



2009 Legislative Wrap-Up

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Legislature Adjourns; Special Session Called

The budget process is the focal point during any legislative session, but it shaped the 2009 legislative session even more than in years past. The session seemed to stall almost before it started, with no certainty as to how much money was going to be in the state's coffers by the time the gavel fell; lawmakers found themselves unable to make decisions early on. To add to the confusion, federal legislation passed this year to stimulate economic growth; the American Recovery and Reinvestment Act (ARRA), made money available to states, but the process to apply for and receive that money took time to sort out.

Even by town meeting break, legislative leadership still needed time to fit pieces of the ARRA funds into state programs and the budget, leading to a two-week break for town meeting. Top among discussions were job loss and the economy. State economists, business owners, and lawmakers all at one point or another sighted the state's unemployment rate, and stressed the importance of a strong Vermont economy. But

when the end of the session came, the legislature had failed to address the state's unemployment insurance trust fund, and while they were successful in passing an economic development bill, they fell short of passing true economic development legislation.

Through it all, however, the budget has remained the focal point - and it looks like it will continue to dominate talks in Montpelier. Last Friday, Governor Douglas asked lawmakers to return in June for a special session to rework their budget proposal. With money and authority to spend it running out in July, lawmakers will be under the gun to reach a workable budget as soon as possible.

Executive Summary

Even though this year's budget has not been finalized, it's important to note the new tax proposals this legislation has put on the table. They include cigarette taxes, clothing taxes, liquor taxes, digital download taxes, estate taxes, and capital gains taxes - to name a few. In addition, this year's budget proposal also includes a tax study of Ver-

mont's overall tax policy structure. This legislation will be addressed when the legislature reconvenes for a special session beginning in June.

The 2009 session was marked by the downturn in the economy both nationally and internationally. To that end, the legislature sought to address this by passing economic development legislation that while not a pure or complete economic package, contains provisions within the bill that will contribute to economic development. Seed equity money for start-up businesses, changes to Vermont permitting structure, and additional money for Vermont's Department of Tourism and Marketing (VDTM) are all positive steps toward job creation. However, several opportunities were passed over, including research and development and tax credit, green growth zones, and opportunity zones.

Legislation called upon Vermont Yankee, or any future nuclear power plant or company operating in Vermont, to fund the decommissioning of their plant. Furthermore, the legislature created a decommissioning trust policy, with the purpose of promoting the reclamation of lands in Vermont that have housed nuclear power plants. On and after March 22, 2012, any nuclear energy generation plant is required to have a decommissioning trust established that is able to fund the full cost of complete decommissioning.

The legislature also addressed the funding of VDTM. In fact, despite difficult fiscal times, the department has been allocated \$4.2 million in the FY 2010 budget. Legislation was also passed further opening market opportunities for Vermont wineries.

While the legislature did not usher in landmark health care legislation this session, changes to our state's health care and health insurance industries did occur. Also, the legislature further limited smoking in the workplace by passing legislation only permitting smoking by employees outside of any enclosed structure where employees perform

services. Changes to the state's Catamount Health Care program also took place, including lowering the annual deductible needed by an enrollee prior to being enrolled in Catamount; allowing individual business owners who have lost their health insurance coverage due to their business closing to enroll in Catamount Health; and removing restrictions to joining the program related to preexisting conditions.

Perhaps one of the most important issues of the session which has not yet been addressed is the State's Unemployment Trust Fund. Due to the economic slowdown and increased job loss, current projections put the fund bankrupt by the end of FY '09. Members of the business community, including the Vermont Chamber of Commerce, presented a proposal to the legislature this session that represents a balanced approach to return solvency to the fund over time. Unfortunately no action was taken to address this issue.

Two new gas taxes also passed this session. Beginning in June, a two percent tax will be added to the price of fuel. This is the first time a state gas tax has been levied as a percent of cost, and not as a rate per gallon. In addition, a diesel tax of \$0.03 per gallon has been added. This money will go directly into the state's transportation fund, and is not intended to be used for bonding.

