

## The Total Impact List

The Vermont Chamber has developed this list of impacts on Vermont's business community because of government action during the last few years. Email us at [govaffairs@vtchamber.com](mailto:govaffairs@vtchamber.com) if you have one to add to the list.

### Upcoming in 2017

- Consideration of reforming the independent contractor laws to allow for a clear, unburdened path to be an independent contractor and to work with independent contractors;
- Consideration of investing money in economic development marketing for the state;
- Consideration of ways to increase housing for Vermont's workforce and addressing weaknesses in our current housing supply, quality and cost;
- Consideration of making permanent the sales tax exemption for aircraft and depreciable parts for commercial and private use;
- Consideration of expanding Dr. Dynasaur to cover Vermonters up to age 26;
- Consideration of increasing the minimum wage to \$15.00/hour;
- Consideration of mandating paid family leave;
- Consideration of how to provide more high quality, affordable child care options;
- Tweaks to Act 46, the education finance reform bill passed in 2015. Possible areas for clarification include impacts on school choice and the process for a school district to opt out of merging;
- Consideration of funding public education through the income tax instead of the property tax;
- Revisiting funding options for water clean-up, as the current funding derived through a 0.2 percent surcharge on the property transfer tax sunsets in 2018;
- Consideration of proper siting for wind turbines (as well as a larger conversation about siting utilities generally – i.e. solar and cell towers), balancing community input with achieving the State's renewable energy goals;
- Establishing an independent public advocate in utility matters;
- Consideration of a new carbon tax, placing manufactures at a competitive disadvantage;
- Consideration of lowering the sales tax rate and taxing services like accountants, hair dressers, lawyers, dry cleaners and more;

- Creating appropriate regulations for online lodging platforms and properties (Air BnB, HomeAway, VRBO, etc.) following the results of summer/fall study on the issue;
- Consideration of legalizing the recreational use of marijuana, triggering workplace safety, drug testing, workers' compensation and unemployment insurance concerns;
- Reviewing proposed rules dealing with valuation of natural resources damages; and
- Consideration of further regulation of chemical use in the workplace.

### **Right Direction 2015-2016 Biennium**

- Secured \$200,000 to create a state economic development marketing plan to attract businesses and residents;
- Level funded the tourism marketing budget in the FY2016 and FY2017 budgets to maintain Vermont's competitive market share;
- Updated the law governing limited liability companies to make it more user-friendly by making naming easier and simplifying filing with the Secretary of State's Office;
- Clarified that cloud services are not taxable;
- Expanded eligibility for the Vermont Employment Growth Incentive (VEGI) program and extended the sunset date of the program by five years;
- Repealed the mandate requiring businesses with more than 100 employees to buy insurance through Vermont Health Connect starting in 2018;
- Passed a study to examine appropriate regulations for the growing online rental lodging market and how to level the playing field between online lodging rental booking platforms and licensed lodging properties;
- Passed a comprehensive tax study to examine historical trends since 2005 in Vermont taxes compared to other states, tax burdens per capita, per income level and on typical business enterprises of a variety of sizes and types, cross-border tax policies and competitiveness with neighboring states, and the predictability and performance of Vermont's major revenue sources;
- Passed a study on affordable housing by reviewing statutes and programs that may serve as tools to update the existing housing stock and review of priority housing projects;
- Created and funded a first-time homebuyer down payment assistance program, which will operate as a revolving loan fund;
- Simplified the Vermont portion of the Estate Tax that often impacts family businesses at the time of death;
- Changed the ANR permitting process to be more predictable, transparent and fair to applicants by including increased public participation earlier in the permitting process and limiting the ability to appeal to issues raised during the public hearing period; and

- Passed through permanent federal tax exemptions and extensions for the Research and Development Tax Credit, the deduction for energy efficient commercial buildings, the bonus depreciation deduction, and the depreciation allowance for second-gen biofuel plant property to Vermont businesses.

