

**May 4: Senate Tax and  
Budget Plan Passes with  
Another Round of Local  
Option Tax Debate**



The VLCT advocacy team had an exciting week, again, on the issues of Local Option Tax withholding and PILOT appropriations. Things are heating up across the State House as all three major money bills have now passed both chambers and will go to conference committee – along with the major policy bills of the session for housing, labor, land use, data privacy, and public safety. Most committee chairs seem to be in a footrace to put their critical bills in front of the most controversial package of the year, [H.955](#), which again carries major reforms for public education, the state education property tax rate, and to regionalize mass property reappraisals.

In this *Weekly Legislative Report*, we provide updates on the opposing appropriations plans for PILOT and the Local Option Tax Formula, S.325 – the Act 181 reform bill, and the question of municipal authority over agricultural activities.

### **Change to Local Option Tax Formula IF the Fund Exceeds \$18 Million**

Senate actions on the Local Option Tax (LOT) formula happened with a fast, and at times furious, nature over the last two weeks.

On Thursday, April 23, the Senate Committee on Finance passed out the miscellaneous tax bill with no changes to the LOT or PILOT (Payment In Lieu of Taxes) program included. The next day, the Senate Committee on Appropriations passed out the annual appropriations bill including a [shift in base funding](#) from the PILOT Special Fund, [making the state's expenses for reappraisal and grand list setting an ongoing use of the fund](#). The VLCT advocacy team mobilized quickly to express our dissatisfaction with *another* base appropriation from the special fund for ongoing state expenses without a change to the Local Options Tax formula.



Several senators who represent LOT communities were sympathetic to VLCT's position, and early last week Senator Becca White (D-Windsor) drafted a floor amendment for the second reading of the miscellaneous tax bill ([H.933](#)) on Tuesday, April 28 that would have changed the LOT withholding formula from 75/25 to 80/20. VLCT believed that with the [projected FY27 end-of-year surplus \(after the more than \\$10 million in appropriations from this year\) to be over \\$10 million](#), that the first instance of the White amendment would have treated LOT municipalities fairly without shorting the Senate's planned appropriations.

That said, several key senators balked at the idea of a floor amendment to reset a component of state revenue setting (albeit incredibly small: the change would have been a \$3.3 million shift inside of a \$9.4 billion budget). Other senators, including Ruth Hardy (D-Addison), raised concerns that the LOT collection formula was again being considered before the PILOT fee payment formula. In fact, Senate president pro tem Phil Baruth stood during the floor debate and said he had "never seen the Senate more divided". Just before the pro tem's remarks, the Senate Appropriations Committee had taken a straw poll vote that ended in favor of the White amendment 5-2. It appeared that the Senate would have passed the amendment on second reading, but narrowly. You can [watch the floor debate on April 30 here](#), starting around 57 minutes.

Senator White did not back off her position but did withdraw the amendment temporarily to take successive drafts of the amendment to the Senate Finance Committee throughout last week. Finally, a third draft of the amendment narrowly passed favorably from the Finance Committee (4-3) with the critical swing vote coming from Senate Finance Chair and former



Montpelier City Mayor Senator Ann Cummings (D-Washington). **The White Amendment passed by voice vote on the Senate floor on Friday morning on third reading of the miscellaneous tax bill.**

According to the final statutory language passed by the Senate, "an additional five percent of the taxes collected shall be paid on a quarterly basis to the municipality in which they were collected in fiscal years that, at the close of the immediately preceding fiscal year, the Commissioner of Taxes determined that the balance of the PILOT Special Fund was in excess of \$18,000,000.00 at that time."

This means that in any year, when the State's fiscal year closes on the last day of June, if the PILOT Special Fund balance exceeds \$18 million, LOT municipalities will collect 80% of LOT revenues for the next fiscal year. After that, if the end-of-year balance drops below \$18 million the formula will revert to 75/25. This does not prevent the legislature from appropriating the PILOT Special Fund in the future, but it does ensure that the surplus cannot exceed \$18 million without triggering a favorable change to the LOT formula.

VLCT thanks Senator White for her leadership in navigating **a reasonable and fiscally responsible compromise that treats municipal governments fairly.** We also appreciate the support of Senate Finance Committee members who voted favorably for the White Amendment: senators Cummings, Chittenden, Gulick, and Brock.