Budget & Tax Issues

H.441: Making Appropriations for the Support of State Government (Budget)

Summary: This year's budget process set itself apart from years prior in many ways. The state and nation are in historic economic times, and Vermonters have found themselves amidst the greatest recession since World War II. This budget process has been unique in that the American Recovery and Reinvestment Act of 2009, passed federally in reaction to the economic slowdown, has impacted this year's budget by allowing an infusion of about \$170 million directly into the state's budget. Moreover, this year's miscellaneous tax bill was added to the budget in order to net some \$26 million more in taxes, requiring this legislation to be reworked in a special session beginning June 2, 2009.

Status: Awaiting action from the Governor

Vermont Chamber Position: Opposed

To date, this legislation includes:

Allocation to VDTM

Despite difficult fiscal times, VDTM has been allocated \$4.2 million in the FY 2010 budget, which includes an additional \$500,000 in this year's economic development bill.

Increased Tax/Labor Compliance Personnel

Beginning in FY 2010, the Vermont Department of Taxes will hire nine full-time employees to assist in tax compliance and work within the department's compliance division. The department is to use the funds in order to hire four tax field examiners, two desk audit examiners, two collectors, and one desk audit supervisor. In addition, the Vermont Department of Labor will be hiring four full-time employees to serve as workers' compensation fraud staff to investigate the classification of workers. Collectively, these positions are estimated to net the state

\$2.2 million in FY 2010, and \$4.6 million in FY 2011.

Tax Amnesty Program

Every 8 -10 years, the state offers tax amnesty to residents, during which time Vermonters owing back taxes are able to come into compliance without facing any state penalties for being in violation. This legislation authorizes the Tax Commissioner to set aside six weeks for the program before October of this year. This program is expected to net the state \$2.6 million in uncollected taxes.

Department of Revenue

The commissioner of taxes, along with the commissioner of finance, the Treasurer and members of the legislature will form a committee to meet in order to implement a transition from a Vermont Department of Taxes to a Revenue Department. The primary focus of the committee will be to review each state revenue source to determine whether the management of the revenue should stay with the revenue department, be transferred to the treasurer, or stay in the state department it is currently in. The expectation is that this will help streamline state services, and add efficiency to state government.

Blue Ribbon Tax Structure Study

This is a collaborative study conducted by a committee appointed by the legislature and the administration, to look at the state's revenue system with the goal of determining whether the current system raises enough revenue to sustain spend-

ing needs now and in the future. Also, the committee will determine if the current system provides equity among the state's diverse taxpayers, and provides incentives that further the state's goals. This study will look at the possibility of adjusting marginal income tax rates as a way to enhance the state's competitiveness in attracting labor, capital, and entrepreneurs. This study will cost the state \$200,000 in FY 2010.

Tax Credit Repeals

The tax credit to income for eligible venture capital investment has been repealed effective January 1, 2010. The property tax exemption for fallout shelters has been repealed for grand lists prepared for April 1, 2010 and after.

Digital Downloads/Digital Franchise Tax

This is a tax on various forms of digital products downloaded from the Internet. This legislation adds "specified digital products" to the definition of "tangible personal property," allowing for a pathway to tax these items. This includes music, videos, video games, cell phone ring tones, books, and other similar items downloaded over the Internet. The estimated income in FY 2010 is \$1 million.

Estate Tax

The current estate tax exemption threshold set at the federal level is \$3.5 million. This legislation limits the estate tax exemption at the state level to \$2 million beginning in January 2011. This is expected to raise an additional \$3 million in FY 2010 and \$3 million in 2011.

Tobacco Tax

This increases in the state's cigarette tax by \$0.25 per pack from \$1.99 per pack to \$2.24 per pack, and an increase on all other tobacco products from 41 percent to 92 percent. This is expected to raise \$4.1 million in FY 2010 and \$3.9 million in FY 2011. This tax is scheduled to sunset on June 30, 2012.

Clothing Tax

Beginning July 1, 2009 a six percent sales tax will apply to clothing which costs more than \$110. This is expected to raise \$1.8 million in FY 2010 and \$2 million in FY 2011. This tax is scheduled to sunset on June 30, 2012.

Sales Tax on Alcohol

Vermont's standard six percent sales tax on hard liquor and spirituous wines. This tax is scheduled to sunset on June 30, 2012.

