WLR Feb 16: Tax & Budget Adjustments, BE Home Bill Moves, Federal Update

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Seven weeks into the session, and the clock is ticking down to town meeting day. A short-term education property tax fix, competing housing and Act 250 bills, and public safety concerns dominate discussions in the State House.

Read more about what happened this week below, and don't miss our information about Reimbursement for Flood-Related Education Property Tax Abatements.

This week VLCT provided testimony to:

- House Energy and Environment Committee Regarding Changes to Act 250 and Planned Growth Area Designation

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Affordability Pressures Persist Amid Pivots, Budget Adjustments, & New Tax Proposals

This week saw movement to reconcile the issues created by Act 127, which precipitated a potential spike of over 20% in property taxes, however, the questions remain: *is it workable, is it too little to late, and how does the state cope with the cost overruns that this move doesn't remedy?*

- The House passed H.850, which scraps the 5% cap created in Act 127 and replaces it with more targeted relief directed at the school districts the 5% cap was intended to help.
    - The bill also allows voting on school budgets as late as April 15th and allocated half a million dollars to help school districts

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reconfigure.

- Despite this legislation moving forward, the outlook for education funding looks bleak.

- The House Ways and Means Committee spent some time working on H.687, which would reconfigure telecommunications taxes and fees.
  - The bill originally contained a "cloud tax" or tax on all internet services, however, the committee decided to pull that from the legislation and wait to include it in the yield bill.
- This won't be the only unpopular tax to businesses, and you need to read the previous week's coverage of the scramble legislators are currently in to find new tax revenue.
- It's not as if taxes haven't been increasing. Last year, the Legislature enacted the State's first payroll tax, and taxes have been steadily increasing across the board.
  - **Missing from all these conversations is the unsustainable trajectory our education system has been on:**
  - Grand list growth has not kept pace with the growth of education fund spending due to our state's aversion to building adequate housing stock.
  - Between 2011 and 2021, only 10% of municipalities had grand list growth rates above the education fund growth.
  - *Our state has an acute deficit of at least 6,000 homes. Assuming that these homes came on the market today at a reasonable price and a typical property tax bill, there would be $46 million more in property tax revenue.*

BE Home Bill Passes First Committee; Rough Road Ahead

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The BE Home Act passed out of Committee minutes before this newsletter went out under the bill number H.311. As we highlighted last week, the future of this bill is uncertain, as it heads next to the Senate Natural Resources & Energy Committee, which has its own vision articulated in S.308, and then the House Committee on Energy and Environment in H.687 each with their own vision of land use modernization that does not necessarily have housing creation as a central tenant.

A high-level look at what's in the BE Home bill

Tiered Act 250 Jurisdiction:

- The bill sets in motion the three-tiered structure envisioned by the Natural Resource Board study(opens in a new tab) delivered this year.
    - **Tier 1A and Tier 1B Areas:** These tiers are designated for specific areas of development regulation. Qualifications for Tier 1A and 1B areas include approval of municipal plans. compliance with flood hazard planning and bylaws, implementation of permanent zoning and subdivision bylaws, availability of water and wastewater systems to support development, adequate municipal staff for planning and administration, and approval of the applicable regional plan by the Board.
    - **Tier 2 Areas:** Are, for simplicity's sake, best defined as not as easy to develop in as Tier 1, while not as impossible as Tier 3. This resembles the closely existing Act 250 regulation.

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    - **Tier 3 Areas:** Designated areas containing ecologically important natural resources. This includes triggers for elevation above 2,500 feet and roads or driveways longer than 800 feet for a combination of roads and driveways exceeding 1,999 feet.
- Additionally, the bill allows for **no permit or permit amendment to be required for 50 units or fewer of housing located entirely within a Tier 1B area or transportation corridor**, which is 100 feet of certain highways served by municipal sewer and water infrastructure.
- Regional planning commissions are responsible for completing the necessary mapping of Tiers in consultation with municipalities by December 1, 2026.

Municipal Zoning Laws:

- Requires municipalities to ensure their zoning bylaws comply with specific provisions regarding housing, parking, lot coverage, and other land development regulations.
- Details regulations for residential parking, lot coverage, and permissible zoning regulations.

Property Transfer Tax:

- The bill amends Vermont's property transfer tax targeting the transfer of principal residences and residential properties not used as principal residences.
    - Revenue from this change is directed to the Vermont Housing and Conservation Trust Fund and to the Municipal and Regional Planning Fund.

