WLR April 5: Tax Sales, Municipal Ethics, Open Meeting Law, and Housing

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There's a lot going on this week with multiple bills making substantial progress. **Read more about what happened this week below, and** don't miss our latest **Advocacy Update: Municipal Capacity, Revenue, and Governance**(opens in a new tab) which includes:

- **The Municipal Tax Sales Bill, H.629**(opens in a new tab)
- **Municipal Ethics Bill, H.875**(opens in a new tab)

This week VLCT provided testimony about:

- **H.546, the Miscellaneous Tax Bill**(opens in a new tab)
- **H.629 on Tax Sales**(opens in a new tab)
- **S.55 on Open Meeting Law**(opens in a new tab)
- **S.311 (the BE Home Act) and H.687 (on Conservation, Land Use, and Act 250)** (opens in a new tab)

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Some of the content of the Weekly Legislative Report *below is provided by our advocacy partners. For additional detail and more commentary from VLCT Advocacy staff, visit the* ***Legislative Reports*** *webpage to access our topical Advocacy Updates.*

Weekly Legislative Report for April 5 - Introduction

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The statehouse is abuzz with talk of Vermont's "structural problems". The business community, tax hawks, economic development focused lobbyist and the Governor are calling these challenges "unforced errors" made by an out of touch legislature:

- Making it unreasonably hard to build housing in a state with the second-oldest housing stock in the country.
- Not fulfilling our obligation to pension programs, using that revenue to unstainable fund social welfare programs, resulting in costly catchups and massive unfunded liabilities.
- Clinging to19th-century education structure, with a disconnect in local funding & control wrapped in a complicated statewide funding system and small schools that aren't serving students well.
- In trying to mitigate the effect of these mistakes, some are arguing we've implemented market manipulations that have made things worse and imposed new taxes that have made the state less affordable.

Those focusing on the state's policy could name more, however it's becoming clear that our housing market and the issues we are having in our education system are inextricably linked and we need to fix both.

Education Fund Solutions Emerge with Six Weeks Left in the Session

The Lake Champlain Chamber of Commerce is making considerable effort this session to influence our education funding system. They are focusing on

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the connection between housing and grand-list growth in the state, in an attempt to give some business perspective on mitigating our unsustainable spending growth(opens in a new tab). While the gap between expected education costs next year and education tax revenue currently sits at $197 million, we can expect the gap to continue growing in years to come.

The House Committees on Education and Ways and Means had a joint hearing to hear from their colleagues about the current education funding crisis and some patterns emerging:

- It was understood that the local budget control process with statewide funding model is not working. School consolidation was discussed favorably both for cost savings and for better educational outcomes for students who are in a larger student body.
    - District consolidation was also spoken of favorably, with some house members advocating for a single district.
    - The Committees heard from larger **districts that have cut and/or voted down their budgets, yet their tax rates still climb because of the decisions of other districts in the state.**
- House members echoed common refrains that voter decisions need to be more closely tied to tax rates.
- Trust and transparency were common themes, highlighting how our current system is too difficult to understand, with some suggesting it might be an intentional attempt to mask who pays and who doesn't.
- Some legislators pointed to our property tax income sensitivity(opens in a new tab) as part of the issue.
- There was aggravation expressed around how this happened very slowly and predictably,

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    - Many legislators referenced the continued buy-down of tax rates with one-time funds, which kicked the can down the road on hard decisions and hid the coming problems from taxpayers.
    - Cost shifts from **state to local budgets were in the crosshairs**, with Rep. Laura Sabilia putting it best, advocating to "**draw bright lines around the education fund- differentiate between local decision making and state-directed spending**. This will help us to be more accountable."
    - Many identified mental health and universal school meals as laudable work, **yet an unfunded mandate on schools.**
- The new cloud tax proposal was identified as a funding source for some of these unfunded mandates, something the House has passed and the Senate has not been in favor of. You can read the submitted testimony here(opens in a new tab). Some notable comments from the hearing are below.

- **Rep. Mrowicki** put it very simply: "we need to rebuild trust in the system by making it less complicated."
- **Rep. Angela Arsenault** highlighted the regional disparity in the funding of our school system well, saying, "In our laudable constitutional mandated mandate to be super, super equitable, we have created an educational funding system that is so opaque it is deceptive. No one is trying to be untruthful, but when we work so hard to hide the fact that some districts pay more into [a statewide system] than they spend, there is virtually no connection between an individual taxpayer, their tax rate, and what their money funds. Similarly, we severed the connection between districts, their spending, and the resulting tax rates in their

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respective towns."

- **Rep. Kate Lalley** followed and discussed the regional disparity in how the cost of everything in Chittenden County is much different than everywhere else in the state and that is not reflected in our tax system.
- **Rep. Laura Sabilia** noted we need to "acknowledge that one of the main drivers of the current difficulties facing students and taxpayers are the actions and inactions of past Governors and the Legislatures … acknowledge that there are deserved trust issues in this system. … avoid deceptive practices or attempts to conceal information from stakeholders."
- **Rep. Lynn Dickinson** highlighted the irony of local control, as our state's education system is similar to Rochester, New York. She noted that our state brags about our high school graduation rates; however, we're not graduating students who are proficient or have strong outcomes.
- **Rep. Rebecca Holcomb** noted, "Making a difference is not just about money– it is about what you choose to spend your money on."
- **Rep Jim Harrison** conveyed to the committees that we need more transparency across the board and advocated for a funding base guaranteed by the state, and then if districts wanted to spend above that, they'd need to pay.
- Special mention needs to be given to **Rep. Tristan Roberts,** who made good points about the need for economic development at the town level and the prospect of reusing schools that might be closed to help spur business activity that will pay for our education system.
- **Rep. Jessica Brumstead** suggested that the state might just need one school district, noting that "scale saves money, autonomy costs money." She highlighted for the committee that it is difficult to judge student

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outcomes across schools in our current system and that transparency is essential.