Satellite Tax

Beginning July 1, 2009 satellite TV users will be subject to a five percent satellite TV gross receipts tax. This tax is expected to raise approximately \$4 million annually.

Capital Gains Tax

Income derived from capital gains will now be subject to income tax on all income beyond the first \$5,000. Previously, only forty percent of adjusted net capital gain income was taxed, as long as the total amount did not exceed forty percent of the federal taxable income.

Economic Development

H.313: Related to Near-Term and Long-Term Economic Development

Summary: Backed by the findings of the bill, which indicate that Vermont has lost nearly 15,000 jobs since November 2007 and is reaching an unemployment rate of 7.2 percent, the intent of this legislation was to stimulate the Vermont job market and overall economy through policy changes. While not a pure or complete economic package, there are some provisions within the bill that will contribute to economic development.

While this legislation is a step toward increasing jobs in Vermont, more could have been done. The legislature left a research and development tax credit on the table, and did not take advantage of green growth zone areas throughout the state where a renewable energy source such as wind, solar, biomass facility, or hydroelectric is able to serve as a cornerstone for businesses to locate around and create jobs, or opportunity zones around industrial facilities that have been vacant for five years or more would allow Vermont to use its existing infrastructure to attract new job providers or help existing job providers expand.

Status: Awaiting action from the Governor

Vermont Chamber Position: Support

This legislation includes:

Economic Opportunities Study

The Office of Economic Opportunity with the Community Action Agency Directors' Association will conduct a joint study of possible tools the state could use to promote the success of individual development accounts and the microbusiness development program.

Seed Capital Fund

Establishes a seed capital fund to be used as nonfounder investment in the form of equity or convertible securities issued by a firm which had annual gross sales of less than \$3 million. Moreover, the fund must invest at least 40 percent of its total capital in initial investment in firms which had annual gross sales of less than \$1 million and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.

Permitting Changes

This legislation provides for: procedures establishing an application process for certification small-scale hydro projects; an extension of stormwater runoff permitting authority to 2012; improvements to the 248a permitting process for telecommunications seeking a certificate of public good; prioritized spending for ARRA projects; environmental ticketing authority for the Agency of Natural Resources; and an expansion of the general permitting program through the Agency of Natural Resources.

Increased Penalties for Misclassification of Employees

Provides that an employer who makes a false statement or representation that results in a lower workers' compensation premium, with or without intent, may be assessed an administrative penalty up to \$20 thousand.

Davis Bacon Compliance

For projects with a total project cost of

more than \$250 thousand contractors must provide:

- Detailed information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees.
- A list of subcontractors on the job along with lists of the subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes.
- A payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the job site during the pay period, the work performed by those workers on the job site, and a daily census of the job site.

Furthermore, projects receiving ARRA money directly, must comply with the payment of Davis-Bacon wages when: The Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages, then the wages will be set to the county that has most recently updated its applicable Davis-Bacon wages.

Allocation to VDTM

Despite difficult fiscal times, VDTM has been allocated \$4.2 million in the FY 2010 budget, which includes an additional \$500 thousand in this year's economic development bill.

Energy & Environment

H.06: Relating to the Sale of Engine Coolants and Antifreeze

Summary: In an effort to reduce deaths to animals, household pets, and in some cases children, the Vermont Legislature passed a proposal banning the sale of engine coolant or antifreeze containing more than 10 percent ethylene glycol, unless a bittering agent is added to make the liquid taste bad.

In addition to banning the sale of antifreeze containing more than 10 percent ethylene glycol, the legislation calls for manufacturers and packagers of engine coolant or antifreeze to maintain a record of the active ingredients, and make the information available to the public upon request. These restrictions do not apply to the sale of a motor vehicle that contains engine coolant or antifreeze, or for manufacturing processes.

Status: Enacted.

Vermont Chamber Position: Neutral

H.436: Relating to Decommissioning Funds of Nuclear Energy Generation Plants

Summary: This legislation requires that the decommissioning fund be brought up to a level for complete and immediate decommissioning. Corporate restructuring of the Vermont Yankee plant along with the rest of Entergy's nuclear fleet, has been in the works for some time now. A request has been made to the Public Service Board for this restructure, and a docket has been opened and is still under review.

