



WEEKLY LEGISLATIVE REPORT

The Vermont League of Cities and Towns' **Weekly Legislative Report** is published each Friday during Vermont's legislative session.

VLCT 89 Main Street, Suite 4 Montpelier, VT 05602-2948 Tel. 802-229-9111 Fax 802-229-2211 Email info@vlct.org Web www.vlct.org	Follow VLCT Advocacy on facebook twitter Karen Horn , Public Policy and Advocacy Director Gwynn Zakov , Municipal Policy Advocate David Gunn , Editor To contact your legislators, find their email addresses on the legislative website (http://legislature.vermont.gov) or call the Sergeant-at-Arms (802-828-2228).
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Capital Bill

Throughout this legislative session, one of the overriding concerns for cities and towns has been how to pay for the Vermont Clean Water Act (Act 64), which was passed two years ago to clean up waters of the state.

According to the State Treasurer's [Clean Water Report](#), the 20-year clean water act compliance costs are \$2.3 billion. Revenues during that time are \$1.06 billion, leaving a \$1.25 billion gap . Estimated annual compliance costs are \$115.6 million and revenues are \$53 million, leaving – according to the treasurer – an annual gap of \$62.4 million.

The House Corrections and Institutions Committee takes the lead on writing the two-year capital bill (which currently has no number). That committee has spent an immense amount of time discussing projects that are ready to be funded in the agriculture, municipal, forestry, and development sectors in order to arrive at a reasonable capital budget for water quality in fiscal years 2018 and 2019. The committee received a list of projects that are ready for implementation in FY18 and FY19, totaling \$80,272,898. Those projects represent efforts on developed lands, wastewater treatment, agriculture best management practices, and erosion control. Regional commissions would receive \$1 million of Clean Water funding to deliver high priority basin plan projects with municipalities and partner organizations. Clean Water implementation-ready projects are itemized in a February 8th [Treasurer's Office Report](#).

Capital budget items that are important to local governments are itemized in the table on page 2. Capital projects for the two fiscal years total \$146,421,694 in the governor's proposal and \$146, 856,194in the House Corrections and Institutions bill. No more than \$74,177,000 would be appropriated in the first year of the biennium. Those projects would be funded with \$132,460,000 in bonding for the two years as well as various reallocations and transfers from previous capital budgets and sale of property.

Capital Bill Items of Interest to Municipalities				
Project Description	Governor's Proposal		House Corrections and Institutions' Proposal	
	FY18	FY19	FY18	FY19
Ortho Mapping	\$125,000	\$125,000	\$125,000	\$125,000
Historic Preservation Grants	200,000	200,000	200,000	200,000
Historic Barns and Agriculture	200,000	200,000	200,000	200,000
Cultural Facilities Grants	200,000	200,000	200,000	200,000
Recreational Facilities Grants	200,000	200,000	200,000	200,000
Regional Economic Development Grants	200,000	200,000	200,000	200,000
Human Services and Education Facilities	200,000	200,000	200,000	200,000
School Construction Emergency Aid	50,000	50,000	50,000	0
Drinking Water Supply Revolving Fund	2,544,200	1,362,400	2,344,200	1,362,400
Dam Safety	200,000	175,000	200,000	175,000
Clean Water Revolving Loan Fund	1,200,000	1,200,000	1,000,000	1,200,000
Ecosystem Restoration	5,000,000	5,000,000	6,000,000	5,000,000
Municipal Pollution Control Grants (continue year prior partially funded projects)	35,000	0	2,982,384	0
Municipal Pollution Control Grants (new projects)	31,500	3,275,000	2,704,232	1,157,268
Clean Water Appropriation	10,497,664	11,217,664	0	11,362,944
VTrans Municipal Mitigation	0	0	1,400,000	0
Agency of Agriculture Best Management Practices and CREP	1,800,000	2,000,000	3,450,000	2,000,000
Agency of Agriculture Water Quality Grants and contracts	0	0	600,000	0
VHCB water quality or conservation projects	2,750,000	1,000,000	3,800,000	2,750,000
Clean Water Total	21,314,164	23,692,664	21,936,616	23,470,212
Dry Hydrants	125,000	125,000	125,000	125,000

Education Finance

Vermont municipal government's chief interest in the education system is the demand it puts on the property tax – the only real source of revenue to fund municipal services. Excessive reliance on property taxes to fund schools makes voters unwilling to consider spending on equally important municipal priorities. This year, because of the concerted efforts of schools and municipalities to keep increases down, most budgets passed on Town Meeting Day: 183 school budgets were approved and 18 were defeated. According to the Vermont School Boards Association, the average increase in school budgets was two percent.

