

# LEGISLATIVE SUMMARY

Lake Champlain Regional Chamber of Commerce & GBIC

2010 Legislative Summary



Lake Champlain Regional Chamber of Commerce

## Chamber of Commerce

60 Main Street  
Suite 100  
Burlington, VT 05401  
(802) 863-3489  
(802) 863-1538 (fax)  
www.vermont.org

## GBIC

60 Main Street  
Burlington, VT 05402



GBIC

(802) 862-5726  
(802) 860-1899 (fax)  
www.vermont.org/gbic

## Statehouse

(800) 322-5616  
(802) 828-2424 (fax)  
www.leg.state.vt.us

*Legislative Report is a weekly update from the legislative team of the Lake Champlain Regional Chamber of Commerce and GBIC.*

## Editor/Writer

Dawn Francis  
dawn@vermont.org  
863-3489 ext. 210

## Writer

Cathy Davis  
cathy@vermont.org  
863-3489 ext. 206

## 2010 Legislative Session Addresses Business Priorities

With three candidates for Governor in the Senate, an economy still in recession, a state budget deficit of \$150 million and a plan to restructure government, it was a year of turmoil, tough choices and lengthy debate. Legislators struggled to balance priorities while grappling with budget problems. Amid all of that, Speaker Shap Smith, Senate President Pro Tem Peter Shumlin and Governor Jim Douglas worked together on many issues and in the process, delivered results that will benefit Vermont for years to come.

The Chamber and GBIC are very pleased that so many of our members' priorities were acted on this year. The Legislature and Governor Douglas joined forces to restructure government; made changes to Vermont's capital gains and estate tax treatment which will spur investment in Vermont; provided funding for the Vermont Convention Bureau, Regional Development Corporations, Vermont Training Program and Workforce Investment Boards; allowed a pass through of a federal tax deduction for manufacturers; invested in the Weidmann Company in St. Johnsbury; and provided a solution to the unemployment trust fund and incentives for schools to merge districts.

Next year brings a new biennium with a new Governor, new leadership in the Senate and other new faces. The Chamber and GBIC will be working over the summer to refocus our priorities, educate our elected officials on employers' needs, and make sure that we hit the ground running next January. We hope you, our members, will help us and consider getting involved in these efforts.

Many legislators contributed to the successes we achieved on behalf of our members and we want to thank them for all of their hard work over the past two years. Speaker Smith and Senator Shumlin led the House and Senate through innumerable difficult choices. Appropriation Committee Chairs - Representative Martha Heath and Senator Susan Bartlett - also deserve thanks for their hard work and support. Senators Vince Illuzzi, Hinda Miller, Doug Racine, Tim Ashe and Bill Carris led efforts on many issues important to employers including unemployment and the jobs bill. Senator Racine took the lead on health care reform, spearheading a bill that will result in various options for universal health care coverage that future administrations and legislatures could consider. Senator Diane Snelling championed the efforts to streamline Vermont's government focusing on the outcomes and how best to serve Vermonters. Senators Dick Mazza and Phil Scott were diligent in their efforts to provide for the transportation and capital construction needs of the state. Senator Ginny Lyons accomplished work on water quality and renewable energy bills and almost got a change to the school calendar beginning after Labor Day. Finally, we also wish to thank Governor Jim Douglas, as he completes his last legislative session as governor, for his steadfast support for Vermont's employers and his constant focus on the need to keep Vermont affordable for all of its residents.

Tom Torti, President  
Lake Champlain Regional Chamber of Commerce

Frank Cioffi, President  
GBIC ~ Greater Burlington Industrial Corporation

## Member Priority Tax Changes Enacted

**Up until the final hours of the legislative session, the prospect of changes to tax policy including the rollback of capital gains exemptions and the estate tax changes made last session was bleak. However, in the end, legislative leaders acknowledged the need to spur investment in Vermont in order to come out of the recession and provided some important tax changes that will serve to stimulate the economy and send a positive message to the state's job creators.**