This legislation also creates a Decommissioning Trust policy, with the purpose of promoting the reclamation of lands in Vermont that have housed nuclear power plants. In addition, on and after March

22, 2012, any nuclear energy generation plant, whether or not the plant is in operation, must have a decommissioning trust established that is adequate at all times to fund the full cost of complete decommissioning.

Status: Awaiting action from the Governor

Vermont Chamber Position: Opposed

H.446: Relating to Renewable Energy and Energy Efficiency

Summary: In an effort to expand the renewable energy base in Vermont, the legislature passed legislation creating a standard offer, or a set price, for various forms of qualifying in-state generated renewable resources deployed through the established state SPEED program. The projects for this program are limited in size to no larger than 2.2 megawatts and the program is capped at 50 megawatts, and need to be approved by the Public Service Board. Contracts will be given out, at a fixed rate, lasting 10-20 years. Power companies are required to purchase the power, at the standard offer rates.

The standard offer established within this legislation covers power plants using methane derived from a landfill or an agricultural operation, for which utilities are required to pay \$0.12 per kWh; power plants using wind power that have a plant capacity of 15kW or less, for which utilities are required to pay \$0.20 per kWh; and power companies using solar power, for which utilities are required to

pay \$0.30 per kWh. These prices are subject to approval by the Public Service Board.

While the Vermont Chamber of Commerce supports renewable energy as part of the state's energy portfolio and recognizes the need and value for in-state power generation, we are unable to support H.446. Unfortunately, the legislation does not require the Public Service Board to take into consideration ratepayer impacts when setting the price for power available through the standard offer. This leaves Vermont ratepayers exposed to higher utility costs.

Status: Awaiting action from the Governor

Vermont Chamber Position: Opposed

S.99: Relating to Amending the Act 250 Criteria Relating to Traffic, Scattered Development, and Rural Growth Areas

Summary: The Vermont Senate reviewed legislation designed to limit the impacts of sprawl development within the state. While this legislation never made it out of the Senate, it is still on the table for the 2010 legislative session. As currently drafted this legislation proposes to change three Act 250 criteria:

- Criteria 5, pertaining to traffic and congestion: A proposed change that would require developers to make connections to sidewalks and bike paths.
- Criteria 9H, dealing with the costs associated with scattered development: A proposed change requiring projects to be weighed together with the cumulative impact of scattered development within the region.
- Criteria 9L, addressing rural growth areas and strip development: A proposed change asking developers not to promote patterns of strip development.

Status: In Senate Economic Development, Housing, and General Affairs

Vermont Chamber Position: Opposed

Travel & Tourism

Despite the difficult economic climate, the hospitality industry fared quite well in the 2009 legislative session. Early on, a tourism caucus formed among legislators, under the leadership of freshman Representatives Megan Smith from Mendon, and Jeff Wilson from Manchester. The caucus took the lead in encouraging legislators to consider hospitality industry issues, inviting speakers to share important information in a relaxed atmosphere with legislators and interested parties, and helping raise the profile of the industry and the impact of its contributions among fellow legislators.

Midway through the session, the Vermont Department of Tourism and Marketing (VDTM) published an influential study illustrating the critical nature of the hospitality industry as a Green Mountain State economic driver and workforce development leader.

Upon adjournment, the Vermont Chamber Hospitality Council and our members emerged with a state tourism and marketing budget that is essentially level-funded, and a budget for Vermont's historic sites that reflect last year's levels. The industry advocated for a law change, in partnership with the Vermont Department of Liquor Control and the Grape and Wine Council, to open market opportunities for Vermont's fast-growing wine industry. And, with a few notable exceptions, we avoided devastating taxes and mandates that interfere with business.

H. 313 & H.441: Legislative Allocation to Fund the VDTM

Summary: Despite difficult fiscal times, VDTM has been allocated \$4.2 million for FY 2010 which, with the legislature's decision to stimulate tourism with an extra half million dollars, fundamentally funds VDTM's budget at FY 2009 levels.

Status: As a whole the budget bill was passed by the legislature; vetoed by Governor Douglas. Awaiting special session; the VDTM allocation is expected to remain intact.

