

**Week 3 - January 25, 2019**

# THE VERMONT **STATEHOUSE INSIDER**

Weekly politics & analysis  
of the issues in Montpelier



## **THE TOURIST**

On Thursday Governor Phil Scott delivered his [budget address](#) to a joint assembly of the Vermont legislature and for the first time since taking office in 2016, the governor proposed a new tax. His proposal calls for a 92 percent wholesale tax on all e-cigarette products including the devices. If adopted, this would tax e-cigarettes at the same rate as other tobacco products like chewing tobacco. The governor also proposed numerous fee increases primarily in areas that have not seen increases in several years.

[Click here to view an overview](#) of the governor's proposed budget.

The governor's budget also includes several proposals that are likely to garner support from members of all parties, specifically in regard to unfunded liabilities. However, Democratic leaders in the House and Senate did respond with some questions and concerns of their own following the speech. It seems clear they have a shared goal but may have a different vision on how to achieve that goal.

The governor is also working to ensure that taxes from the new economy are collected in full. He

wants to ensure that sales completed online are properly collecting and remitting sales tax in Vermont. The Scott administration also suggested that online bookings sites for hotels, which are popular with travelers, are not charging the full amount for rooms and meals taxes when they book hotel rooms online. This would mean that tourists pay more when they come to Vermont if they would if they had booked a room online through an online travel company.

Perhaps the most notable take away from Governor Scott's speech is the dramatic change in rhetoric. The past two years bore witness to a rocky relationship between the governor and the legislature. The Governor's budget address clearly struck a more diplomatic tone. In part this shift can be attributed to the fact that the dynamics between the administration and the legislature altered as a result of the outcome of 2018 elections.

During the 2017-2018 biennium Republicans held 53 seats in the House, giving them the ability to sustain a veto by the governor. Now they hold just 42 seats (with one vacant seat likely to be filled by a Republican) This means that the combination of Democrats, Progressives and Independents will make it more difficult for the governor to withstand an effort to override his veto.

The change in tone and approach from Governor Scott was a major topic of discussion in the state house. Some insiders speculate it is the result of the Democrats securing a super majority and others suggest the governor is simply offering an olive branch after a difficult first two years. Regardless of the reason for the change in approach it will be interesting to see if the Democrats reciprocate and if the governor maintains his diplomatic tone throughout the entire legislative session.

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#### **BILLS OF INTEREST TO VADA**

[H.65](#) - This bill proposes to require removal of accumulated snow and ice from a motor vehicle, and any trailer or semi-trailer drawn by the motor vehicle, prior to operation on a public highway, to the extent needed to avoid a threat to persons or property caused by the dislodging of accumulated ice or snow or by obstruction of the operator's view.

[H.69](#) - This bill proposes to create a one-month grace period for a lapse in motor vehicle registration, allow an operator one week to prove that a motor vehicle was properly registered at the time of a citation, and allow an operator one week to register a motor vehicle for which the registration expired no more than three months prior to the date of the citation in exchange for a reduced civil penalty. This bill also proposes to prohibit a law enforcement officer from removing a motor vehicle exclusively for failure to carry a registration certificate or display a validation sticker if the motor vehicle's registration expired no more than six months prior to the date of the citation.

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## DECARBONIZATION REPORT RELEASED

This week representatives from the consulting firm Resources for the Future released a state commissioned report entitled “[An Analysis of Decarbonization Methods in Vermont](#)” to much fanfare at the State House. The report looks at the impact if Vermont were to adopt a carbon tax or a cap-and-trade program as “pricing policies” and various non-pricing policies such as incentives for purchasing electric vehicles incentives, converting public transportation to electric buses, weatherization, and others. The report concludes that if Vermont only adopts carbon-pricing policies it cannot achieve its emissions targets. However, if carbon-pricing policies and non-pricing policies are combined (i.e., if the revenue raised by the carbon tax is invested in policies that reduce carbon emissions) Vermont can reduce emissions further. The report also looked at ways to mitigate the impact of a carbon tax on low-income Vermonters by giving household rebates and reducing the state income tax on wages. Carbon tax advocates will likely tout this analysis to argue that a carbon tax will not hurt the Vermont economy because any harm can be mitigated. The House and Senate Transportation Committees heard directly from the consultants because transportation emissions are a larger share of total emissions in Vermont than on the national level. [Here is a link](#) to the summary of the transportation related aspects of the report.

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## CANNABIS

This week the much-awaited Senate bill that proposes a regulatory system for the production and sale of cannabis and cannabis products in Vermont was introduced. [H.54](#) would establish the Cannabis Control Board as the independent regulatory authority for a commercial cannabis market. The Board would be responsible for adopting regulations and administering a licensing program, including compliance and enforcement, for cannabis establishments. The bill establishes five types of licenses for businesses operating in the cannabis market - cultivator, product manufacturer, wholesaler, retailer and testing facility. The bill as introduced establishes a tax of ten percent on cannabis sales, with a potential one percent local options tax for municipalities that choose to host a cannabis retailer. Municipalities would have the authority to require municipal permits for a cannabis establishment and could prohibit the operation of cannabis establishment. The timeline established in H.54 directs the Cannabis Control Board to begin issuing retailer licences to qualified applicants on or before April 1, 2021.

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## UNCONSCIONABLE CONTRACTS

The Senate Judiciary Committee began taking testimony this week on [S.18](#), which creates legal presumptions that specified types of contract provisions are “unconscionable” if contained in a form contract between a business and an individual. The bill reflects the “as passed” version of S.105 from the 2018 legislative session, which Governor Scott vetoed. The bill’s proponents claim it corrects a “power imbalance” in contract rights between businesses and individual consumers. The bill’s opponents have demonstrated existing law adequately protects individuals and that if

enacted the bill will spur class action lawsuits over minor claims and mainly benefit plaintiff's lawyers. Much of this week's testimony centered on the bill's impact on the outdoor recreation industry, which typically use "participation agreements" that do run afoul of the bill's provisions. The Attorney General's Office proposed the outdoor recreation industry be exempted from the bill. The bill's proponents oppose such an exemption. The Committee will take more testimony on the bill next week.

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#### **ACT 46**

The House Education Committee continued to consider the challenges Act 46 poses for communities throughout Vermont. Opponents and proponents of a proposed one-year delay in implementation in state mandated school district mergers testified this week in front of the House Education Committee. Although every context is unique, a common concern is that moving forward with forced mergers as scheduled in 2019 will not allow the courts time to adjudicate a pending lawsuit filed against the State Board of Education and Secretary of Education Dan French by 33 Vermont school districts. It is likely the House Education Committee will soon take up five bills that were referred to the committee last week:

- [H.39](#) - delays implementation by one year and requires majority voter approval of the merger
- [H.40](#) - provides transition grants for newly formed school districts
- [H.41](#) - requires that the Agency of Education evaluate the successes and failures of Act 46
- [H.42](#) - delays implementation for one year or until pending litigation has been resolved, whichever occurs last
- [H.43](#) - extends the forced merger deadline, calls for an evaluation of Act 46, and makes numerous other changes to the law.