Our member businesses visited the Statehouse regularly this session and spoke to legislators about the cumulative impacts that changes to income tax deductibility, bonus depreciation, capital gains exemptions and the estate tax have had on their competitiveness and their ability to reinvest in their companies or hire additional employees. Ernie Pomerleau of Pomerleau Real Estate and many certified public accountants made the case that individuals and companies are leaving the state due to the tax burden and tax policy changes. Marge McDonnell of Green Mountain Coffee Roasters called for Vermont to allow its corporate citizens to help revive the economy through growth, not taxes, with the payback being an increase in revenues, domestic manufacturing, job creation and overall economic growth. Ways and Means Chair Rep. Obuchowski (D-Bellows Falls) and Finance Chair Senator

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Cummings (D-Washington Co.) welcomed our members into their committees and we believe that our members' participation raised the awareness of the impact of taxation policy on business decisions and resulted in the following changes in tax policy:

- **Domestic Production Deduction:** the House and Senate considered freezing the domestic production deduction at 6% of qualified income instead of allowing the federal pass through of 9% based upon the fact that other states have done so in order to raise revenues. Ultimately, the 9% domestic production deduction was agreed to by the legislative leadership and the Governor and we appreciate the positive signal sent to manufacturers, software developers, food processors and the construction industry among others.
- **Capital Gains:** Effective January 2011, a taxpayer will have the choice to exempt either (a) the first \$5,000 of federal adjusted net capital gain, or (b) 40% of gains from certain sales, such as those held by a business, as long as the asset has been held for three or more years. Gains that will not be eligible for the 40% exclusion include sale of real estate from a primary or non primary residence and from the sale of stocks, bonds and other financial instruments.
- **Estate Tax:** The exclusion amount is increased from \$2 million to \$2.75 million for 2011. The legislature intends to recouple to the federal estate tax system if the federal government adopts a system similar to the one in place before decoupling in 2002.
- **Income Sensitivity:** Property tax relief is reduced for housesites in excess of \$500,000. Adds interest and dividend income above \$10,000 to modified adjusted gross income.
- **Education Property Tax Rates:** For 2011, the rates will be \$1.35 for non residential property and \$0.86 for residential property, with the applicable percentage set at 1.8%.
- **Sales and Use Tax:** Changes term of "amusement" to "entertainment" and provides a transition that abates payment of sales tax, but clarifies that sales tax must be paid for entertainment tickets.

**We will continue to educate policy makers about the link between business competitiveness and increased employment opportunities, which provide additional revenues for the state and less demands on the state's social services.** The Blue Ribbon Tax Structure Commission will be meeting over the summer and one can track their work on their website.

## Support for Vermont Convention Bureau and Other Priorities Included in Budget

**The budget challenge consisted of resolving a \$154 million shortfall while preserving support for Vermonters.** The budget gap is the result of declining federal stimulus funds and revenue growth, Medicaid and health care costs, retirement expense pressures, and other escalating costs and federal funding changes. The Appropriations Committees, chaired by Sen. Susan Bartlett (D-Lamoille Co.) and Rep. Martha Heath (D-Essex/Westford) deserve much credit for navigating a difficult process to come up with a balanced and responsible budget while addressing future fiscal challenges by embracing the restructuring of government.

The economic development portion of the budget fared well considering the difficult times we are in. We are especially appreciative of the level funding of the Vermont Convention Bureau which brings additional revenues into the state from meetings, events and conferences as well as investments from the private sector. For the most part, workforce development and training, higher education, and tourism and marketing budgets were level funded and the regional development corporations only sustained a 5% reduction. This level of support from the Legislature is recognition of the importance of investing in these programs and services to bring more revenues into the state.

## Unemployment Insurance Reform Enacted, Falls Short

**Coming into the session in January, one of the Chamber and GBIC's biggest priorities was a fix to the state's unemployment insurance trust fund.** With the onset of the recession and increased unemployment, it became clear to Governor Douglas' administration in the fall of 2008 that Vermont's unemployment trust fund would run out. Employers fund the program through taxes based on employee wages and their layoff history. Governor Douglas presented a plan to the Legislature to put the fund on a sustainable track in January 2009. Rather than adopt the administration's proposal, the Legislature raised the taxable base wage, on which employers' tax rates are imposed, from \$8,000 to \$10,000 at the end of the 2009 session. Vermont began borrowing from the Federal government in order to pay out unemployment benefits in January of this year. The longer Vermont borrows these funds, the longer Vermont employers will be subject to Federal tax penalties and the greater the interest repayments will be. After no comprehensive action last year, the Senate Economic Development Committee led by Senator Vince Illuzzi (R- Essex/Orleans) passed a proposal, S.290, that was balanced in its approach and spread the pain across employers, the employed and the unemployed. Under their bill, employer contributions would have made up about half of the fund, while a .02% tax on employees and benefit changes for future claimants would have made up the difference. The Chamber and GBIC supported S. 290 as passed by the Senate Economic Development Committee.