Vermont Chamber Position: Support the maximum level of funding for VDTM; Kudos to the legislature for recognizing the importance of the tourism industry, which on average gives back to the general fund nearly five times for every dollar invested, within 3 - 6 months.

Funding Formula for VDTM

Summary: This proposal would have tied the level of funding for VDTM, above a certain minimum level, to a percentage of rooms & meals tax receipts.

Status: The legislature did not pursue this proposal to the end of the session.

Vermont Chamber Position: Support, with some caveats, including ensuring a minimum level of funding, assuring that VDTM received excess money instead of routing it directly to the General Fund, and creating a strategy within the formula to help address the fact that rooms and meals tax receipts are lowest in an economic slowdown, when marketing tourism to Vermont is even more necessary.

Proposal to Eliminate VDTM

Summary: In discussions about consolidation and cost-cutting measures, legislative leaders from both the House and the Senate put forth a proposal to merge

the Department of Labor into the Agency of Commerce and Community Development. This proposal would have removed the Vermont Department of Tourism and Marketing (VDTM) from the Agency of Commerce, converted the VDTM budget to grant money, and parsed out marketing grants to the private sector, public-private partnerships or non-profits to promote Vermont.

Status: The legislature did not pursue this proposal to the end of the session.

Vermont Chamber Position: Opposed, based on serious concerns of fragmenting and decentralizing Vermont tourism marketing efforts.

H. 441: Tax on Liquor

Summary: The legislature first looked at raising the retail tax on hard liquor and spirituous wines (e.g., port wine) a full 10 percent, from its current 25 percent, to 35 percent. After hearing from the hospitality industry, the legislature shifted its proposal to extend Vermont's standard six percent sales tax to hard liquor and spirituous wines. Of note, neither of these proposals were to apply to table wine and beer, which is already taxed, and the tax will not apply to Vermont's restaurants and bars, which must purchase their liquor and spirituous wines from registered Vermont liquor agents. Additionally, customers of bars and restaurants already pay drink tax as part of the rooms and meals tax. This tax is scheduled to sunset on June 30, 2012.

Status: The retail tax on hard liquor and spirituous wines is part of the miscellaneous tax bill that passed in the waning hours of the session.

Vermont Chamber Position: Opposed to new taxes. This new retail tax on hard liquor and spirituous wines will drive more business to neighboring tax-free New Hampshire and continue to hurt the competitiveness of Vermont's retail economy.

Raising the Rooms & Meals Tax

Summary: First broached by the Senate Government Operations Committee, the idea of raising the current nine percent rooms and meals tax to 10 percent or beyond was an occasional topic of discussion in the legislative committees focusing on money and revenue.

Status: The legislature did not pursue this proposal to the end of the session.

Vermont Chamber Position: Opposed to raising the rooms and meals tax, based on maintaining our competitiveness with neighboring tourism destinations especially in terms of motor coach tours and big-ticket items such as weddings, passing tax increases on to Vermonters who dine in restaurants and also travel around the state, and levying added pressure on small businesses, which make up a majority of Vermont's hospitality industry. Kudos to the legislature for recognizing the importance of keeping Vermont competitive, and holding rooms and meals tax harmless in its search for new revenue.

Closing State-Owned Historic Sites

Summary: In an effort to save money, the House Government Operations Committee and the House Institutions Committee took a close look at a proposal to close Vermont's state-owned historic sites. Of note, these sites, although they would have been shut down, would still need to be maintained by the state.

Status: The legislature did not pursue this proposal to the end of the session, and upon adjournment the state-owned historic site system was funded at FY 2009 levels.

Vermont Chamber Position: Opposed to closing state-owned historic sites, based on the fact that these sites are critical to our tourism economy, and the state investment is small in light of the return.

Because of the sites' contribution to their own operations through admission and gift shop sales, it costs the state a net of about \$140 thousand to keep our entire system of historic sites up and running. Closing the sites would have had a ripple effect on the local and state economy, since the sites are often situated in rural areas, bringing visitors into our small communities.

