



# The STATEHOUSE INSIDER

*Weekly politics and analysis  
of transportation issues*



FINAL LEGISLATIVE REPORT

*As the legislature has adjourned, this is KSE's last legislative report for 2016. A special thanks to Marilyn Miller for her help and insights during the 2016 session. Thanks also for having KSE serve as VADA's lobbyist. We wish you all a great summer!*

## BIENNIUM ENDS

The 2016 legislative session came to a close at 12:17 AM on Saturday, May 7th, ending the second half of the biennium. Barring an unlikely veto session on June 9th, the 2015-16 General Assembly has concluded its work for the year.

The 2016 session was unique for many reasons, none more than the fact that the Democrats who have been running the state for the last six years; namely, Governor Peter Shumlin, Senate President Pro-Tem John

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Campbell and Speaker of the House Shap Smith are all retiring from their positions this year.

Because he announced last fall that he was not seeking re-election, Governor Shumlin's influence in the State House was demonstrably weaker than it was six years ago.

The Governor's announcement also prompted a number of candidates to step forward hoping to replace him. On the Democratic side there is a three way primary race between former state senator Matt Dunne, former state senator Peter Galbraith, and Sue Minter, former transportation Secretary and, before that, state representative. On the Republican side current Lt. Governor Phil Scott is facing off against Bruce Lisman, a retired Wall Street executive. The primary election is on August 9.

Because Lt. Governor Phil Scott is seeking the Governor's office his current position is also up for grabs, and so far two Democrats and one Republican have announced their interest in the position.

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## THE ISSUES

2016 was not a year for landmark legislation. Instead, the session resulted in many smaller bills. This is a direct result of the impending change in leadership and the fact that legislators are gearing up to enter election season. In total, the Vermont Legislature passed 115 bills in 2016 including:

- A budget and tax package that appropriates \$2.6 billion in state funds, including spending for the General Fund, Transportation Fund, and other special funds. The legislature approved \$49 million in new revenue, with \$20.8 million coming from an increase to mutual fund fees. The overall state budget for FY17 is \$5.76 billion, an increase of 2.4 percent from FY16.
- An energy siting bill that grants "substantial deference" to regions and municipalities in the Public Service Board process. The rapid deployment of solar and wind facilities over the past several years has drawn criticism from some neighbors and planning commissions. S.230 puts an emphasis on planning for future build-out of renewable energy sites and directs the PSB to establish sound standards that new wind projects will have to adhere to.
- Multiple labor-related bills, including [H.187](#), a bill that grants most workers who work 30 hours or more some paid sick days. Also, [H.261](#), commonly called "ban the box," prohibits an employer from requesting criminal history

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record information, including arrests, convictions or sentences, on an initial employment application form. One labor-related bill that failed is H.867, which attempted to define the difference between employees and independent contractors. After months of work in the House Commerce and Economic Development Committee, the legislation died because of strong labor opposition.

- A "privacy bill" that restricts government access to personal electronic communications and limits the use of law enforcement drones. S.155 also tweaks Vermont's law relating to license plate readers.

While marijuana legalization did not come to fruition this year, it did get attention in the legislature. The Senate passed a bill that established a regulatory market for the cultivation and retail sale of marijuana. The initiative lost momentum in the House Judiciary Committee, which stripped out all elements of legalization. Frustrated by the lack of action by the House, Senator Dick Sears tacked the Senate language on a House-passed bill, forcing the House to vote on legalization in the last weeks of the session - a vote that did not go well for legalization advocates. The legislature also did not move forward with a proposed non-binding referendum to gauge Vermonters' support for legalization. However, the Joint Legislative Justice Oversight Committee will be holding six hearings this summer and fall on the issue.

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## VADA ISSUES

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### DMV FEE BILL

H.877, An Act Relating to Transportation Funding, commonly known as the DMV Fee bill, increases DMV fees across the board by approximately nine percent in most cases to raise \$10 million in new revenue. Most DMV fees have not been raised in four years. Significantly for dealers the bill as passed:

- Raises the purchase and use tax cap for trucks to \$2,075 (currently \$1,850). The conference committee removed the provision the Senate added to impose a requirement that the truck be "used primarily for commercial or trade purposes" to qualify for the tax cap, a vague standard that would be difficult to administer and enforce.
- Raises the pleasure car registration from \$69 to \$74 for one year, and \$127 to \$136 for two years. The conference committee dropped a controversial provision that added a definition of "electric vehicle" and "plug-in electric hybrid vehicle" and raised the registration fees on these vehicles above gas powered vehicles because these electric vehicles are not paying gas tax. Under the bill, all vehicles powered by electricity will pay the same registration fees as pleasure cars cited above. The Secretary of Transportation is directed to submit a report to lawmakers by Jan. 1, 2017, recommending fees for the registration of plug-in hybrid and electric vehicles.