**Unfortunately, the bill languished in the Senate Finance Committee after labor groups expressed concern with the benefit changes included in the bill.** After several weeks of no action and increased concern that the issue would not be addressed this year, Governor Douglas, Speaker Smith and Senate Pro Tem Shumlin announced that their long negotiations had resulted in a plan to deal with the issue. **S.290 was amended and passed by the Legislature.** While the final result does include some benefit changes, the savings from those changes are smaller and will mean an additional year of borrowing and a steeper increase on employers in order to return the fund to solvency. Changes included in the bill are as follows:

-Raising the taxable wage base upon which employer contributions are taxed from \$10,000 to \$13,000 in 2011 and \$13,000 to \$16,000 in 2012.

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- The maximum weekly benefit a claimant can receive will stay at \$425 per week until the fund balance is positive, projected to be in 2015.
- Starting in 2012, claimants will have to wait one week after they are laid off to collect benefits.
- A change to how benefits are calculated for workers who do not work a full year.
- Persons fired for misconduct will be subject to additional penalty weeks.
- The definition of gross misconduct is expanded to include actions that were previously considered simple misconduct.
- Claimants will no longer be able to receive unemployment benefits while receiving severance pay.

## Government Restructuring and Efficiencies

**The General Assembly dedicated significant time and effort to the Chamber and GBIC's top legislative priority this year, which was a call for government effectiveness and sustainability.** The adoption of the Challenges for Change initiative is an acknowledgement that state government and entities receiving state funding must increase efficiency, reduce costs, and enhance customer service through information technology, organizational improvement practices and consistent evaluation of priorities and measurable outcomes.

Reaching agreement on the plan of action for the government restructuring initiative was more difficult to achieve than the general agreement that it needs to be done. Legislators were required to respond to the Administration's restructuring plan within a six-week time frame. Therefore, the Challenges for Change process was complicated by a compressed time frame, a lack of trust in the Administration's approach for savings in some cases, and many different opinions on how to bring about this change. In the end, \$38 million in savings for 2011 and \$72 million in 2012 are assumed from this initiative. As Senator Diane Snelling (R-Chittenden Co.) reported, the outcome based redesign of government will be an ongoing process to determine where government needs to focus its spending for the most effective results. A House and Senate proposal to use \$10 million of the "rainy day fund" in the event savings were not achieved was not included in the end of session negotiations.

**For the economic development community and the regional planning commissions (RPCs),** the initial proposal by the Administration was to consolidate these entities due to the belief that there are redundancies and overlap in service. The concept was to have a request for proposal process for nine regional service centers with performance contracts granted and awarded on a competitive basis by the Secretary of the Agency of Commerce and Community Development. This proposal would have resulted in the loss or merger of several existing regional development corporations and planning commissions. Other changes included numerous cuts to the above regional programs and the elimination of Workforce Investment Boards. This initial proposal evolved into the following:

- The request for proposal process now includes an 8-person oversight panel working with the Agency of Commerce and Community Development Secretary to review and award separate contracts for RDCs and RPCs with the option of consolidating these entities. The RDCs would take a 5% cut and by November 1, would enter into a contract with the agency after being awarded a performance-based contract following the submission of a proposal.
- The bill also eliminates Workforce Investment Boards (WIBs) and assigns the WIB functions to regional technical centers. The Workforce Development Council can authorize an existing WIB to carry out the work of what has been assigned to regional technical centers. There is also a study of how a regional delivery system of workforce education and training services should be provided with the Lake Champlain WIB named as a participant in this study.
- A Brownfield Project Challenge is designed to identify project sites for remediation and once remediated, to allow the sale of the property to achieve revenues.
- A plan of action to merge the Chittenden County Metropolitan Planning Organization and Regional Planning Commission must be submitted to the legislature by January of 2011.
- The Secretary of Administration can use funds from the initiative to reimburse the joint fiscal office for costs incurred to implement performance measures.

