VERMONT CHAMBER of Commerce

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 if you have one to add to the list.

Upcoming in 2018

- Reforming the independent contractor laws to allow for a clear, unburdened path to be an independent contractor and to work with independent contractors;

- Increasing the minimum wage to $15/hour, higher than the planned change to $10.50/hour on January 1, 2018;

- Mandating paid family leave, which currently has been passed the House at 6 weeks of paid leave with 60% of your wages funded through an employee payroll tax;

- Implementing a mental health parity expanding workers' compensation coverage of mental health for occurrences caused by an experience on the job, provided it is work-related and results from stress levels that exceed what the average employee across all occupations would face. Other than first-responders, who have a presumption that the mental health injury occurred in the workplace, employees must prove they suffered the injury;

- Providing more high quality, affordable child care options and subsidies including investment in supporting early care and pre-K, in full-day pre-K programs for high-poverty kids, in expanding the number of spots available, and to help make quality child care centers more affordable;

- Creating a new carbon tax, placing manufacturers at a competitive disadvantage;

- Revisiting funding options for water clean-up following recommendations from the summer's Clean Water Funding Working Group;

- New rules by the Department of Environmental Conservation requiring a General Permit for existing sites with 3 or more acres of impervious surface. These parcels must retrofit to include stormwater controls for maximization of treatment on site or face impact and offset fees.

- Creating appropriate regulations for online lodging platforms and properties (AirBnB, HomeAway, VRBO, etc.) following the results of summer/fall study on the issue;

- Creating new chemical management regulations including an electronic chemical reporting system and groundwater testing requirements;

- Establishing a clear process for tax appeals resulting from the Department of Taxes audits;

- Creating a regulatory framework surrounding the legalization of the recreational use of marijuana, triggering workplace safety, drug testing, workers' compensation and unemployment insurance concerns;

- Establishing a pilot program for businesses to self-administer their energy efficiency charge to customize their energy efficiency initiatives;

- Creating more market rate (workforce) housing through a pilot program;

- Creating consumer protection legislation, especially following the Equifax breach; and

- Responding to any changes to the federal budget and the impact it has on Vermont;

New Regulations coming in January:

1. New licensing requirements for childcare providers: Each staffer will be required, at minimum, to have either completed 21 college credits in early education or obtained an associate degree in a related field, a childhood apprenticeship certificate or a child care certificate from Community College of Vermont.

2. Stormwater retrofits: The Department of Environmental Conservation (DEC) is statutorily required to issue a general permit (GP) by January 1, 2018, for projects with impervious surfaces of three or more acres ("three-acre sites") requiring that these parcels retrofit to include stormwater controls for any stormwater discharges that were not previously permitted, or that were permitted under standards in place prior to the 2002 Stormwater Manual. Projects that do not meet the standard on at least 75% of the site will be required to pay a stormwater-impact fee or implement a stormwater offset.

3. Lodging Establishment Regulations: This rule provides the requirements for sanitation and licensing of lodging establishments. The existing rule, which is over forty years old, is, being replaced by a complete update to incorporate current best practices and modernized sanitation requirements on January 1, 2018.

Right Direction 2017-2018 Biennium

- In an unprecedented act, this year legislators passed a general fund budget that relies on no new taxes or fees. The budget lives within existing revenues at $5.7B, with $5M in new revenue and up to $15M in one-time funding;

- Secured $250,000 to invest in economic development marketing for the state marketing Vermont as a place to live, work, and play to attract businesses and residents;

- Funded the tourism marketing budget to maintain Vermont's competitive market share;

- Increased the annual amount of downtown tax credits available by $200,000 to a total of $450,000;

- Made permanent the aviation sales tax exemption for parts related to repair and maintenance for commercial and private aircraft to help this industry grow;

- Postponed from July 2017 to July 2018 imposition of the mandatory requirement under the Universal Recycling Law that waste haulers begin accepting food scraps and other compostable waste;

- Clarified that certain captive insurance companies shall not be subject to any restrictions on allowable investments upon compliance with state investment requirements and it gives a captive greater flexibility with respect to the accounting method it chooses when filing reports and financial statements; and

- Secured $200,000 for the Department of Buildings and General Services to use for the Regional Economic Development Grant Program. The goal of the program is to provide competitive grants to municipalities and non-profit organizations to promote stimulation or retention of opportunities for regional economic development in an individual community or recognized community service area.