S. 27 Wine Tasting and Sales

Summary: This bill allows wineries to: sell products produced by other manufacturers at their manufacturing premises, hold events on their licensed premises or vineyard property and rent their locations for events such as weddings while allowing the tasting of their wines and sale of wine and beer at such events at places on the grounds outside of their tasting rooms as covered by their manufacturers' licenses, and taste and sell fortified wines such as port that they have produced by the bottle or by the glass at the licensed premises or at a farmers' market. In addition, manufacturers or rectifiers of spirits may sell their products by the glass or bottle and offer tastings of spirits such as maple vodka at the manufacturing premises, and may offer tastings (in addition to sell by the glass or bottle) products they have produced at a special event open to the public. The bill also changes residency requirements for liquor license applicants, by removing the Vermont and municipal residency requirements for individuals whether alone, in a partnership, or directors of a corporation.

Status: Passed by the legislature and signed into law by Governor Douglas at a bill signing arranged by the Vermont Chamber Hospitality Council at Shelburne Vineyard.

Vermont Chamber Position: Support opening market opportunities for Vermont's wineries and relaxing regulation to further allow businesses to market and responsibly sell alcohol.

H. 120 Menu Labeling

Summary: This bill, which specifically targets chain restaurants in Vermont, would have required expensive nutrient analysis of food items, and that restaurants post nutritional information on their menus and menu boards. This menu labeling bill came on the heels of a bill passed last session to study nutrition information disclosure in Vermont, where the Vermont Department of Health, with the Vermont Chamber Hospitality Council and other stakeholders, came up with a voluntary program which was presented to the legislature early this session.

Status: The menu labeling bill was referred to the House Committee on Human Services, where it was not pursued.

Vermont Chamber Position: Opposed to statewide nutrition information mandates. The restaurant industry is very responsive to consumer desires, and similar to the voluntary, industry-wide elimination of trans fats from menus, most chain restaurants make nutrition information very accessible to consumers. Menu labeling regulation has been instituted in other jurisdictions around the country, including most recently, Massachusetts. In part because there is a patchwork of regulation developing across the country, the menu labeling issue is soon to be pre-empted on a state level by the passage of a federal, nationwide, nutrition information disclosure law called the "LEAN" Act, which is supported by the Vermont Chamber Hospitality Council, in partnership with the National Restaurant Association. The "LEAN" Act would require restaurants with 20 or more locations to disclose calories and nutritional information.

H. 313 Film Industry Tax Credit and Study

Summary: The bill as originally proposed would have required that Vermont research and study how to market Vermont as a potential site for film industry businesses, and also offered a tax credit that was equal to 25 - 30 percent of total aggregate payroll. This proposal was consolidated into the economic development bill, and upon passage requires the Vermont Film Commission to devise a strategy in partnership with representatives of Vermont's educational institutions and report back to the legislature at the start of the 2010 session.

Status: The economic development bill has been passed by the legislature, and is awaiting the signature of Governor Douglas.

Vermont Chamber Position: Support the economic development bill in part; support creating incentives for film production in Vermont, to stimulate the economy, allow our talented Vermonters to work on the projects, remain competitive with other jurisdictions offering film incentives, and market Vermont through films.

H. 438: Diesel Fuel Tax Exemption for Motor coaches

Summary: This bill removes Vermont's tax exemption for diesel fuel sold in Vermont. The tax will be levied at the beginning of the next fiscal year, July 1.

Status: Passed, as part of the transportation bill; awaiting the signature of Governor Douglas.

Vermont Chamber Position: Support the transportation bill in part; but oppose eliminating the diesel fuel tax exemption in Vermont, since allowing diesel fuel to be taxed will be a disincentive to Vermont's lucrative group tour and motorcoach industry to travel to Vermont and fill their tanks in our state while in transit.

H. 438: Chains on Motorcoaches

Summary: This bill will require motorcoaches and tractor-trailer trucks to put chains on their wheels when traveling on certain Vermont roads in winter

weather. This mandate will take effect in January 2011.

Status: Passed; awaiting the signature of Governor Douglas.

Vermont Chamber Position: Oppose. This mandate will make it more difficult to travel to and within Vermont, will contribute to the wear on our roads, and make the state less competitive with neighboring states who allow vehicle operators the ability to independently judge the safety of their equipment in light of weather and road conditions.