There are efforts to tweak the Education Fund formula for education property taxes almost every year. This year, in the midst of consolidation efforts pursuant to Act 46, is no exception. Last week, the House Education Committee voted out [H.509](#), a bill that would revise the education formula; the committee is currently working on a draft bill that would remove early childhood education delivered by private providers from among the Education Fund obligations, along with the proceeds of the lottery.

A bit of history may be in order around the perennially hot issue of education funding.

Act 60, passed in 1997, established the policy that “all Vermont children will be afforded educational opportunities which are substantially equal although educational programs may vary from district to district” (16 V.S.A. § 1). As passed, the (then) commissioner of education was directed to weigh the long-term membership for each school district as follows: Elementary 1.0; Secondary 1.25 (16 V.S.A. § 4010 (c)) Those weights – and not actual human bodies – are used to develop the “equalized pupil count” for each district. Act 60 directed the General Assembly to annually appropriate funds for a general state support grant for each equalized pupil, and each school district received a general state support grant for support of basic education costs. Funds so distributed “shall be allocated on the basis of the equalized pupils in each school district” (16 V.S.A. § 4011).

Act 60 established the Education Fund, which, at the time, comprised the following (16 V.S.A. § 4025 (a)):

- All revenue paid to the state from the education property tax under chapter 135 of Title 32.
- Local share property tax revenues from those school districts which adopt budgets with local education spending in excess of the general state support grant and which are able to raise more than the equalized yield amount.
- General funds appropriated by the General Assembly.
- Revenues from state lotteries under chapter 14 of Title 31.

Act 60 was passed to provide funding for K-12 education. From the beginning, lottery proceeds were dedicated to the Education Fund.

After years of controversy concerning the funding formula and education property taxes, **Act 68**, passed in 2003, provided that general funds appropriated by the General Assembly in FY06 and thereafter would be “appropriated from the general fund to the education fund the amount appropriated and transferred in the prior fiscal year adjusted by the percentage change in general fund base spending in the current fiscal year.” Act 68 also became more tenacious on committing lottery proceeds to the Education Fund by requiring that the revenues from state lotteries – and also from any authorized multi-jurisdictional lottery game – would be dedicated to the Education Fund.

Current statute ((16 V.S.A. § 4025 (a) (2)) requires that for each fiscal year, “the amount of the general funds appropriated and transferred to the general fund shall be \$305,900,000 to be increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the “National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the US Department of Commerce, Bureau of Economic Analysis” (pew!) through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

According to the Vermont Agency of Education 2018 Budget Book, “in inflation-adjusted dollars, our FY18 General Fund appropriation is about 40% smaller in FY18 from FY08. This General Fund investment in the Agency represents about 0.4% of our total education fund investment. In other words, the State is making a substantially smaller state contribution to management and oversight of the Education Fund and education goals in the state than it did in 2008. In that same period, the AOE has assumed substantial new responsibilities, including implementation of Act 153 (unification of Special Education and transportation) and Act 156 (supports for formation of Regional Education Districts), Act 77 (Flexible Pathways), new Education Quality Standards, Act 166 (a new state-mandated universal PK delivery model), and Act 46.”

The programs that the Education Fund pays for have been the subject of battles almost since the beginning. Every program that has been added to the Education Fund has merit in its own right. The issue is always whether or not the Education Fund – supported primarily by the education property tax – is an appropriate funding source for those legislative priorities. VLCT has consistently argued that new expanded legislative education initiatives not directly tied to K-12 education should not be paid out of the Education Fund but rather supported by General Fund revenues.

Following this month's Town Meeting Day, the [Joint Fiscal Office projected](#) that \$1,071,400 will come from education property taxes (homestead property taxes minus income sensitivity adjustments and the Education Fund share of homeowner rebates, plus non-homestead property taxes) and \$314.7 million will come from the General Fund Transfer. In addition to those revenue sources, the Education Fund is rounded out by a portion of sales and use and purchase and use taxes, as well as Medicaid Transfers and all Lottery proceeds.

The House Education Committee draft bill would pull state lottery funds (\$24.8 million in FY18) out of the Education Fund. The bill would also provide for early childhood pre-kindergarten students to attend either a public school program overseen by the Agency of Education and funded by the Education Fund (as is the case now) or a "Child Development Program" administered by the Department for Children and Families and funded from the General Fund.

According to the Agency of Education, the pre-K (early childhood education) program in public schools cost approximately \$29 million in FY16. In 2015 there were 5,067 publicly funded early education pre-K students. A survey of private providers indicated that the cost for early education pre-K students in private programs costs \$12,884,000 this year. Thus, if lottery proceeds of \$24 million are pulled from the Education Fund and the obligation to fund early childhood education in private settings is also pulled, the General Fund would be \$11 million to the good. What funding source will pick up the slack? If you said the education property tax, you'd be right.