<u>Taxes, Fees & Mandates Passed in 2017-2018 Biennium</u>

- Mandated changes to the education finance law to extend the merger date from June until November 2017. This imposes impacts on school choice and the process for a school district to opt out of merging districts;

- Mandated repeal of the sunset, set to expire on July 1, 2018, for the Clean Water Surcharge (CWS) for water clean-up, currently funded through a 0.02% rate on the property transfer tax. For ten years, until July 2027, the CWS will remain at the 0.02% rate and then from 2027-2039, the rate will be reduced to 0.04%;

- Mandated employers to provide accommodations to pregnant employees, regardless of whether the employee would be defined an "individual with a disability" under Vermont law, unless the accommodation imposes an undue hardship on the employer. Although federal law already prohibits discrimination against pregnant women, the new state requirements set clear standards for employers to accommodate pregnant and lactating women, who often feel vulnerable and intimidated, in the workplace;

- Regulated pesticides further 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. Such regulation may occur once the Vermont Pesticide Advisory Council (VPAC) determines it is hazardous or deleterious to the environment, is likely to present a threat to human health, or is dangerous. Utility poles are exempt because they are already regulated by the Public Utilities Commission (FKA Public Service Board); and

- Miscellaneous substantive and technical amendments to the Regulation and Licensing of Professions including Dental Therapists, Funeral Directors, Real Estate Brokers and Appraisers, Veterinarians, Opticians, Radiologic Technology, Acupuncturists, Tattooists, Body Piercers, Permanent Cosmetologists, Athletic Trainers, and Speech-Language Pathologists. This includes criminal background history inquires of those within nursing professions; and adding new provisions regarding what constitutes unprofessional conduct for all the Office's regulated professions and occupations.

Taxes, Fees & Mandates Considered in the 2017-2018 Biennium

- Creating a Family Leave Insurance Program to provide employees with 12 weeks paid family leave at 100% wage replacement at a payroll tax of 0.93%, costing employers up to **$79 million** annually in added labor expenses;

- A **$0.02 per ounce** excise tax on sugar-sweetened and diet beverages;

- A **$2.00 and $5.00** occupancy fee on motel and hotel rooms to support clean water funding, housing, weatherization efforts and other programs aimed at helping low-income residents;

- Mandating burdensome and costly reporting requirements for manufacturers on chemical management to evaluate chemical inventories and provide chemical reporting via a centralized or unified electronic reporting system; and
- 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.

Five Year Look Back

Right Direction

- 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;

- 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 by bringing Vermont estate tax law into the 21st century, aligned this policy with 19 other states and created a predictable tax structure that doesn't impede succession planning efforts or add additional burdens during this transition. The estate tax rate is 16% with an exclusion of $2.75 million in assets;

- Changed the ANR permitting process (2015-16) to be more predictable, transparent and fair to applicants by including increased public participation earlier in the permitting process, providing that appeals from jurisdictional opinions are taken directly to the Environmental Division (with exceptions), limiting the ability to appeal to issues raised during the public hearing period, and extending the rulemaking timeline on the management of contaminated soils excavated for development;

- 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;

- Applied the click through nexus law requiring certain remote vendors to collect sales tax. Remote vendors began collecting and remitting sales tax on December 1, 2015. Additionally, in 2016 Amazon agreed to collect and remit the sales tax in Vermont, resulting in about $8 million annually; and

- Appropriated in FY 2018 $1.2 million to the Vermont Housing and Conservation Board, to be used for housing projects.