### Taxes, Fees & Mandates Passed in 2015 - 2016 Biennium

- Mandated paid sick leave, costing employers up to **\$11 million** annually in added labor expenses;
- Mandated the Vermont prevailing wage and fringe benefits, including paid vacations and sick leave, for construction workers on State projects;
- Mandated "ban the box" legislation which prohibits inquiries about criminal convictions on job applications;
- Increased government imposed fees, including **\$220,300** in new restaurant licensing charges, **\$65,400** in new bakery licensing charges, **\$103,000** in new lodging licensing charges, **\$277,365** of increases for liquor licensing charges, **\$1,158,086** in new weights and measures fees for retailers, and **\$444,000** in new revenue from an increase in Act 250 fees. Total fee increases from 2015 and 2016 raise approximately **\$31 million**;
- Increased transportation fees between **six and 100 percent**. Raises approximately **\$11 million**;
- Passed various income tax changes: capped itemized deductions at 2.5 times the standard amount (excluding charitable giving and medical deductions which are fully allowed), eliminated the deduction of state and local income taxes, and the implemented a **three percent** minimum tax for filers with over \$150,000 adjusted gross income. Raises **\$22.9 million**;
- Raised the cigarette tax **\$0.33** and commensurate increases in taxes on other tobacco products, making the State cigarette tax **\$3.08** per pack. Raises **\$3.2 million**;
- Required retail vendors of electronic cigarettes to obtain a new tobacco substitute endorsement costing an annual **\$50.00** fee;
- New **\$0.02 per gallon** tax on the retail sale of heating oil, propane, kerosene, and other dyed diesel fuels delivered to a residence or business and increasing the gross receipt tax on the retail sale of natural gas and coal to **.075 percent** to fund weatherization efforts, as well as a change in the filing schedule and a new itemization on bills. Raises approximately **\$3.72 million**;
- Cut the **one percent** shrinkage allowance for motor fuel taxes in half for one year effective June 1, 2016, and entire elimination starting in June 2017. The cost to consumers is **\$600,000** for the first year and **\$1.2 million** thereafter;
- Applied the State meals tax to vending machine sales. Raises **\$1 million**;
- Applied the State sales tax to soft drinks. Raises **\$7.9 million**;

- Increased the property transfer tax by **0.2 percent** and increased fees for large and medium sized farms, as well as increased executive fees for other water quality related environmental permit applications for water clean-up programs. Raises **\$7.48 million**;
- Raised the nonresidential property tax rate paid by businesses two-cents in FY2016 to **\$1.535** per \$100 of assessed value;
- Required appliance retailers to carry more energy efficient products, affecting retail price points, product mix, overall gross products and possibly limiting consumer choice;
- Applied the click through nexus law. Remote vendors presumed to have a Vermont nexus for the purposes of collecting sales tax if it has agreements with residents to refer customers that led to sales in excess of \$10,000 in a previous year. Remote vendors began collecting and remitting sales tax on December 1, 2015;
- Mandated employers to provide the total cost of employer-sponsored health care coverage on box 12 of W-2s;
- Appropriated **\$100,000** to study the expansion of the Dr. Dynasaur to cover Vermonters up to age 26. One idea that has emerged thus far is funding expansion through a **2 percent increase** in the payroll tax;
- Registered lawsuit funding companies without implementing an interest rate cap, which legitimizes a predatory funding practice. This places businesses at a disadvantage when involved in an action where the plaintiff has this type of funding, by extending the amount of time it takes to settle and therefore the amount of time that there is a contingency liability on the books;
- Tightened regulations on the rent-to-own industry by setting limits on the amounts rent-to-own stores can charge and increased disclosure of contract terms to customers;
- Implemented a State false claims act with the potential to affect a wide range of businesses including the health care industry, financial and defense businesses;
- Increased the penalty for anti-trust violations from \$10,000 to **\$1,000,000**;
- As of July 1, 2016, a new rule will require companies that manufacture children's toys to disclose the presence of 66 known toxins in their products. This preempts the Toxic Substances Control Act reform in Congress and federal law on the regulation and banning of chemicals, burdening businesses with costly new and duplicative testing requirements for chemicals at levels below those known to cause health risks;
- Further regulation of treated article pesticides by authorizing the Secretary of Agriculture to adopt best management practices, standards, and procedures for the sale, use, storage and disposal of these pesticides, which may have an impact on bees. Utility poles are exempt because they are already regulated by the Public Service Board;
- Gave the Agency of Natural Resources state-level authority to assess financial penalties or require equivalent mitigation for irreversible damage to natural resources from hazardous material released into the environment. This process contains duplication of

current regulations and information requests that already exists at both the state and federal level and will add both complexity and costs for manufacturers;