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- Registration fees for new or used motor vehicle dealers will increase from \$370 to \$503 for each certificate issued in a dealer's name, which includes three number plates.
  - Additional dealer plates, which are limited based on the number of sales in a prior year, will increase from \$40 to \$55.

[Here is a link](#) to the final spreadsheet, the final bill language is not available yet.

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## **T-BILL INCLUDES DEALER REGULATION STUDY**

H.876, An Act Relating to the Transportation Capital Program and Miscellaneous Changes to Transportation-Related Law, also known as the "T-Bill," establishes the State's annual transportation capital program. This year, however, all of the provisions of the DMV Miscellaneous bill, S.225, were added to the bill when S.225 ran into a road block after the House voted to add a controversial blood alcohol level & THC standard to Vermont's DUI laws that requires the use of a saliva test. The conference committee opted to study the issue of driving while impaired. The most significant thing in the bill for dealers is the dealer study that reads:

### Sec. 43. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont's regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State's interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

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- (5) whether residents of other states should be allowed to register vehicles in Vermont;
- (6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;
- (7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and
- (8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.
- (d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

Notably, one thing that is not in the bill is a requirement that DMV proposed that would have imposed the 6 percent purchase and use tax on any vehicle a Vermont dealer sold to a consumer who was going to register the vehicle in another state. VADA pointed out that New Hampshire has no purchase and use tax so the proposal would effectively end sales from Vermont dealers to residents in New Hampshire and possibly other states.

The final version of this bill is not available on-line yet.

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## **CROSS-BORDER TAX STUDY**

H.868, an omnibus economic development bill, includes a Vermont State Tax Study, which directs the Joint Fiscal Office to analyze historical trends since 2005 in Vermont taxes as compared to other states. Among other things, the study requires JFO to analyze cross-border tax policies and competitiveness with neighboring states including the location of retail activity and retail market share. The report is due back on January 15, 2016 to lawmakers.

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## **DRIVER'S LICENSE SUSPENSIONS**

H.571, An act relating to driver's license suspensions and judicial, criminal justice, and insurance topics. This bill creates a driver restoration program that allows Vermonters to apply to pay reduced fines for certain past traffic violations in order to get their driver's license reinstated. The bill directs the Commissioner of Financial Regulation to conduct a study of the use of credit-based motor vehicle insurance scoring and its impact on consumers and how limitations on the use of such scoring will affect insurance companies doing business in Vermont. The provisions that passed the House related to increasing penalties for texting while in a work zone were removed from the bill. The full text of the conference committee report can be found starting on page 3538 of the [Senate Calendar for Friday, May 6](#).

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## EQUIPMENT DEALER "BILL OF RIGHTS"

S.224, a bill that regulates dealer agreements between equipment dealers and their manufacturers, passed the House and Senate this year and is awaiting the Governor's signature. The bill contains provisions to increase warranty payments, allow dealers to sell multiple lines, and expands the existing law to ATVs and snowmobiles, among other things. Not surprisingly, the manufacturers strongly oppose the bill. The equipment dealer law is a separate chapter from the auto dealer franchise law so this has no direct impact on auto dealers. Here is a link to the conference committee report that starts on Page 1855 of the [House Journal for May 5](#).

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## AUTOMATIC VOTER REGISTRATION

H.458, a bill that automatically registers someone to vote when they file a driver's license application unless they opt out, was enacted into law this year. The Governor signed the bill in April 2016 so it is now known as Act 80. Vermont is now one of four states - the others being California, Oregon and West Virginia - that have similar measures and have seen significant increases in voter registration as a result. [Here is a link to Act 80](#).

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## STANDARD PROCEDURES FOR DEC PERMITS

The stated purpose of S.123, a bill related to DEC permits, is "to establish standard procedures for public notice, public meetings, and decisions relating to applications for permits issued by the Department of Environmental Conservation." The bill was approved in the last final days of the session so the final version is not on-line at this time.

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## ABOVEGROUND STORAGE TANKS

This bill that passed the House and the Senate this year requires the Secretary of the Agency of Natural Resources to adopt rules related to aboveground storage tanks including inspection and removal requirements, among other things. You can read the text of the bill [here](#).