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- *More work will be done on this in Senate Finance on this, which three members of this Committee sit on, including the Chairs.*

Rental Registry:

- Requires landlords to provide annual rental certificates to the Department of Taxes and tenants, indicating property tax assessments and other relevant information.
- Mandates the creation of a rental unit database for public access, including details such as landlord information, rental unit location, accessibility, and other relevant data.

Short-Term Rental Safety Regulation:

- Empowers the Commissioner to establish minimum standards for the operation and maintenance of short-term rental properties to ensure safety and sanitation.
- Requires short-term rental operators to provide educational materials to renters regarding health, safety, and financial obligations, as well as a self-certification form for operators to attest to safety precautions.

Flood Risk Disclosure:

- Requires sellers to disclose whether real property is subject to federal flood insurance requirements before or as part of a property sale contract.
- Mandates landlords to disclose if any portion of rental premises is located in a FEMA-mapped flood hazard area before entering into a rental agreement.

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Mobile Homes:

- Appropriates funds for mobile home park infrastructure improvements, home repair awards, and conducting infrastructure needs assessments.
- Allocates funds for technical assistance programs under the Mobile Home Program to support mobile home residents.

Age-Restricted Housing:

- Grants the Vermont Housing Finance Agency a right of first refusal for subsidized age-restricted housing offered for sale by private owners.
- Requires owners of subsidized age-restricted housing to provide written notice of rent increases to the Vermont Housing Finance Agency and affected residents at least 60 days before the increase takes effect.

Healthy Vacancy Rate Assessment:

- The Committee will continue working on language for a study aimed at inventorying housing stock with the aim of a 5% rental vacancy and a 3% owned home rate.

There is much more and you can read a copy of the bill here(opens in a new tab)

Public Safety and Quality of Life Conundrums Stump Legislators

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A standard critique of legislative justice reform and our legal system over the past few years is that it's prioritizing the liberty and autonomy of those perpetrating crimes over the safety of victims of crimes. There is a misguided notion that those committing egregious acts are our most vulnerable when in reality, those who are on the receiving end of those acts are our most vulnerable.

- Stark examples of this were on full display in an article we highly encourage you to read in SevenDays, in addition to listening to this interview with the article's author embedded in the community of 160 people who live in Decker Towers, which represents many of Burlington's most vulnerable residents.
- This community has been subjected to all of the public safety issues you see in downtown Burlington, however, it is in their residence, leaving them feeling the need to *arm themselves and form neighborhood watches* .
- Is our Justice System serving these residents when *the legal system prioritized the desires of the perpetrator over the victims to the extent that the State's Attorney accommodated a request from his defender that inadvertently created a legal framework to allow him to trespass in the very place he was arrested?*

Meanwhile, the House Committee on General and Housing continued its work on the **Homeless Bill of Rights,** which would create legal protections for the people trespassing in Decker Towers, as well as doing things such as public urination.

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- Thankfully, the bill was amended later in the week to narrowly tailor it to less vague protections around housing, employment, and voting, which were a place of agreement.

The Senate Committee on Judiciary worked on legislation that would seek to add some strength to **repeated violations of conditions of release** (VCRs), which legislators acknowledge are starting to feel like a joke to the public and now to legislators.

- S.195 creates an Office of Pretrial Supervision with six officers across the state in the Department of Corrections that report to the Judiciary to consider and suggest Conditions of Release based on an interview and what information is readily available about those who are arraigned pending trial.
    - There is an issue with the lack of information for judges to know who is in front of them and what their previous interactions with courts and law enforcement entail.
- The bill also envisions the potential for new conditions of release, including electronic monitoring. The home detention program is only for those with bail now, however, it envisions it as a condition of release.
- The bill seeks to expand the pretrial consideration to go beyond the risk of flight and include the safety of the community and those around the individual.
- Also at odds is the case law which narrowly limits the imposition of VCRs to the ability of the state to move forward with prosecution, and the sole purpose of bail is for risk of flight, not to protect public safety.
- On clear display during testimony are these conflicting priorities with no way of reconciling them; *the Legislature has an extreme aversion to*

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incarceration yet has no other way to protect communities from those who thumb their nose at our laws and societal norms, posing a danger to themself and others.

Just upstairs, in the Governor's Ceremonial Office, Governor Scott used his weekly press conference to urge legislators to act on public safety and highlight elements of his proposed budget that would affect public safety.