- Sent a Senate Resolution to the Vermont Congressional delegation to oppose the Trans-Pacific Partnership Agreement being considered on a federal level. The ability to sell American goods and services outside of our borders is crucial to continued economic growth and job creation;
- On the local level, Woodstock, Colchester and Montpelier adopted local option taxes of one percent on meals, alcoholic beverages and short-term room rentals;
- On a federal level, expanded eligibility for overtime pay by increasing the salary threshold over 100 percent to \$47,476 annually, costing employers between **\$240 million and \$255 million** per year in direct costs; and
- On the federal level, broadened the definition of joint employer through the National Labor Relations Board, which has major implications for the restaurant and retail franchisor model.

#### **Taxes, Fees & Mandates Avoided in the 2015 – 2016 Biennium**

- Lowering the sales tax rate to **4.75 percent** and taxing services like accountants, hair dressers, lawyers, dry cleaners and more;
- Removing the sales tax exemption for funeral charges, clothing, residential electricity and gas, advertising materials and documents;
- Removing the meals tax exemption for delicatessen sales by weight or measure;
- A **half-cent** excise tax on sugar-sweetened and diet beverages. Raises **\$14.6 million**;
- Taxing dietary supplements. Raises **\$1.8 million**;
- Taxing electronic cigarettes and vapor products at **92 percent**, raises **\$475,000**;
- A **\$0.05** tax on plastic carryout bags. Raises **\$1.5 million**;
- **Half of one percent** increase in the rooms, meals and alcohol taxes to pay for water clean-up;
- A **\$2.00** occupancy fee on motel and hotel rooms to support housing, weatherization efforts and other programs aimed at helping low-income residents;
- Increasing the non-residential property tax rate from \$1.535 per \$100 of assessed value to **\$1.539**;
- A fee on moorings or subcategories of moorings, such as private moorings versus commercial moorings;
- Collecting money from tax havens. Raises **\$600,000**;
- Increasing the bank franchise tax on banks with assets of \$750 million or more. Raises **\$2.3 million**;

- An increase to the employer health care assessment between **62 and 127 percent** for employers with 50+ employees. Raises **\$6 million**;
- **7/10 (or 3/10) of one percent** payroll tax to address the Medicaid cost-shift;
- Expanding the Provider Tax to physicians and dentists at a **2.35 percent** tax rate to raise **\$17 million** to address the Medicaid cost-shift;
- Increasing the insurance claims assessment;
- A new carbon tax with a **9-cent** tax in the first year, working up to an **88-cent** tax in 10 years, placing manufactures at a competitive disadvantage;
- An increase in the gas tax;
- Increasing the fuel tax by **0.5 percent** each fiscal year starting in July 2015 until the tax reaches **two percent** for weatherization and thermal energy efficiency efforts. The tax would apply to the retail sale of heating oil, propane, kerosene, and other dyed diesel fuel, electricity, coal and natural gas delivered to residences and businesses;
- Divesting State pension funds from the 200 publicly traded companies that hold the largest carbon content fossil fuel reserves, at an estimated cost of **\$9 million** per year;
- A **0.5 percent** increase to the Vermont Universal Service Charge on retail telecommunication service to support rural connectivity;
- Raising the minimum wage to **\$15.00 per hour** for all employees and eliminating the separate basic wage rate for service or tipped employees. Additionally, requiring restaurants to disclose how a service charge will be used;
- Increasing the solid waste franchise fee from **\$6.00 to \$10.00 per ton** and exempting out-of-state waste from taxation to help with building infrastructure needed to comply with the Universal Recycling Act. Raises **\$2 million**;
- Eliminating the **40 percent** capital gains income exclusion;
- Allowing employees to draw from the Unemployment Insurance Trust Fund when being paid another benefit by their employer such as sick leave, bereavement pay, or jury duty;
- Shifting from at will employment to establishing a “good cause” standard for termination of employment after an employee probationary period is completed. This will reduce employers’ flexibility in hiring decisions;
- Increasing record keeping and reporting requirements for the equal pay provisions of Vermont’s Fair Employment Practices Act. Employers would be required to keep contact and wage records for each employee for at least five years;
- Mandating employment agencies to provide temporary employees with a lengthy written disclosure at the onset of each new work assignment;
- Requiring employers to inform employees when his or her employment will not make him or her eligible for unemployment benefits;

