

Education Legislative Report

March 27, 2019 – Issue #6

Education Legislation Advances

Bills addressing the yields and nonresidential tax rates, Act 46 merger deadline delay, farm-to-school grants, and student data privacy advanced in the House and Senate. Work continued on a bill addressing lead testing of drinking water in schools and child care facilities.

As leaders of your school systems, you serve as a voice for public education. As your state associations, we work to strongly represent education officials' concerns. Yet, there is no substitute for contact by constituents with their legislators. We encourage you to read our *Reports*, keep abreast of issues, and stay in touch with your house members and senators. Here are links to Legislators' contact information, organized by supervisory union/district:

1. [Word](#) Format
2. [Acrobat](#) Format
3. [Excel](#) Format

If you have questions regarding the content of this report, contact your Association's executive director or Sue Ceglowski, Director of Legal and Policy Services at VSBA and author of the report at sceglowski@vtvsba.org.

House Ways and Means Committee Passes Yield Bill

The House Ways and Means Committee approved [H.536](#), which sets the yields and nonresidential tax rates to fund school budgets for FY 2020.

The revenue sources for the Education Fund were modified substantially last year in order to, among other reasons, eliminate competition for resources between the General Fund and the Education Fund. While the Committee was asked to consider reallocating a portion of the meals and rooms tax, or alternatively, new revenue from e-commerce, in order to pay for an expansion of the child care subsidy, the Ways and Means Committee chose to approve a bill that leaves Education Fund revenue sources intact. Coupled with the use of \$24 million in one-time money, statewide average property tax rates would remain flat under H.536, according to the Joint Fiscal Office's most recent [Education Fund Outlook](#). This is despite voters approving education spending increases of close to 4%.

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H.536 sets the property yield at \$10,705.00, the income yield at \$13,164.00 and the non-residential rate at \$1.582, as compared the [Tax Commissioner's Dec 1 letter](#) which predicted a property yield of \$10,666.00, an income yield of \$13,104.00 and a non-residential rate of \$1.58. Additionally, the bill changes the term “nonresidential” to “nonhomestead” in statute and clarifies that sales by a marketplace facilitator (a third party who contracts with sellers to promote sales to buyers) are included in the sales tax collection obligation. Existing law imposes an obligation to collect and remit the sales tax for direct sales made by out of state companies but it fails to do so for sales facilitated by a third party.

The full House is expected to approve the FY 2020 yield bill this week. The bill will then move to the Senate for consideration.

Senate Approves Act 46 Merger Delay Bill

This week the Senate approved the Senate Education Committee's [amendment to H.39](#). The amendment takes a different approach to delaying Act 46 implementation than the House by requiring newly-elected boards of districts created by the State Board of Education merger order to decide whether to become operational on July 1, 2019 or July 1, 2020.

During the Senate floor debate on the proposed amendment to H.39, senators described hearing from constituents who are in favor of delay and those who strongly oppose it. Many senators cited strong support for full implementation of Act 46 due to benefits for children, while at the same time recognizing that in some communities more time may be required to comply with the State Board's order.

As the Senate version differs substantially from the House version, the next step in the process will likely be the formation of a committee of conference, where representatives from the House and Senate will negotiate over a final version of the bill. It is possible that the two sides will not agree on a final version, in which case no Act 46 delay will occur and the current deadlines will stand. For a comparison of the House and Senate versions of H.39, see the [March 18 Education Legislative Report](#).

House Education Committee Continues Work on Lead Bill

The House Education Committee has heard extensive testimony on [S.40](#), a bill that passed the Senate with a unanimous vote on February 14, which would require all schools and childcare facilities to test for lead in every fixture that may carry drinking water. The bill as passed by the Senate requires remediation of any tap with test results that exceed 3 parts per billion (ppb).

Last week, the House Education Committee heard testimony from school district facilities managers and a water system operator regarding the current management of school and municipal water systems and the potential costs of remediation. In addition, the Committee heard from several other witnesses expressing concerns about the bill.

Based on the testimony, the Committee is drafting its own version of the bill. The current [House Education Committee draft of S.40](#):

- (1) contains an action level of 5 ppb;
- (2) changes the deadline for initial sampling from January 1, 2020 to December 31, 2020;
- (3) is based on a revised fiscal note which reflects information provided by school facilities managers.

