

Week 17 - May 10, 2019

THE VERMONT **STATEHOUSE INSIDER**

Weekly politics & analysis
of the issues in Montpelier



NIGHT OF CUPS

With only one week left until the scheduled adjournment, it's unclear whether the 2019 General Assembly will be able to complete its work by then. At this time of year the rumors really start to fly making it difficult to determine what's reality and what's political misdirection.

The majority of the conversation in the statehouse this week focused on the money bills, paid family leave, minimum wage, the abortion rights bill, the 24 hour waiting period for handguns and the cannabis tax and regulate bill. These issues have been high profile throughout the 2019 session. There has been ongoing speculation there is a deal in the works that would ensure the paid family leave and minimum wage bills will be signed into law by Governor Scott. But, with a week or more to go in the session it's unclear whether such a deal will be finalized.

There are also rumors swirling that early next week there will be an announcement that the revenue projections for the state are very positive. What impact this has on the last week of the legislative session is dependent upon how good the numbers are. The new revenue could alter how the governor and legislators view some of the taxes that have already been passed by the House and the Senate and whether or not they remain necessary.

One thing does seem clear, if all the above mentioned bills are going to pass this year, it's unlikely the legislative session will actually adjourn by May 18.

TRANSPORTATION BILL

The Conference Committee on the Transportation Bill, H.529, met for the first time Friday. The conferees are Senators Dick Mazza, D-Grand Isle, Tim Ashe, P/D-Chittenden and Andrew Perchlik, P/D-Washington and Representatives Curt McCormack, D-Burlington, Tim Corcoran, D-Bennington, and Molly Burke, D-Brattleboro. Rep. Curt McCormack stated that the House would not negotiate on the T-Bill unless the Senate agreed to take some action on the DMV Miscellaneous Bill (S.149 - described above). Sen. Ashe responded that the Senate would take some action on S.149, so the committee started negotiating the T-Bill. For now, the outcome on the conference committee on the T-Bill and the DMV Miscellaneous Bill are dependent on the resolution of the primary seat belt issue. This is deja vu for State House observers as this same scenario played out last year. [Here is a link](#) to a side-by-side summary of the House and Senate-passed versions of the T-bill.

DMV MISCELLANEOUS BILL

The Senate has passed over the House Proposal of Amendment to the Department of Motor Vehicle Miscellaneous bill (S.149) on the Senate Calendar for over a week. This bill is in serious trouble due to the House adding two provisions that the Senate opposes. Most significant is the House added a primary seatbelt provision. The Senate believes that giving police the right to pull over a motorist solely for not wearing a seat belt as a primary offense (rather a secondary offense as it stands today) will result in racial profiling by police. The House put a primary seat belt provision in the cannabis bill as well. The House also added language requiring specific colored flashing lights on emergency

vehicles. The Senate doesn't like the House flashing lights proposal but the two chambers can likely find a compromise on this issue. That said, a compromise on primary seat belts remains elusive. The Senate took a number of "must pass" provisions out of S.149 and added them to the fee bill and the budget bill. It is unclear at this point whether S.149 will make it across the finish line this year.

TAX BILL

This year's primary revenue bill, H.541, passed the Senate on Friday. In doing so the Senate made various changes to the House version of the bill. Among other things the Senate made the following changes:

First, it changed the way in which the House version of the bill treats income from capital gains. Unlike federal law Vermont's current income tax law taxes capital gains at personal income tax rates. However, current Vermont law also allows a taxpayer to deduct 40 percent of their capital gains from the sale of assets held longer than three years, up to a cap of 40 percent of their federal taxable income. The House version of H.541 reduces the deduction to 30 percent and caps it at \$450,000, whichever is less. The Senate version of the bill retains the 40 percent exclusion, but reduces the cap to \$250,000.

Second, the Senate created a deduction from personal taxable income for medical expenses. The deduction equals the amount by which the taxpayer's federally allowed medical deduction exceeds the Vermont standard deduction and personal exemptions taken by the taxpayer.

Lastly, the Senate version of the bill also reestablishes the five income bracket system used for tax year 2017 and earlier, and sets the rates for those brackets as follows: 3.35, 6.60, 7.60, 8.75 and 8.90. Both chambers have appointed members to a conference committee that will try to reconcile the differences between the two versions of the bill.

- H.541 [as passed by the House](#)
- [Senate Amendment](#) to H.541
- [Overview](#) of capital gains and medical deduction issues

EDUCATION FINANCE

The Senate Finance Committee approved an [amendment](#) to the [House version](#) of this year's education finance bill, H.536. In doing so the committee accepted without change the House language requiring "marketplace facilitators" such as Amazon to collect and remit the state sales tax on products sold to Vermonters by a third party seller who uses the their platform. However, the committee changed the nonresidential property tax rate for FY20 from the House proposed 1.582 percent to 1.598 percent. The bill will be on the Senate floor early next week.

ASSOCIATION HEALTH PLANS

On Friday the Senate Finance Committee approved an amendment to H.524 that starkly differs from the House treatment of Association Health Plans (AHPs) in the bill. The House imposed a "look through" provision which prevents the aggregation of all of the employees of all of an AHP's members for the purpose of determining whether AHP is to be rated for premium purposes (and subjected to other rules) as a large group or small group plan. As a practical matter the House version of the bill would lead to the demise of AHPs. The Finance Committee amendment deletes the House look through provision, and thus opens the possibility that AHPs will be able to exist in plan year 2020 and beyond. The committee reasoned that because the situation at the federal level and in the courts concerning AHPs is in flux, it would be better to see how the federal and legal issues are resolved before pulling the plug on AHPs at the state level.