**If your senator supported the favorable change to the LOT formula, be sure to send them a note of thanks!**

**What's Happening with LOT and PILOT Now?**



All three major money bills – the [appropriations bill \(H.951\)](#), the [miscellaneous tax bill \(H.933\)](#), and the [yield bill \(H.949\)](#), as well as the annual transportation bill ([H.944](#)) are soon to enter committees of conference to hash out differences between the House and Senate passed versions. These bills have some big differences, such as the proposed property tax buy-downs, and some small differences, including the revenue and appropriations changes to LOT & PILOT.

Here is a short summary of how the House and Senate tax and spend packages would change the LOT & PILOT program.

### **Transportation Bill**

- The House version includes a one-time bump of \$1.7 million to town highway funding; it does not make any new appropriations from the PILOT Special Fund.
- The Senate version makes a one-time appropriation from the PILOT Special Fund of \$3 million and includes a statutory change so that, in future years, 75% of new surplus LOT revenues will also go town highway funding, both through the **newly created Local Option Municipal Transportation Special Fund**.

### **Appropriations Bill**

- The House version appropriates \$3.41 million for the state's expenses related to reappraisal and grand list settings (per parcel payments) and includes a statutory change to make this a base appropriation, meaning



the state's portion of grand list expenses would be an ongoing allowable use of the PILOT Special Fund in future budget years.

- The Senate version makes the same base \$3.41 million appropriation.

### **Miscellaneous Tax Bill**

- The House version does not make any changes to the LOT formula or to the ongoing appropriations of the PILOT Special Fund.
- The Senate version says that if the PILOT Special Fund reaches over \$18 million at the close of any fiscal year, the LOT formula will be changed to 80/20 for the next fiscal year only.

The short story is – VLCT will continue advocating on these issues through the conference period and as each bill is conveyed to Governor Phil Scott. So far, the ideological differences over the use of the State's share of the LOT revenues, in addition to a constrained and controversial state budget cycle, have caused us more than once to carefully thread the needle on legislative proposals to appropriate money from the PILOT Special Fund . That said, we are guided by the first priority listed in our 2026 Municipal Policy Priorities: "Return the growing Payment In Lieu Of Taxes (PILOT) Fund surplus to the municipalities that raised it."

We hope that, through final negotiations over the budget and tax package,

- legislative leaders will recognize that local revenues are necessary for funding critical municipal needs, and



- both the 80/20 triggers and new appropriations for town highway programs will be retained.

### **S.325 Passes from House Environment with Amendment**

If you guessed that the most hotly debated issue of the session would be Act 181, you were right. The House Environment Committee spent most of the post-crossover period on [S.325](#), which proposes several significant changes to Act 181 implementation. The committee unanimously passed the bill late last week with an **amendment that proposes full repeal of the road rule and Tier 3.**

S.325 is expected to make a brief stop in the House Appropriations Committee before heading to the House Floor, where sustained organizing by the Rural Caucus virtually ensures passage. The House Environment Committee amendment makes some significant changes over the Senate version, so while the Senate Natural Resources Committee Chair Anne Watson has indicated her support for the repeals, it is likely that other differences will have to be worked through in conference committee before the bill goes to the governor.

The [House Environment Amendment](#) changes include:

- Repeal of the road rule
- Repeal of Tier 3



- Repeal of the Tier 2 Report
- Extending temporary Act 250 exemptions for housing to 2028 only (the Senate version has 2030)
- Tightening temporary exemptions for housing in future Tier 1B eligible areas for 50 units of housing on 10 acres or less by adding: "To qualify, the housing project, including any land incidental to the use of the housing project such as lawns, parking lots, driveways, leach fields, and accessory buildings, shall be on 10 contiguous acres or less."
- Changing the process for amending regional plans so that minor amendments do not require public hearings, nonminor amendments require only a 15-day notice period before a public hearing, and Tier 1B status requests may be adopted through a regional plan amendment or separately.
- Directing the LURB to contract with the State Natural Resources Council, in consultation with the Land Access Opportunity Board, to develop a public engagement plan to study and report on the risks of losing critical natural resources not already well protected by current land use policy, including agricultural soils, forest blocks, habitat connectors of statewide significance, and headwaters; and equitable, efficient, and effective regulatory or non-regulatory tools to protect these critical natural resources.