**The Challenges bill also includes a number of changes for permitting efficiencies** including publication of proposed rule changes online with a limited publication of notice in newspapers, minor permits for air contaminants, reduction of comment periods for minor permits, and the ability to seek reimbursement of costs for review of permits in cases where Agency staff do not have the needed expertise, as well as the time of personnel services for Act 250 review. These costs will be assessed if they exceed \$3,000 or more. The fee bill, H.759, has a study, which will consider the billing back of expenses by state personnel.

## Planning for Vermont's Energy Future Continues

**The Vermont Yankee Nuclear Plant in Vernon, Vermont was once again the subject of much conversation at the Legislature this year.** With the discovery of a tritium leak at the plant, additional concerns about the plant's safety arose. In February, Senate President Pro Tem Peter Shumlin announced that the Senate would vote on whether to re-license the plant, indicating that House and Senate committees had taken all the testimony needed on the issue. A few days later, the Senate considered S.289 and voted 26 to 4 to shut down the plant in 2012 when its license expires. The House Natural Resources Committee also worked on a bill to decommission the plant. H.589 would have required the

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plant's owner to inject additional money into a fund to restore the site to a "greenfield" and set up a new spent fuel management fund. The Administration indicated that the bill was workable, a sign that the bill was a compromise effort given that Governor Douglas vetoed two previous Vermont Yankee decommissioning bills. While the House passed the bill, it was sent to the Rules Committee where it remained for the rest of the session.

## **With the future of Vermont Yankee's license uncertain, Vermont's utilities have also been working diligently on other power contracts.**

Midway through the session, Governor Douglas announced during a visit to Quebec that Green Mountain Power and Central Vermont Public Service had reached an understanding on a power purchase agreement. As part of that agreement, utilities asked the Legislature to designate power from large hydroelectric facilities as "renewable" indicating that such action would favorably impact Vermont's electric prices from Hydro-Quebec. The House Natural Resources Committee passed out H. 781, which among other things, designated large-scale hydroelectric power as renewable. The bill met some resistance in the Senate Natural Resources Committee as certain environmental groups expressed concerns that adding such a large volume of power to the renewable energy credit market would push out smaller-scale renewable energy development. The provision, however, remained in the bill and the Senate passed H. 781 sending it on to Governor Douglas for his signature.

## **New Mandates on Employers Avoided**

**Several bills that would broadly affect employers were considered this session.** Under H. 382, employers would have been required to provide employees one hour of paid leave for every 30 hours worked with a maximum of 56 hours per year. H.523 would have required employers to provide each employee with a paid or unpaid break totaling at least 30 minutes during each six hours of work. The breaks would need to be scheduled at least two hours after the start of the employee's shift and no later than two hours before the end of the shift. The Chamber and GBIC testified on both bills, expressing concerns that mandating paid sick leave would add additional costs to employers that are struggling the most during this recession and could force employers to be less flexible or do away with other employee benefits. Due to the amount of concern expressed by employers all over Vermont, the House took up neither bill. However, both bills are likely to reappear in the 2011 legislative session.

**A bill to make changes to workers' compensation insurance, H. 647, was adopted this year.** The House Commerce Committee and the Senate Economic Development Committee both spent time on how to prevent misclassification of employees as independent contractors for the purposes of workers' compensation and unemployment insurance. While business groups have asked the Legislature to deal with the definition of an employee in order to make such classifications easier for employers to interpret, such a definition was not included. Ultimately, H. 647 increased the penalties for employers that misclassify workers and will require the Commissioner of Labor to shut down worksites when workers are found to be without proper insurance. Employers who violate a stop work order would be subject to civil and criminal penalties including imprisonment. The bill does give the Commissioner flexibility with regard to situations where a stop work order could endanger the health or safety of the public.