- **Rep. Patty McCoy** noted that with 75,000-80,000 students statewide which is that of Providence, Rhode Island and that as we've lost students, we've kept our teachers, and then added para-educators, making our staff-to-student ratios incredibly high. She also highlighted that we need housing in the state to increase our student population.
- **Rep. Dan Noyes** came prepared to advocate for some of his bills that had not been given consideration, including one to redraw supervisory unions around Career Technical Education Centers boundaries, which would reduce the number from 51 to 17, with one additional for youth in the custody of the state.

Cloud Tax a Foregone Conclusion for House Members, Yet Impact Not Clear

Consistently, you hear House members mention that all they are doing is removing an exemption on the sales tax, which would make nearly all of your internet transactions that are not taxed now taxed.

- The statute exempts "prewritten software accessed remotely," and they are looking to repeal that; however, definitions matter.
- Technology has moved fast since that definition was created, so this is as if they are removing an exemption on "carriages" from the 1800s. However, no one uses horse-drawn carriages anymore. So legislators would then need to redefine a carriage, and what the Vermont House

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has done is akin to defining “carriages” to include “automobiles, tractor trailers, and planes.”

- When the exemption for “pre-written software accessed remotely” was written, it was meant to cover software that had recently been delivered via CD and was now being delivered over the internet. This would be considered “Software as a Service” or SaaS.
    - Back to our analogy, since this time, there are many more services rendered over the internet including SaaS, Infrastructure as a Service, and Platform as a Service, and the lines are blurred.
- So, in an effort to make things more simple, the House has generally voted to have the definition go beyond what it was when the exemption was written into law and include the other two services beyond SaaS.

Bottom line, such a tax will make the normal course of business more expensive for all Vermonters as we all use online tools for our daily commerce done on the internet.

Privacy Bill Considered in the Senate; Would Make Business Harder for All Vermonters

The Senate Committee on Economic Development, Housing, and General Affairs heard testimony from a Senator from the Connecticut Legislature who authored their consumer data privacy bill. They also took testimony from Vermont’s business community, retail, tech, and nonprofit sectors.

- The bill’s private right of action may expose small businesses to lawsuits by plaintiffs’ lawyers.

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- The “data minimization” limit could hinder small businesses’ ability to communicate with customers and conduct essential marketing activities, such as contacting customers about sales or using location data for business decisions.
- Consumer advocates argue that data minimization provisions may conflict with “do not sell my data” provisions and could require costly legal assessments for businesses with significant consumer interactions.
- Additionally, the bill’s broad definition of biometric data and the “do not sell my data” command at the browser level could pose challenges for businesses and consumer understanding.

Elsewhere In The State House

Hundreds of hours of committee discussion each week culminate in our advocacy update, so not everything makes it into the overall update; however, we often cover what is left on the cutting-room floor here for our most dedicated readers.

- Read updates from Week 1, Week 2, Week 3, Week 4, Week 5, Week 6, Week 7, Week 8, Week 9, Week 10, Week 11, Week 12, and the last session’s recap.
- We’ll have updates on housing and public safety in next week’s update when there is something to report.
- **On April 3, Governor Scott returned without signature and vetoed** S.18 (opens in a new tab), *An act relating to banning flavored tobacco products and e-liquids*, and sent the following letter to the General Assembly

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(opens in a new tab).

- Much was made of a tepid approving nod by the State's Commissioner of Health, Mark Levine, on **Safe Injections Sites,** in which individuals can use illegal narcotics under supervision. However, this week, Levine clarified;(opens in a new tab)
    - "My position is framed by an updated review and critical appraisal of the literature. And that position is that while I acknowledge overdose prevention centers can have many potential benefits and be part of a multi-pronged approach to the opioid epidemic, they ultimately may not represent the best option for a state such as Vermont at this time."
- S.96 aimed to enhance **transparency in state contracts and grants** by mandating the disclosure of additional details for services with private entities valued at $25,000 or more. This would include comparing a contractor's pay to state employees' pay for similar work. Additionally, the bill proposed doubling the required cost savings from private contracts, increasing it from 10% to 20%, compared to hiring public employees for a given project. The bill was amended on the floor by the Chair of Appropriations after expressing serious concerns, and now, a study is due back next February.
- Prop 3 passed the Senate unanimously and would add a **right for workers to organize and collectively bargain among Vermont's founding principles in the constitution.** The bill now goes to the House, and if they pass it, it will need to be passed again in the next biennium before going to a statewide vote in 2026.
- Vermont's new Agency of Education Secretary might have a difficult time as legislators push back on her qualifications and fit ahead of her

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official nomination vote, opening up a new topic of tense disagreement between the Governor and the Democratic supermajority in the Legislature. Read more here(opens in a new tab).

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