H. 197 Flavored Malt Beverages

Summary: This bill was to create a new classification for flavored malt beverages such as "hard lemonade." These sweet drinks, otherwise known as "alcopops," appeal to a younger crowd, and it can be difficult to tell flavored malt beverages apart from non-alcoholic drinks such as soda. The bill would have also added a tax on flavored malt beverages, theoretically to price them out of range of youth. This bill was based upon a study performed by the Vermont Department of Liquor Control, which asked the legislature to look at how flavored malt beverages are sold and marketed.

Status: This bill was referred to the House Committee on General, Housing, and Military Affairs, where it was not acted upon.

Vermont Chamber Position: Opposed to new taxes on consumer products.

Health Care

H.24: Colorectal Cancer Screening

Summary: Colorectal cancer is the fourth most common cancer affecting Vermonters. In fact approximately 130 Vermonters die each year from colorectal cancer, and around 330 new cases are diagnosed in Vermont each year. However, if caught early, patients suffering from colorectal cancer have a seventy to ninety percent survival rate. The year, the Vermont Legislature passed an insurance mandate requiring the coverage of colorectal screening. This legislation requires Vermont's health insurance community to cover the costs of colorectal cancer screening in accordance with the American Cancer Society guidelines and must limit co-payments by insured Vermonters to no more than \$100.

Status: Awaiting action from the Governor
Vermont Chamber Position: Support

H.444: Relating to Health Care Bill

Summary: This year's comprehensive health care legislation focuses on making improvements to existing programs such as Catamount Health, and also provides a framework for federal American Recovery and Reinvestment Act money to flow into existing state programs such as VITL and other information technology programs. This legislation also calls for the study of the cost effectiveness of employer-sponsored health care v. enrollment in Catamount Health and the evaluation of a rule permitting depreciation to be filed as a business expense for income sensitivity. Lastly, H.444 prohibits the use of decabromodiphenyl (DecaBDE) as a flame retardant in products manufactured or sold in Vermont.

Specific changes to Catamount Health include:
 lowering the annual deductible needed by an enrol-

lee prior to being enrolled in Catamount from \$10,000 down to \$7,500 for individuals, and \$20,000 down to \$15,000 for families; allowing individual business owners who have lost their health insurance coverage due to their business closing to enroll in Catamount Health; and removing restrictions to joining the program related to preexisting conditions.

This legislation also calls for the Commission on Health Care Reform, in consultation with the secretary of administration to evaluate the cost-effectiveness of the Catamount Health program with other available alternative methods of providing health care coverage to uninsured Vermonters. The goal is to insure 96 percent of Vermonters by 2010. Furthermore, the legislation calls for the office of Vermont Health Access to create a report on the impact of modifying the income eligibility rules to allow depreciation as a business expense. This will include an analysis of estimated increases in enrollment, impacts on the premium amounts paid by the enrollees, and increases in federal funds due to the rule change.

Finally, this legislation contains provisions to limit the use and sale of products using a flame retardant known as DecaBDE. Beginning in July of next year, Vermont businesses may not manufacture, offer for sale, or distribute for sale any mattress/mattress pad; or upholstered furniture containing DecaBDE. Beginning in July, 2012 Vermont busi-

nesses may not manufacture, offer for sale, distribute for sale any television or computer with a plastic housing containing decaBDE. In both instances exceptions are made for inventory purchased prior to July 1, 2009.

Status: Awaiting action from the Governor

Vermont Chamber Position: Neutral

S.7: Smoking Ban in the Workplace

Summary: Currently Vermont law permits the designation of a smoking area in the place of work that may be established in a location that employees are not required to visit regularly. This includes up to thirty percent of employee cafeteria and lounge space. This newly passed smoking law will eliminate these exceptions, and only permit smoking by employees outside of any enclosed structure where employees perform services.

Status: Awaiting action from the Governor

Vermont Chamber Position: Support

Labor

Unemployment Fund

Summary: Early within the 2009 legislative session, the Commissioner of the Vermont Department of Labor, Pat Moulten-Powden, met with legislators in order to discuss the status of the state's Unemployment Insurance Trust Fund. This fund is used to pay the unemployment costs for Vermonters when they suffer the loss of a job, and the fund has come under added pressure due to the declining economy and increase in unemployment. Current projections put the fund bankrupt by the end of FY '09.