## **Health Care Reform Continues**

**The beginning of the session saw a strong push from single-payer advocates for the Legislature to enact a single-payer, universal health care plan for all Vermonters even though the impact of federal health care reform was not fully known.** The House and Senate health care committees held several hearings on the issue and a special hearing was held in order to gain input from the employer community. Many of the employers who attended the hearing focused on the cost of health insurance and the impact it has on their businesses.

**Midway through the session, S.88 moved to the forefront as the bill that would be this year's health care reform effort.** The Senate Health and Welfare Committee, led by Senator Doug Racine (D-Chittenden Co.), advanced a bill that would provide funds for a consultant that would be tasked with designing three, distinct options for providing universal health care in Vermont. The bill also requires restaurants with more than 20 establishments nationwide to display the calorie count for items on their menu. The measure passed the Senate and moved to the House where the House Health Care Committee changed the design work and added several, lengthy provisions to the bill including changes to the state's blueprint for health program and a reporting requirement for pharmaceutical companies that provide free drug samples to physicians.

The drug sample provision proved to be controversial once the revised version of S.88 made its way back to the Senate. The Senate voted 18 to 10 to remove that provision and send it back to the House, who in turn reinserted the provision and sent it back to the Senate. The Senate hoped to avoid a conference committee on the bill and due to a parliamentary rule which requires that a bill be acted on no more than three times, **the Senate ultimately concurred with the House-passed version of the bill which included the controversial drug sample requirement.** The health care option consultant, who many believe will be Harvard professor Dr. William Hsiao, is assisting several countries with their health care reform efforts. It is likely he will be chosen this summer as the state's consultant and is expected to have the options ready for consideration by the Legislature next January.

## **Jobs and Economic Development**

**Under the guidance of the Senate Economic Development and House Commerce Committees chaired by Sen. Vince Illuzzi (R-Essex/Orleans Co.) and Bill Botzow (D-Pownal), S. 288, the Vermont Recovery and Reinvestment Act of 2010, invested federal stimulus money to improve the state's business environment.** Our organizations strongly support the investments in workforce training, seed capital, telecommunications infrastructure, tourism and marketing, the Vermont Economic Development Authority, downtown tax credits, agriculture and the technical aviation training center. We believe that these investments will stimulate additional job creation and investment in Vermont. The bill appropriates \$8.7 million in federal American Recovery Reinvestment Act funds as follows:

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1. \$1.75 million for the seed capital fund (inclusive of clean energy fund reallocation)
2. \$2.85 million for telecommunications and broadband infrastructure
3. \$1.25 million to the Agency of Commerce and Community Development for the Vermont Training Program and tourism and marketing promotion
4. \$1 million for VEDA's agricultural debt consolidation program
5. \$800,000 for loans to businesses affected by the Champlain Bridge closure
6. \$100,000 to increase the annual cap on tax credits under the downtown program
7. \$322,000 for various farm-to-plate, institution and other programs
8. Changes to the Vermont Seal of Quality program to improve quality standards
9. \$150,000 to Burlington for the planning of a new aviation technical training center
10. \$1 million to Vermont Economic Development Authority for interest rate subsidies under the Jobs fund
11. \$100,000 to the Vermont Film Corporation
12. \$273,000 for various lending and assistance programs for low income Vermonters
13. \$70,000 for paramedic training program for Vermont Technical College

## Other Economic Development Bills

**Early in the session, the Legislature removed a cap on the Vermont Employment Growth Incentive Program to allow the award of incentives to several companies who are growing and creating jobs and investment in our state.**

The tax bill included a manufacturing investment tax credit for the Weidmann Company in St. Johnsbury which will retain jobs in this underemployed area of Vermont.

**There is much more work remaining to be done in the economic development arena as a result of the debate that took place during the legislative session.** Our organizations were joined by other regional development corporations in calling for an economic development strategy that builds upon the work done by the Commission on the Future of Economic Development and the Council of the Future of Vermont. A bill that proposed an Economic Development Board (S.198) did not pass, but it points to the need for the next Governor to assume leadership in collaborating with various economic development service providers to develop a long term vision and shorter term action steps for the future economic vitality of the state.