With respect to H.509, the Ways and Means Committee declined to amend the funding formula this year as the Education Committee's bill recommended. As amended by Ways and Means, the bill would establish the property dollar equivalent yield as \$10,077 and the income dollar yield as \$11,851. For FY18, only, the nonresidential property tax would be reduced from \$1.59 to \$1.55 per \$100. As well, the Ways and Means Committee added language calling on the Secretary of Education to estimate the unfunded education mandate amount. The estimate would include the dollar amount required for supervisory unions and school districts to perform any action required as a result of legislation enacted during the current legislative session and which has a direct cost but no specifically identified appropriation for fulfilling that obligation. That estimate would be provided to the Emergency Board at its July meeting, and the governor's budget would include a general fund transfer to cover that amount.

Urge your legislators to *oppose* moving lottery proceeds out of the Education Fund and to set those dollars aside exclusively for private providers of early childhood education.

Notice of Publications on News Media Websites

Last week, the Senate Government Operations Committee took significant testimony on [S.97](#), a bill that would allow the state or its political subdivisions to publish most notices on electronic news media. Current law only speaks to notices being printed in "newspapers of record" and does not specifically address websites or "electronic news media" to fulfill the notice obligations.

The bill would amend 1 V.S.A. §174 and allow the state and its political subdivisions to publish notices on electronic news media whenever they are required to publish a legal notice. However, any notice affecting interests in property would also need to be published in a conventional newspaper of record. The bill also amends 3 V.S.A. chapter 5 by adding §119 to define and clearly outline what electronic news media is, and what characteristics that media source must have in order to be considered an electronic “newspaper” of record.

Electronic news media would be defined as “an Internet website dedicated to Vermont news that is regularly accessed and used by the people of Vermont.” It would also have to meet the following four criteria:

1. The website publishes the majority of its content in the English language;
2. The website must be accessible to not less than a majority of residents in each county where the notice is directed;
3. The website is able to accept and publish official and other notices; and
4. The website regularly publishes information of a public character of interest to Vermont residents, property owners, or the general public.

Such a website must maintain a separate, clearly labeled area for current and active notices, and a searchable database of stored notices. Lastly, the state and its political subdivisions must still keep record of notices published on electronic news media in the same manner that records of publication in a newspaper are kept, that is, in a physical form available for public inspection.

This change in law would give communities an opportunity to reach a larger audience of readers – including younger readers or older individuals who rely on electronic news media that is easier to read. It would potentially save municipalities and the state a lot of money as the print media now effectively has a monopoly on publication of legal notices and competition from other media sources would likely drive down expenses. As news media becomes more web-based and readership of online news increases, a change in the law that reflects those realities is necessary and overdue.

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.504	Would create the CTE Innovation Pilot Program to support CTE programming for students in grade 7; reduce the FY18 appropriation for special education in order to providing funding for the CTE Innovation Pilot Program; and create the Education Weighting Study Committee to make recommendations on the criteria used for determining the weighted long-term membership of a school district and other methods to further the quality and equity of educational outcomes for students.	House Appropriations
H.506	Would make miscellaneous amendments to statutes governing professions and occupations regulated by the Office of Professional Regulation.	House Government Operations
H.509	Would set the nonresidential property tax rate, the property dollar equivalent yield, and the income percentage for FY18; create a new system for calculating spending-adjusted tax rates; and clarify that merging school districts may transfer some assets and debt back to the towns where the assets are fixed.	House Ways and Means
H.510	Would authorize the Secretary of Agriculture, Food and Markets to waive the requirement that an applicant for a State agricultural water quality assistance grant pay a cost share; would also define the term “farm” for the purposes of the regulation of agricultural water quality.	House Appropriations

BILL NUMBER	SUMMARY OF NEW BILLS	CURRENT LOCATION
H.511	Would subject a person who operates any vehicle that requires a school bus endorsement to the 0.02 blood alcohol limit; make Vermont's implied consent statute consistent with the U.S. Supreme Court's decision in <i>Birchfield v. North Dakota</i> by providing that a warrant is required before a blood test can be given to a person suspected of DUI and that a person cannot be criminally prosecuted for refusing to submit to the blood test; impose additional penalties for operating a vehicle under the influence of alcohol or drugs with a minor in the vehicle; allow additional professionals to conduct an evidentiary blood draw; prohibit operation of a motor vehicle while under the influence of drugs for individuals under 21 years of age and impose civil penalties for the violation.	House Appropriations
H.512	Would amend the procedure for conducting recounts.	House Appropriations
H.514	Would make miscellaneous elections corrections.	House Gov. Ops.
H.515	Would adjust certain Executive Branch and Judiciary fees (Fee bill).	House Ways and Means
S.132	Would require lobbyist employers that are membership organizations to disclose the number of their members and the names and addresses of those members that are not natural persons.	Senate Government Operations
S.135	Would implement multiple strategies in diverse subject areas to promote economic development.	Senate Finance