- New reporting for the Land Use Review Board for Act 250 Jurisdiction over commercial activities on farms and effects on prime agricultural soils, and the effects of Act 250 in limiting sprawl for retail and commercial activity outside of village centers.
- Creating a Joint Legislative Environmental Oversight Committee comprised of three Representatives and two Senators to oversee the Land Use Review Board, the implementation of Act 181, Act 250 permitting, and Agency of Natural Resources and their permitting processes.
- Requiring that the future land use areas in the regional plan be consistent with the goals established in enumerated "smart growth principles".

### **Municipal Authority Over Agricultural Activities – Or Not**

On Friday, the Senate Committee on Agriculture voted out [H.941](#), a bill relating to municipal regulation of agriculture, with an amendment that brings the bill close to what they included in their version of the miscellaneous agriculture bill before crossover – in which we still find some major flaws.

The [new amendment](#) would allow municipal authority over agricultural activities if the farm has less than 1.0 contiguous acre or is between 1.0 and 4.0 acres and the Agency of Agriculture Food and Markets determines that the



land base is not sufficient to manage nutrient and waste impacts from livestock.

It also says municipalities “shall not prohibit swine or swine waste, or regulate swine waste-related farm structures on a farm subject to the RAPs Rule” but “may set a performance standard related to swine waste pursuant to section 4414 of this title to reasonably regulate swine waste in downtowns or village centers if the waste is causing a significant adverse impact to the community, and the municipality has determined that the Agency is unable to provide redress through application of the RAPs Rule.” In case you thought for a minute that new authority may place some limits on pig farms, it goes on to say “A performance standard shall not have the effect of prohibiting swine or swine waste in a municipality.”

Presumably the “swine provision” is intended to help the Village of Orleans address an ongoing problematic pig farm – but this feels like the emperor's new clothes to us.

VLCT has advocated for limited authorities over some farming, but only in Act 250-exempt areas that represent the densest and most dynamic multi-use zoning districts. Instead, this Senate bill puts forward a framework where municipalities could regulate very small farms everywhere, and some pig waste somewhere – but only if the Agency of Agriculture Food and Markets has failed to sufficiently regulate said pig waste, and not to the extent that the municipality would prohibit the pigs or their waste.

The same bill also prohibits any municipal bylaw from regulating:



- The cultivation or other use of land for growing plants, including for food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops. Cannabis is separately regulated and is excluded from this exception.
- The raising, feeding, or managing of a small backyard poultry flock, excluding roosters. Small backyard poultry flock is not defined.
- The construction of farm structures, including as defined in the RAPs Rule.

The bill is up for second reading in the Senate [along with an amendment offered](#) by Senator Vyhovsky (P/D-Chittenden Central) that would change "small backyard poultry flock" to mean six birds. The amendment would allow municipal bylaws to regulate the raising, feeding, or managing of livestock on farms in downtowns, village centers, or in census tracts with a population density of 800 people per square mile or greater (as reported in data published by the U.S. Census Bureau), including when a person is engaged in other farming activities that are subject to Vermont's Required Agricultural Practices (RAPs).

The underlying bill has turned in to a bit of a zoo: it is more likely to confuse both farmers and planning commissions than it is to provide a useful mechanism for managing and preventing neighborly conflicts related to intensive farming in downtown areas. VLCT plans to support the Vyhovsky amendment, although it remains to be seen if H.941 will see any further discussion in the Natural Resources or Government operations committees – which both maintain jurisdiction over municipal land use authorities.



## What We're Reading

Here are some recently released news stories related to top issues for local government.

- [After a Rural Revolt, Dems Favor Rolling Back Act 250 Reforms](#), Seven Days
- [Vermont Senate Advances Property Tax Bill with a 3.8% Average Increase](#), VTDigger
- [Vermont lawmakers divided over plan for property tax relief](#), Vermont Public
- [Construction: Pressure, possibility, and the race to build a future](#), Vermont Business

## Get Involved

With work in the State House in its final stage of this session, the **most important key to our success is your input and participation** in VLCT's advocacy work. Our next Advocacy Chat will be the Legislative Session Wrap-Up on a date to be determined. Stay tuned for details.



- You can find (and share) this legislative report as well as previous and future reports and alerts on [our main Advocacy webpage](#).
- Before you visit the State House, check [VLCT's Effective Testimony Guide for Municipal Officials](#) for best practices and answers to frequently asked questions.
- To support VLCT's advocacy work; participate in policy development, testimony, and legislative actions; or just learn more, reach out to Josh and Samantha by email at [jhanford@vlct.org](mailto:jhanford@vlct.org) and [ssheehan@vlct.org](mailto:ssheehan@vlct.org).

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