

Week 16 - May 3, 2019

THE VERMONT **STATEHOUSE INSIDER**

Weekly politics & analysis
of the issues in Montpelier



ILLUSIONS AND MIRRORS

This is typically the point in the legislative session when things change quickly. Today was supposed to be the day that morning committees shut down in the Senate which helps motivate legislators to compromise and move bills. While the morning committees will meet briefly next week, the notion of quick change is proving to be true again this year. Several tier-one policy bills that appeared to be stalled out ended up moving, like the tax and regulate bill, and some substantial changes to Vermont's tax policies are being made very late in the process. More on those tax changes later in the newsletter.

In addition to the unexpected and fast-paced action, this week is also usually when the budget passes out of the Senate Appropriations committee. In most years, the budget passes the Senate Appropriations when there are two weeks left. It does appear that the session will adjourn by May 18 keeping the legislature on track to complete their work in the 18 week scheduled time frame.

Like last year, two issues that appear to be linked to one another may ultimately determine if the session adjourns on time. The minimum wage bill and the paid family leave bill are two priorities for the legislature but its not clear which is the top priority for each chamber. Governor Scott also

weighed in and stated that he may be willing to reach a compromise on minimum wage. This could be a sign that there is deal between the governor, Senate and House to pass bills in some form that is acceptable to all of them. This would certainly continue the primary theme of this session which is to put the negativity of the previous biennium in the rearview mirror.

CANNABIS

A bill that would create a regulated retail market for cannabis in Vermont was voted out by the House Government Operations Committee on Thursday evening on a 10-1 vote. Provisions added to the Senate bill by the committee include a prevention fund that will be funded by 30 percent of the tax revenues from cannabis sales, a protocol for saliva testing and an opt-in standard that requires municipalities to grant approval for the establishment of retail cannabis dispensaries. The [bill](#) will head to the House Ways and Means Committee next where they will consider the Senate's proposed tax structure which imposes a 16 percent excise tax and an additional two percent local option tax on cannabis.

MONEY BILLS MOVING

Late Friday the Senate Appropriations Committee advanced the FY20 budget bill (H.542) and the FY20 Transportation Bill (H.529). The final Senate Appropriations Committee budget language will be released soon. Both bills will be up for action on the Senate floor next week. The rule of thumb is that when the money bills move out of the Senate there are about two weeks left in the session.

Here is a [side-by-side summary](#) of the House-passed and Senate Transportation Committee-passed versions of the Transportation Bill

TAX ISSUES

The House Ways and Means Committee advanced two significant pieces of tax legislation on Friday.

First, it [added language to H.514](#) changing the way revenue from the sales of services are "counted" for the purposes of the state's corporate income tax. Currently Vermont follows a three factor test that takes into account property in the state, payroll for Vermont employees and the "cost of performance" (COP) of providing services. Under the COP approach revenue from sales of services is allocated to the state where the taxpayer incurs the most cost in providing the service. As a result, revenue from the sale of services to Vermonters earned by a company located out of state is not "counted" if the bulk of the costs borne by that company in providing the service is incurred in other state. The committee's legislation would switch the methodology to "market

based sourcing” (MBS). Under MBS revenue from the sales of service to Vermonters will be allocated to Vermont. It is estimated this switch will increase corporate income tax revenues by approximately \$1 million. The committee also contemplated reducing the three factors to just one (sales), but due to the uncertainty of the revenue impact the legislation calls for an analysis of the revenue impact. The committee tacked its legislation on to H.514, which has already passed the House and Senate and is back before the committee for review of the changes made by the Senate. Once the full House signs off on the change by the committee the bill will go back to the Senate for its consideration of this new feature.

Second, the Ways and Means Committee [added tax language](#) to the Senate’s water quality bill, S.96. That language reduces the portion of rooms and meals tax revenue dedicated to the Education Fund from 25 percent to 21 percent and diverts the four percent difference to the Clean Water Fund. The language also repeals the exemption the legislature enacted in 2015 on imposing the sales tax on remotely accessed software, e.g., the “cloud tax.” The Department of Taxes will now be free to deem accessing software in the cloud as a taxable event for the purposes of the sales tax.

ACT 46

This week, a motion was made and approved by the Senate to dissolve the Senate side of a contentious committee of conference. The conference committee was tasked with finding a compromise between the House and Senate versions of a bill to grant delays to certain districts being forced to merge under Act 46. The request to disband the conference committee and potentially re-assign it to new members was made by the committee’s Chair, Senator Phil Baruth, (D/P-Chittenden) when the fifth meeting ended at a complete impasse and Senator Baruth accused the House side of intentionally moving farther away from a compromise. The House has made no motion to dissolve and reassign their side of the committee and does not appear to have plans to do so. Perhaps anticipating this barrier, on Tuesday Senator Baruth amended H.521 - a special education bill - on the Senate floor to include the language from the Senate-passed language from H.39 before sending H.521 back to the House. This bill has since been recommitted to the House Education Committee where it remains to be seen how House Education Committee Chair Kate Webb (D-Shelburne) will proceed.