- Creating a Family Leave Insurance Program to provide employees with six weeks of paid and an additional six weeks of unpaid family leave funded by contributions from employer and employees. The proposal would amend the existing family leave law to make it application to all employers;
- Mandating employers to provide accommodations to pregnant employees unless the accommodation would impose an undue hardship on the employer;
- Applying whistleblower protections to the private sector;
- Legalizing the recreational use of marijuana, triggering workplace safety, drug testing, workers' compensation and unemployment insurance concerns;
- A resolution to push for preemption of federal regulation on toxins, as well as to push Congress to enact Toxic Substances Control Act (TSCA) reform. The Vermont Chamber supports a federal solution and harmonization of regulatory standards at the federal level rather than a patchwork and lack of uniformity, clarity and certainty for manufacturers;
- Creating 35 pages of new regulations for sanitation and licensing of lodging establishments, in place of three paragraphs. Covering topics from dishware and utensils to hot water capacity and handwashing to ice dispensing to laundry facilities;
- Mandating the availability of Braille menus at restaurants;
- Prohibiting retail establishments from providing single-use carryout bags to consumers at the point of sale and establishing standards for reusable bags and compostable bags provided at the point of sale;
- On a local level, the town of Berlin considered a **1 percent** local option tax; and
- Expanding the ability to adopt a local option tax to all towns and cities. The Vermont Chamber has opposed local option taxes, as it uses up the tax capacity that the State may need for General Fund purposes.

### **Five Year Look Back**

*“What we’re trying to do is remind them of the work that is not only going on in the 24 committees today, but we’re trying to remind them what they did last year and the year before, which businesses are still trying to absorb,” Bishop says. “It’s as if sometimes because we did it last year it’s not an issue this year. But for many of the businesses, you will hear we’re still working on that.”-Betsy Bishop, Vermont Chamber President (Legislative Mandates Hampering Business Recovery, VTDigger)*

- Increased the minimum wage over the next two years, currently **\$9.60** per hour and reaching **\$10.50** per hour in 2018 and indexed to inflation thereafter;
- Increased State unemployment insurance costs as taxable wage base increases;
- Increased the employer health care assessment;

- Required employers with 50 or fewer employees to purchase insurance on Vermont Health Connect, and in 2016 employers with up to 100 employees will be mandated to use Vermont Health Connect. The Exchange currently does not work for businesses;
- Implemented a provider tax, including **\$7.25 million** in taxes on hospitals, **\$2.81 million** on nursing homes and an increase of **\$140,000** in taxes levied on home health providers;
- Implemented an insurance claims tax, requiring each health insurer to pay an assessment of **0.8 percent** on all health insurance claims, including the self-insured companies and the state's three major insurance companies;
- Reduced the research and development tax credit from **30 percent** of the federal credit to **27 percent**;
- Created new Criterion 9(L) language under Act 250 and a new definition for "strip development," leading to certain development projects either being denied or experiencing significant litigation, even when those projects fully comply with duly adopted local and regional plans;
- Increased the gasoline tax by about **\$0.06/gallon** and the diesel tax by **\$0.03/gallon** and tying increases in the tax to the retail price, anticipating inflation;
- Increased the Universal Service Fund fee from **1.81 percent** to **two percent** and extended the fee to prepaid calling plans;
- Mandated restaurants to separate organic wastes from their waste stream and compost on-site or arrange for transportation to a certified organic waste facility within a 20 mile radius by 2018;
- Waste haulers and waste facility owners must provide collection and processing services for the newly mandated recyclable products, and forced to recover costs by raising fees for regular trash;
- Mandated restaurants with 20 or more locations anywhere in the country to post the caloric content of their food items;
- Mandated manufacturers and retailers to identify whether raw or processed food sold in Vermont was produced in whole or in part through genetic engineering;
- Reduced the capital gains exclusion phased in between 2009 and 2011. The loss of this exclusion increased income taxes by around **\$50 million annually**, comparing 2008 to 2016's projection; and
- Current and past pressure on retailers and related businesses in border towns because of tax and wage policy. Including additional stress on business in the Vernon area with the closure of Vermont Yankee.