## Growth Center Changes Enacted

**S.64, the Growth Center bill, passed and includes several changes to the statutes which designate such areas as follows:**

- The Downtown Board would be enlarged and the Planning Coordination Group would be replaced by a growth center subcommittee for the purposes of streamlining the application process.
- An early draft of the bill proposed to limit the acreage of areas in growth centers zoned for retail and office space. The bill now requires measures to ensure that growth is encouraged first in the designated downtown or village center and second in the growth center.
- A growth center must now meet all of the smart growth criteria instead of substantially meeting the criteria.
- A decision of the downtown board can now be reconsidered.
- An enterprise zone study effort to provide incentives for growth in existing industrial parks as proposed by our organizations was eliminated. The House and Senate Natural Resources Committee Chairs (Rep. Tony Klein and Sen. Ginny Lyons) have assured us that they are willing to consider this issue in the next legislative session.
- A workshop on the issue of who pays for burying utility lines in designated areas would be convened by the Public Service Board and a report submitted to the Legislature by December, 2010.

The Senate also took testimony on S.99, a bill which would have amended Act 250 relating to traffic, scattered growth and rural growth areas, but this bill was not acted upon and may be resurrected in the upcoming session. H.731, 546 and S.214 were various permit consolidation and permit process bills that may also be considered next year.

## School Districts Encouraged to Merge

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**H. 66 was passed in the final hours of the legislative session** and was the culmination of many hours of hard work by the Education Committees chaired by Sen. Bobby Starr (D-Troy) and Rep. Joey Donovan (D-Burlington). The bill provides financial incentives for school districts to consider merging, refines the duties of superintendents, requires studies of class sizes and student to staff ratios as well as development of an integrated financial management process to be used by supervisory unions.

## Other Bills of Note

**Transportation Bill (H.784)** - Close to \$600 million will be invested in transportation infrastructure including unprecedented spending for 80 bridge projects and rail improvements. The federal stimulus funds, increased bonding authority and a gas tax passed last year provided revenues to bolster the robust spending plan. Committee Chairs Sen. Dick Mazza (D-Chittenden/Grand Isle Co.) and Rep. Pat Brennan (R-Colchester) cautioned that the same level of spending may not be achieved next year.

**The Capital Bill (H.790)** - Committee Chairs Sen. Phil Scott (R-Washington Co.) and Alice Emmons (D-Springfield) guided the adoption of a \$71.8 million dollar spending plan which includes major investments in school construction, telecommunications, state building and park repairs, affordable housing, water pollution control projects, funds for the planning and design of a new aviation technical training center at the Burlington airport, as well as a health laboratory in the UVM Colchester research facility among many other projects. If additional federal health care funds become available, a 15 bed psychiatric patient facility in Waterbury will be constructed.

H. 772, Alcoholic Beverage Tastings, passed both the House and Senate and is awaiting the Governor's signature. The bill expands opportunities for alcoholic beverage tastings and allows hotels to provide in-room "minibars."

S.138, the Credit Card Bill, passed both the House and Senate and has been delivered to the Governor. The bill prevents card companies from taking action against merchants who set minimum purchases requirements, provide benefits for certain payment methods, and accept different forms of payment at different locations.

S.28, Licensing of Landscape Architects, was passed and signed into law by the Governor.

S.77, Electronic Waste, was passed and signed into law by the Governor.

The bills listed below were also passed this year and additional information can be found here.

S.93 Commercial Vehicle Operation on Interstate

S.58 Electronic Payment of Wages

S.263 Vermont Benefit Corporations Act

H.462 Encroachment on Public Waters

H.607 Charter amendment to Chittenden County Transit Authority allowing expansion of service area.

H. 709 Creation of a Pre-Kindergarten to age 16 Council

H. 759 Executive Branch Fees

H. 772 Alcoholic Beverage Tastings and Liquor License Issues

H. 779 Potable Water Supply and Wastewater System Permits

H. 736/509 Agency of Natural Resources Corridor Management Program, Agricultural Buffers, General Permits for stream alterations and highway construction best management practices

## Things to look forward to during the 2011 General Assembly!

- Employer mandates including paid sick leave and breaks
- Permitting process changes
- Tax policy changes
- Tax expenditure rollbacks