

# Vermont Legislative Joint Fiscal Office

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## FISCAL NOTE

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### H.536 (Act 46): An Act Relating to Education Finance: Committee of Conference

- Secs. 1-2. Changes the term “nonresidential” to “nonhomestead” in statute. No fiscal impact.
- Secs. 3-4. Clarifies that sales by a third party platform are included in the sales tax collection obligation. Raises an additional \$13.4 million for the Education Fund in FY2020.
- Sec. 5. Exempts veterinary supplies sold for non-agricultural purposes from the sales & use tax. Raises an additional \$0.11 million for the Education Fund in FY2020.
- Sec. 6. Sets the property and income yields at \$10,648 and \$13,081, respectively, and sets the nonhomestead tax rate at \$1.594. Raises an additional \$15.3 million in net homestead taxes and \$20.8 million in nonhomestead taxes for the Education Fund in FY2020. Education spending increased by 4% and average education tax bills will increase by 2.44% over FY2019.

<u>Education Tax Rates</u>	<u>FY2019</u>	<u>FY2020</u>	<u>Change</u>
Average Homestead Tax Rate	\$1.499	\$1.512	\$0.013
Average Tax Rate on Household Income	2.48%	2.47%	-0.01%
Uniform Nonhomestead Tax Rate	\$1.580	\$1.594	\$0.014

### Explanation/Methodology

#### Sections 3-4: Updating sales and use tax collections to include marketplace facilitators

The United States Supreme Court’s decision to overturn the Quill decision allowed the State to collect on remote sales regardless of a vendor’s physical presence. However, under current law, the State is not collecting sales tax on most remote sales completed on the platform of a marketplace facilitator because sales activity thresholds (greater than \$100,000 in sales or 200 individual transactions) only applied to individual vendors on a marketplace facilitator platform and not to the marketplace facilitator itself. This bill changes that by defining marketplace facilitators as vendors.

In this bill, a marketplace facilitator is defined as a person who contracts with two or more sellers to facilitate the sale of seller’s products through a physical or electronic marketplace, including offering payment processing, fulfillment, storage, or customer services. A marketplace facilitator is considered a

vendor required to remit the sales tax if the marketplace facilitator has greater than \$100,000 in sales or 200 individual transactions into the State.

For section 3 of the bill, JFO estimates that \$13.4 million in additional sales tax revenue will be collected in FY 2020 and growing in future fiscal years. These additional revenues will be dedicated to the Education Fund.

There is a degree of uncertainty regarding these estimates, although risks are likely to be on the upside. Given the rapidly changing and growing environment of online marketplace, it is possible these estimates are conservative. These estimates are based upon the most recent available data and grown using industry growth rates and the 2019 Consensus Revenue Forecast. JFO will review these estimates as new data sources become available.

### Section 5: Taxation of Veterinary Supplies

Under 32 V.S.A. § 9741(3), veterinary supplies are exempt from the sales tax. However, this section of statute largely refers to agricultural supplies and intermediate goods. As a result, there has existed some ambiguity over whether this exemption applies to veterinary supplies and medications sold to and/or by non-agricultural animal veterinarians. Current practice is that all veterinarian supplies, whether they are used for agricultural or non-agricultural purposes, are exempt from the sales tax. However, the Department of Taxes has recently issued guidance that stated that this exemption is only for agricultural purposes. As such, should no legislation be passed, all veterinary supplies sold for non-agricultural purposes would be subject to the sales tax, per Department of Taxes interpretation.

The bill clarifies the language by exempting all prescription medications sold by veterinarians, regardless of whether they are used for agricultural or non-agricultural animals. It further clarifies the exemption to exempt durable medical equipment purchased to or by a veterinarian and also supplies sold to or by a veterinarian, regardless of use.

JFO estimates this will generate an additional \$110,000 in sales tax revenues in FY2020, growing in future fiscal years. This money would be dedicated to the Education Fund.

### **Sources:**

- Government Accountability Office report on e-commerce sales and state revenue collections, November 2017.<sup>1</sup>
- Washington State estimates on HB2163. This bill required marketplace facilitators to either remit sales tax or report sales to the Department of Revenue.
- SEC filings of Amazon, Ebay and Etsy
- Revenue estimates from Pennsylvania’s marketplace law, provided by the Pennsylvania Department of Revenue
- Revenue estimates from Rhode Island’s marketplace law, provided by the Rhode Island Department of Revenue
- January 2019 Consensus Revenue Forecast

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<sup>1</sup> “States Could Gain Revenue from Expanded Authority, but Businesses Are Likely to Experience Compliance Costs.” Government Accountability Office. November 2017. <https://www.gao.gov/assets/690/688437.pdf>