BUDGET BILL

The FY20 Budget Bill (H.542) conferees appointed this week are: Senators Jane Kitchel, D-Caledonia, Dick Sears, D-Bennington, and Richard Westman, R-Lamoille and Representatives Kitty Toll, D-Danville, Mary Hooper, D-Montpelier and Peter Fagan, R-Rutland. The conferees met twice on Friday to start the process of hammering out the differences in both the money and the language between the House and Senate versions of the budget bill. [Here is a list](#) of those differences that the committee has to work through during conference.

DATA PRIVACY

After being approved by the House Commerce and Economic Development Committee on Thursday, the Senate's data privacy bill (S.110) was unanimously approved by the full House on Friday. This comes after weeks of negotiations between the Attorney General's Office and industry stakeholders. Among other provisions the bill updates Vermont's data breach notification law, changes the existing definitions of personally identifiable information and adopts a PreK-12 student online privacy law. The House-passed bill represents a consensus by all stakeholders, but is still expected to end up in a committee of conference as the House made substantial changes including attaching their automatic contract renewal proposal from H.327, as discussed below.

AUTOMATIC RENEWAL

Before approving S.110, the House committee added to it language from H.327, which the House passed earlier this year. H.327 makes changes to a law passed last year dealing with automatically renewing contract provisions. Last year the legislature chose to set a July 1, 2019 effective date in order to allow for the tech industry to return this year to try to amend the law, since it would put Vermont out of step with the rest of the country and could present technical challenges for businesses attempting to comply. If the law were to go into effect as passed in 2018, it would prohibit consumer contracts from automatically renewing unless, in addition to accepting the contract, the consumer takes an additional affirmative action to opt into the automatic renewal provision, essentially requiring a "double opt-in". H.327 would align Vermont law with California law by streamlining consumer contracts and ensuring notification of automatic renewal of contracts before they expire. Despite the House passing H.327 early in the session, the Senate Economic Development, Housing and General Affairs Committee has not approved the bill. By attaching H.327 to S.110 the House committee is attempting to put pressure on the Senate to act.

PAID FAMILY LEAVE

This week the Senate advanced a House proposal to create a mandatory paid family leave program. On Monday, the Senate Economic Development, Housing and General Affairs Committee advanced the bill (H.107) on a 4-1 vote. The committee made several amendments and significantly reduced the benefits of

the program. The most significant changes were the removal of the ability to take leave to recover from one's own personal illness or injury, reduction of family caregiving leave from eight weeks to six, restriction of bonding leave from 12-weeks per individual to 12-weeks per child and shifting the funding mechanism to joint employer-employee funding. With the reduction in benefits the program would now be funded by a 0.20 percent payroll tax, half to be paid by the employee by means of a payroll deduction and the other half to be paid by the employer. The bill then moved to the Senate Finance Committee, where it was voted out 6-1 on Friday. The Senate Appropriations Committee is expected to take it up early next week. Contrary to the Governor's desire for a voluntary program, both the House and Senate proposals remain mandatory. Whether the governor will sign the bill when it reaches his desk remains to be seen.

MINIMUM WAGE

A Senate proposal to increase the minimum wage to \$15 an hour has been met with tepid support in the House. As it sits in the House Appropriations Committee, the conversation behind the scenes is evolving toward a longer implementation timeline. The governor has indicated he would be willing to entertain a less aggressive version of the bill, but exactly what a compromise between the Senate, the House and the governor might look like remains to be seen.

CHEMICALS

The House Human Services Committee spent the bulk of their time this week considering S.55, a bill that would change the way chemicals are regulated in children's products. S.55 would provide the commissioner of health increased powers to regulate and ban products that are marketed to children. It amends the regulatory program known as Act 188, which requires manufacturers of children's products to report whether those products contain certain chemicals. Act 188 also provides the commissioner of health the authority to regulate and ban products based on a broad range of health and risk criteria. S.55 would amend Act 188 to allow the commissioner of health to regulate children's products without approval from a stakeholder group that under current law has to sign off on regulatory action. The bill would also change some of the exposure thresholds required to trigger regulatory action. Industry and consumer advocates have been at odds over the effectiveness of Act 188 since its implementation and Human Services

Committee is working hard to try and find compromise language that improves the reporting and regulatory structure in a way that is not excessively burdensome for industry. The committee will reconvene on Monday to finalize the bill.

LEONINE NEWS

We are thrilled to announce that we are launching a new line of business that will provide government relations services to the fast-growing cannabis industry. The new line will be headed by Leonine Partner Todd Bailey and will focus on public policy and the development and growth of the cannabis and hemp industries throughout the nation. Bailey will act as Government Relations Director for Trace, a blockchain regulatory platform for the hemp and cannabis industries. Trace is a Vermont-based company that is expanding its market nationally.

The new line of business will be Leonine's fifth, in addition to the Vermont Government Relations, Strategic Communications, FOCUS 50-State Government Affairs and Information Services and Wireless Tax Policy lines.

Read the full press release [here](#).