<u>Legislation Impacting Businesses</u>

- Mandated "ban the box" legislation which prohibits inquiries about criminal convictions on job applications;

- Increased taxes and fees by **$98 million i**n FY 2015-16;

- Increased transportation fees between **six** and **100 percent**. Raised approximately **$11 million**;

- Imposed a new **$0.02 per gallon** tax (FY 2015-16) 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. Raised approximately **$3.72 million**;

- 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;

- Decreased the **one percent** shrinkage allowance for motor fuel taxes to half a percent for one year effective June 1, 2016, with entire elimination starting in June 2017. The cost to consumers is **$600,000** for the first year and **$1.2 million** thereafter;

- 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. Raised **$22.9 million**;

- 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;

- Increased the property transfer tax by **0.2 percent** (Raised **$7.48 million**) 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 and is now set to extend until 2039, in which for ten years, until July 2027, the CWS will remain at the 0.02% rate and then from 2027-2039, the rate will be reduced to 0.04%;

- Raised the nonresidential property tax rate paid by businesses two-cents in FY2016 to **$1.535** per $100 of assessed value and maintained that rate in FY2017 and 2018;

- Applied the State meals tax to vending machine sales. Raised **$1 million**;

- Applied the State sales tax to soft drinks. Raised **$7.9 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. Raised **$3.2 million**;

- Required retail vendors of electronic cigarettes to obtain a new tobacco substitute endorsement and pay an annual **$50.00** fee;

- Increased the minimum wage over the next two years, currently **$10.00** per hour and reaching **$10.50** per hour on January 1, 2018 and indexed to inflation thereafter.

    - Effective Jan. 2014: $8.73 per hour; Jan. 2015: $9.15 per hour; Jan. 2016: $9.60; Jan. 2017: $10.00; Jan. 2018: $10.50;

- Mandated the Vermont prevailing wage and fringe benefits, including paid vacations and sick leave, for construction workers on State projects;

- 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 raised approximately **$31 million**;

- Required appliance retailers to carry more energy efficient products, affecting retail price points, product mix, overall gross products and possibly limiting consumer choice;

- 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 July 1, 2017. By 2020, all food scraps, including those from households, must be diverted with no exemption for distance keeping as much as possible out of the landfill and reusing recycled materials;

- Mandated that waste haulers and waste facility owners must provide collection and processing services for the newly mandated recyclable products, and are forced to recover costs by raising fees for regular trash. Collection of food waste has been postponed by one year, until July 1, 2018, and by July 2020 food scraps will be banned from the landfill entirely.

- Mandated employers to provide the total cost of employer-sponsored health care coverage on box 12 of W-2s;

- Increased the employer health care assessment;

- Increased State unemployment insurance costs as taxable wage base increases. However, in July 2017 the Department of Labor announced two changes, effective October 31, 2017, including the expiration of the one week waiting period for receipt of benefits, and a reduction in the taxable rates for employers from the highest at 8.4 percent to 7.7 percent and the lowest rate from 1.3 to 1.1 percent;

- 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**;

- Tightened regulations on the rent-to-own industry in 2015 by setting limits on the amounts rent-to-own stores can charge for each item and increased disclosure of contract terms to customers including: the cost of comparable products at retail stores as well as the total cost to own the item at lease end, and whether it's new or used and has any existing damage, an inventory of taxes, fees and charges, and a six-month window to resume making payments when a payment is missed.

- Implemented a State false claims act mirroring the federal false claims act which allows people who discover that the government is being defrauded to file suit on the government's behalf, and awards them a portion of any resulting settlement. This 2015 bill has the potential to affect a wide range of businesses including the health care industry, financial and defense businesses;

- Increased the Universal Service Fund fee from **1.81 percent** to **two percent** and extended the fee to prepaid calling plans; and

- Created a new Criterion 9(L) language in FY2014 under Act 250 which encourages development in designated centers and existing settlements and discourages development under the newly defined "strip development," which includes three or more of the following characteristics: broad road frontage, predominance of single-story buildings, limited reliance on shared highway access, lack of connection to any existing settlement except by highway, lack of connection to surrounding land uses except by highway, lack of coordination with surrounding land uses, and limited accessibility for pedestrians. This will lead to certain development projects either being denied or experiencing significant litigation, even when those projects fully comply with duly adopted local and regional plans.