an earlier bill.
- **Housing ($304.5 million)** – these housing funds will be used to support below-market housing production ($100 million), workforce housing ($100 million) and the creation and rehabilitation of housing for low-income families ($100 million). The $304.5 million appropriation exceeds the House version amount of $101 million, but is less than the $403.5 million provided in the Senate's Economic Development bill.
- **Human service rates ($225 million)** – the Conference report adopts the Senate plan to increase human service contract rates. Like the Senate, the final bill splits the funds between rate adjustments due in FY 2023 ($100 million) and increases to the wage benchmark used for all human service rates governed by the state's Chapter 257 process ($125 million).
- **Port & water infrastructure ($215 million)** – the Conference Report includes $100 million for wind industry development at ports and $115 million to augment the state's Clean Water Trust, which represents a compromise from the House's proposed $100 million and the Senate's $150 million proposal. The port funding is divided between Salem ($45 million), New Bedford ($30 million) and Somerset ($20 million).
- **Nursing & rest homes ($195 million)** – the Conference bill retains $165 million for additional nursing home rate payments, as well as $30 million to reimburse rest homes for pandemic costs.
- **Public land protection & investment ($175 million)** – funds will be provided to protect, preserve and invest in public lands, with $100 million dedicated to environmental justice communities ($75 million) and low-income census tracts ($25 million). This House bill included $300 million for these uses.
- **Business support grants ($153 million)** – these funds will be dedicated to the hotel industry ($75 million), businesses serving or owned by underrepresented communities ($45 million), small business grants ($30 million), and movie theaters ($3 million).
- **Childcare stabilization grants ($150 million)** – similar to the Governor and Senate, the Conference bill dedicates an additional $150 million for C3 grants, almost all of which comes from remaining child care federal relief funds ($147 million). The line item language mostly mirrors the spending requirements for C3 grants found in FY 2023 budget, but does include a new $60 million earmark for subsidized providers. This additional investment will likely allow the program to continue through FY 2023, providing certainty to providers and allowing time to develop longer-term plans for childcare.
- **Clean energy investments ($150 million**) – the bill combines several Senate initiative into one line-item, earmarking $100 million for electrical charging stations ($50 million) and electric vehicle purchase incentives ($50 million). The Clean Energy Investment Fund, administered by the Clean Energy Center, receives the remaining $50 million. The Senate bill included $100 million for electric vehicle support and $125 million for the CEC.

- **Unemployment Insurance Trust Fund ($100 million)** – the Conference Report funds only $100 million of the UI overpayments payments made in error during the pandemic which have since been forgiven. This amount falls $200 million short of the $300 million proposed by the House for this purpose. Absent reimbursement from the state, the cost of these ineligible payments will fall on employers.
- **Home heating assistance ($57 million)** – the final bill increases the Low Income Heating Assistance Program (LIHEAP) subsidy included in the House bill to $57 million. The House originally proposed $10 million.

In addition, the bill includes $966 million from the Governor's closeout supplemental budget. The vast majority of this amount (81.1 percent) covers end-of-year MassHealth obligations ($471.8 million), anticipated COVID treatment and testing costs ($200 million) and additional safety funding for the MBTA ($112 million).

Tax Policy

The final bill jettisons $500 million in tax relief proposals, in spite of the fact that the House and Senate bills essentially agreed on the same tax relief priorities. House and Senate leaders have indicated that tax relief remains possible in the new year, but reforms to the estate tax, and increases in the state's Earned Income Tax Credit, child/dependent tax credit, rental tax deduction and senior property circuit breaker, are unlikely to benefit 2022 tax filers.

The decision to omit tax relief is not due to insufficient FY 2022 surplus dollars to cover the cost because such relief would affect FY 2023 and later fiscal years. In fact, in anticipation of these tax relief provisions, the FY 2023 budget sets aside $315 million to pay for expected tax relief. As discussed later in the Bulletin, the bill proposes repurposing these funds to a childcare investment trust fund.

Disposition of Tax Relief Proposal

Tax Proposal	House	Senate	In Final Bill
Dependent care/dependent	$310 credit per dependent/no cap	$310 credit per dependent/no cap	No
Rental deduction	50% of rent up to $4,000	50% of rent up to $4,000	No
Senior circuit breaker	Max credit ~$2,340	Max credit ~$2,340	No
Estate tax	$2M threshold; increase rate for $5M+ estates; Tax applies to threshold and above	$99,600 credit applied to all estates	No
Earned Income Tax Credit	Increase state credit to 40% of federal	Increase state credit to 40% of federal	No
Effective Date	TY 2023 (benefit when filed in 2024)	TY 2022 (benefit when filed in 2023)	No

The Conference Report also does not include the $510 million middle-income tax rebate plan that was included in both House and Senate bills. Subsequent to this rebate proposal, tax collections exceeded allowable levels by $2.9 billion, triggering tax rebates to all 2021 tax filers.

The final bill also excludes several smaller House tax proposals to exempt rolling stock and qualified data center purchases from the sales tax and to create a live performance tax credit pilot program.

Capital Spending

The Conference bill strips out more than $1.6 billion in capital spending authorizations for a variety of economic development, housing and infrastructure programs included in the House and Senate versions of the bill.