Members of the business community, including the Vermont Chamber of Commerce, presented a proposal to the legislature this session that represents a balanced approach to solving the problem. The proposal was designed to return solvency to the fund over time, and contains components that raise the amount that Vermont employers pay into the fund, but also reduce the amount of benefits paid out of the fund. The proposal requires the state to borrow a portion of the money in order to bridge the remaining gap within the fund. Three major components of the proposal are:

- **Increase the Employer Contributions to the Fund:** Phase in a taxable wage base increase schedule over three years starting in calendar year 2010. The increases would change the current base of \$8,000 to \$10,000 in 2010, to \$14,000 in 2011, and finally to \$16,000 in 2012. This will raise an additional \$70 million in the first 3 years.
- **Reduce and Freeze the Maximum Weekly Benefit:** Reduce the maximum weekly benefit from the current \$425 to \$409 in 2010. This is expected to save the system \$10 million in 2010.

- **Adjust the Benefit Formula:** Adjust the formula used to calculate the maximum weekly benefit amount to a maximum of 50 percent of lost wages. Currently Vermonters on unemployment earn up to 57 percent of the lost wages, while most states only provide 50 percent of the employee's lost wages.

The proposal from the business community was not the only proposal put on the table this session. The Douglas Administration also presented the legislature with a comprehensive balanced approach to restoring solvency to the fund. A proposal that also addresses both the amount of money paid into the fund by employers and the withdrawal from the fund to pay benefits. Despite the offering of two balanced proposals, both of which containing very sizable tax increases to employers, the legislature did not act. Unfortunately, other than accepting federal recovery money, the legislature failed to address the issues facing the solvency of the state's trust fund and if nothing is done, the state will have to borrow money from the federal government once the fund reaches a negative balance.

Status: No action taken.

Vermont Chamber Position: Support

Federal American Recovery and Reinvestment Act UI Money/Changes

Summary: While no progress was made to address the state's unemployment trust fund, changes to the system were made in order to comply with federal mandates tied to economic recovery dollars. The American Recovery and Reinvestment Act (ARRA) contains provisions to provide states with assistance to their unemployment insurance trust funds. The money made available, however, does come with strings. The total amount of money being made available to Vermont, and received through ARRA is \$13.9 million. Vermont already qualified for approximately \$4.6 million because our state has an alternate wage base, meaning that there are multiple formulas for determining the weekly benefit amount to be assigned to a Vermonter receiving unemployment.

In order for Vermont to qualify to use the remaining \$9.3 million, our unemployment system was changed to allow for Vermonters to draw from the state's UI Fund for up to 26 weeks of workforce training. This change is expected to cost \$1 million to the system each year. For a system currently paying out approximately \$5 million per week in benefits, accepting \$9.3 million in one-time money in exchange for \$1 million in annual liability is unwise and was not supported by the Vermont Chamber of Commerce.

Status: Enacted.

Vermont Chamber Position: Opposed

Transportation

H.438: Relating to the State's Transportation Program

Summary: While many taxes, fees, and other revenue-generating proposals related to our state's transportation were offered by the legislature this year, only a few survived the fall of the gavel. Among those considered, but not enacted, were a \$0.05 gas tax to leverage funds in order to increase the state's bonding capacity as well as a proposal to index the gas tax to the rate of economic growth, automatically increasing the gas tax every year. While these proposals may have failed, two new fuel taxes have been passed.

Beginning June 1, 2009, a two percent tax will be added to the price of fuel. This tax will be applied at the retail level, before state and federal taxes are added. This is the first time a state gas tax has been levied as a percent of cost, and not at a rate per gallon. This tax is expected to raise an additional \$11.5 million for the state in FY 2010. In addition, a diesel tax of \$0.03 per gallon has been added, which the state hopes to gain \$1.4 million in added revenue for FY 2010. The revenue from both new taxes will go into the transportation fund, and while the legislation creates a framework for bonding, based on this legislation, the new revenue is not used to increase the state's bonding capacity. Furthermore, beginning next July, this bill removes Vermont's tax exemption for diesel fuel sold in Vermont.

Status: Awaiting action from the Governor

Vermont Chamber Position: Opposed

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