As of this report, it is unclear how much of the cost of testing and remediation will be covered by the State and how much will be the responsibility of local school districts. The House has approved [H.532](#), a limited budget adjustment bill, which provides \$2.525 million to fund S.40, allocated as follows: (1) \$125,000 to fund a limited service program position at the Department of Health, (2) \$125,000 to fund a limited service program position at the Department of Environmental Conservation, (3) \$150,000 to fund the program start-up and data management costs, (4) \$2,125,000 to fund the initial testing and retesting costs and to apply to tap remediation costs.

H.532 has moved to the Senate and was referred to the Senate Appropriations Committee yesterday.

Facilities managers shared concerns that the cost estimates for the program were too low and based on faulty assumptions about the availability of school personnel to change plumbing fixtures within buildings. This testimony prompted the House Education Committee to request an [updated fiscal note](#), which suggests the total cost of the program is closer to \$3.5 million statewide.

House Passes Changes to Farm-to-School Grants Program

The Senate Agriculture Committee this past week heard testimony on [H. 79](#), a bill passed by the House that changes the operation of the Vermont Farm-to-School (FTS) program. The current statute provides that “a school, school district, a consortium of schools, a consortium of school districts, or registered or licensed child care providers” may apply for the FTS program in order to receive funding to help increase the use of local food in school nutrition programs and to fund things such as equipment, training, and food products, and for “professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers”.

As it passed the House, the bill makes some changes that could impact the programs as they currently operate in public schools. The bill makes three changes to the current statutory language:

- (1) In addition to permitting schools to apply for the grants, the bill proposes to expand the definition of who may apply for the grants to include “an organization administering or assisting the development of farm-to-school programs”;

- (2) In addition to the current law permitting schools to use the grant monies for their own professional development, the proposed bill permits those non-school entities in (1) above to use the grant money to fund the professional development and technical assistance of those organizations.
- (3) Adds “organizations administering or assisting the development of farm-to-school programs” to the list of current entities that the Secretaries of Agriculture, Education, and the Commissioner of Health must consult with when adopting procedures relating to the content of the grant application and the criteria for making awards.

Senate Passes Student Data Privacy Bill

The Senate passed [S.110, as amended](#), an act relating to data privacy and consumer protection, which includes a section on student privacy that applies to both private and public schools in Vermont.

The relevant portions of the bill, as passed by the Vermont Senate and as apply to Vermont schools, provide that:

- (1) Operators of programs created and marketed for students and schools for the education of students may not, with some limited exceptions, use any of the material or data provided by students in their work for any purpose related to the monetization of the data. This includes selling, renting, advertising, or otherwise using information other than for the furtherance of pre-K-12 school purposes.
- (2) Disclosure is permitted in certain limited circumstances, such as to further the pre-K-12 services of the site or program, ensure legal compliance, respond to judicial processes, protect the safety or integrity of the site, or as requested by the school or student/guardian as appropriate. The operator is permitted to share the information with a third party if the operator contractually assures the third party will comply with the same requirements as the operator.
- (3) The bill will not limit law enforcement in its authorized duties, restrict operators from appropriate use of the student material and data for legitimate purposes related to the operator’s provision of the service, or impose any duties on the electronic stores or marketplaces to assure compliance of the provisions of the statute by operators.

New Bills Affecting Education

In each Education Legislative Report, we report extensively on education bills under consideration in committees, and at the end of the Report, we will list all newly released bills that appear to have provisions related to education.

House Bills

[H.520](#) – proposes to remove the 500 kW cap on net metering projects for school districts and municipalities

[H.521](#) – proposes to amend the special education laws to clarify changes made in Act 173

Senate Bills

[S.152](#) – proposes to require employers to provide employee contact information in relation to an effort to organize a collective bargaining unit; to provide for the automatic deduction of union dues from members' paychecks; to permit unions to meet with new employees for the purpose of providing them with information regarding union membership; to amend the law related to the use of State grant funds in relation to union organizing; and to establish a good cause standard for termination of employment in Vermont