The inability to move forward with capital spending priorities is another casualty of this bill not being resolved by the end of formal session in July. A 2/3's roll call vote of both chambers is required to authorize the Treasurer to borrow capital funds, which is not possible now that formal sessions for the year ended on July 31st. The Legislature should act quickly in the new year to authorize this spending and the related borrowing.

Capital Spending in Economic Development Bills

Category	Gov	House	Senate	Conference
Broadband	$62.0	$72.0	$62.0	$0.0
Environmental Infastructure	$114.0	$114.0	$114.0	$114.0
Housing	$268.8	$268.8	$268.8	$268.8
Innovation support	$327.0	$327.0	$402.0	$402.0
Local economic development	$465.0	$619.5	$703.0	$703.0
Tourism & zoos	$19.0	$19.0	$19.0	$19.0
Total	**$1,255.8**	**$1,420.3**	**$1,568.8**	**$1,506.8**

$ in millions

Policy proposals

The final bill includes 271 policy sections, of which 131 appeared in either the House or Senate economic development. Most of the remaining sections were filed in the Governor's closeout supplemental budget, but there are several new provisions:

- **State university and community college tuition retention** – the bill includes nine sections allowing state universities and community colleges to retain all in-state tuition. Currently, UMass retains all tuition, but tuition for other campuses goes to the state's General Fund, while fees are retained at the campus level. The FY 2023 budget includes approximately $6 million in state university and community college tuition.
- **Local tourism grants** – the bill adds two sections requiring that a specific type of tourism grant be awarded by November 30th in both FY 2022 and FY 2023;

- **Nursing home assessment waiver** – the bill adds a section directing the Executive Office of Health and Human Services to seek flexibility in how it applies annual fees to nursing homes.

Notable economic development policies included in the final bill:

- **Brownfield's Redevelopment Fund** – while the final bill does not include an expansion of the Brownfields Tax Credit, it does include several sections expanding areas eligible to receive Brownfields Redevelopment Grants.
- **Smart Growth Zoning** – the bill includes 44 sections updating the state's Smart Growth Zoning program, which was created several years ago but has not been widely utilized.
- **Housing authority capital projects** – both the House and Senate included sections revising the criteria used to determine allowable housing authority capital projects.

In addition to the tax relief package, a number of notable House or Senate economic development sections were not included in the final bill:

- **iLottery** – the House bill authorized expanding to apps and online use, with all proceeds dedicated to early education.
- **Change to local in-law apartment zoning** – the Senate bill prohibited municipalities from using local zoning to prohibit to build in-law apartments (also called accessory dwelling units) of 900 square feet or less.
- **Housing Development Incentive Program (HDIP)** – both the House and Senate included an increase in the annual HDIP tax credit to $57 in FY 2023 and $30 million in subsequent years.
- **Natural gas facility taxation** – the bill does not include a House provision that would change how pipeline facilities are assessed for the purpose of local property taxes. Under the change, aboveground facilities would be credited to one municipality as opposed to shared among all the communities on the pipeline.
- **Public school staff diversity** – the bill does not include House sections creating a five-year pilot program for an alternative educator licensure process. Under the pilot programs, alternate licensure could be used to attract teachers to improve the diversity of the teaching workforce, increase the number English-language learner instructors, and fill critical teacher shortages. The House also added sections requiring all public school districts and charter school districts to create diversity plans and have a diversity, equity and inclusion officer on staff.
- **Auto body rate setting** – the bill drops a Senate section establishing a minimum hourly rate for auto body services related to insurance claims and creating a process to adjust those minimum rates going forward.
- **K-12 school spending** – the bill does not include Senate language would have allowed districts to fall short of annual net school spending requirements by up to 10 percent in 2021-22 and the next two school years, provided the difference between the amount spent and the required level was deposited into a reserve and spent prior to the end of the 2026-27 school year.

Impact on FY 2023

The bill affects FY 2023 finances in two major ways. First, it transfers the remaining FY 2022 surplus (estimated at $2.94 billion) into an escrow fund. This means that not further Stabilization Fund deposits will occur in FY 2022, leaving the year-end balance at $6.957 billion. The escrow fund section does not specify a use for the remaining surplus, but it is likely intended to address the FY 2023 impact of 62F tax payments.

The bill also repurposes $315 million in FY 2023 resources set aside to cover a portion expected tax relief costs. Those funds will now be deposited into the High Quality Early Education and Care Affordability Trust Fund, also created in this year's budget. If these sections are signed by the Governor, the balance of the early education fund will be $490 million.

Next steps

This conference report, once enacted, will go to Governor Baker's desk for signing. This is an appropriation bill and so the Governor will have the option to reduce spending, strike language and sections, and return policy sections with amendment. The Legislature is not in formal session until the start of next year, and so, barring a decision to change the session rules, this means they will not be able to take any actions, such as a veto override, that require a roll call vote.

This bill should be the final action affecting FY 2022 or its budget surplus. Attention will now shift to the current FY 2023 and the development of the FY 2024 budget. Despite growing economic uncertainty, FY 2023 tax revenues remain strong and exceed last year's collections to date by $443 million.

The FY 2024 budget process will kick-off in January, with a consensus revenue hearing, and the new Governor's first budget will be due by March 1st. Atop the next Administration's to do list must be lowering the economic burden on low-income residents and families and improving the state's economic position. Reviving the consensus tax relief plan that will not advance this year, will be a good first step in those efforts.