- The Governor advocated curbing the steady increase in violent crimes by revamping conditions for release to address repeat offenses, modernizing drug crime laws to include new combinations like fentanyl and xylazine, emphasizing drug-use prevention, delaying the implementation of the "Raise the Age" provision, and universal sealing of criminal records.
- The Governor highlighted that his budget proposal also makes investments in the judiciary for two new judges to address increased demand and backlogs, as well as making 20 permanent mental health workers embedded in our State Police barracks.
- As was discussed in previous updates, legislators have taken issue with the Governor's budget accusing him of not providing the funding needed for public safety efforts.
- The Governor argues that his budget grows base spending for the Judiciary and Department of State's Attorneys and Sheriffs by about 5%, significantly more than the roughly 3% for other State departments.
- However, legislators point out that these funding levels will still result in layoffs in these departments.

Down the hall, the House Judiciary Committee continued their work public safety work which has yielded mixed results.

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- The Committee has spent considerable time on **expanding restorative justice programs** with a proposed expansion of court diversion for first-time offenders representing almost their entire response to the current public safety crisis.
- A House Judiciary Committee bill that makes it a crime to enter someone's vehicle without their consent was given final approval, which, believe it or not, is not a law. The bill now heads to the Senate.
- The **retail theft bill** the Committee was previously working on is frozen in time, as the Committee is not convinced that harsher penalties will change any behavior.
- Seemingly done before it could ever get going is the discussion around bringing back work crew as a form of sentencing.

Federal Update: Big Legislative Packages, Razor-Thin Margin, Such Little Time

Members of Congress are leaving the Capitol for a Presidents' Day recess. When they return on the 28th, things won't look much sunnier than when they left as they rush to avoid a March 1st government shutdown.

- In addition to funding the government, there are some massive moving proposals, including foreign aid, tax fixes, and the FAA reauthorization.
- For the first time in 150 years, the House impeached a cabinet official, DHS Secretary Alejandro Mayorkas, on a party-line vote**,** 214-213.

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    - This means that when the Senate returns from the Presidents' Day recess on the 28th, *no other business can happen on the Senate floor during an impeachment trial.*
- The **House Republicans' majority slid to a two-vote edge**, 219-213, with three vacancies, after former Rep. Tom Suozzi, a Democrat, overwhelmingly won a special election in Long Island to replace the expelled GOP Rep. George Santos.

Here are other big pieces relevant to Vermont that are moving.

Foreign Aid Stalled in House:

While not directly relevant to Vermont, a foreign aid package is omnipresent in every policy conversation and seems dead in the House, where the inexperienced Speaker who's in a challenging position does not seem in a rush to pass it, and the GOP caucus may add border provisions to it and send it back.

- The $95 billion aid package, Senators Sanders and Welch voted no on, included $60 billion for Ukraine, $14 billion for Israel, and $9 billion in humanitarian aid to Gaza, Ukraine, and other war-torn regions, as well as Indo-Pacific allies such as Taiwan.

Tax Fixes for Businesses and Families Stalled in the Senate:

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While the aid package is stalled in the Senate, the overwhelmingly bipartisan Tax Relief for American Families and Workers Act is stalled in the Senate. Most importantly to Vermont, this legislation would:

- Restore the R&D Tax credit retroactive to 2022 so businesses can immediately deduct domestic research and development investment expenses instead of spreading them over five years.
- Retroactively to 2023, when it began to phase out, businesses will again be allowed to expense the total cost of machinery and equipment until the end of 2025.
- Restore a more generous way to calculate business interest expense deductions.
- Expand the child tax credit.
- Expand affordable housing tax credits.

Petty Politicians Won't Pass the SALT:

On partisan lines, Democrats voted down a proposal by New York Republicans to lift the cap on state and local tax (SALT) deductions for the next tax year,

- In the past, Democrats have supported undoing the cap created in the Trump administration's 2017 Tax Cuts and Jobs Act, and there was even a committee amendment last week to make the cap lift last two years, however, Democrats saw a one-year lift as political maneuvering for republicans in the high tax blue states the act targeted.
- *One year or two years, families are struggling with inflation, and this could mean some real relief for middle-class taxpayers.*

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- **Vermont is among the highest-taxed states, and a lift in the SALT cap would help many Vermonters by allowing them to write their high state taxes off on their federal taxes.**
- The Vermont legislature could provide some limited relief if they implemented a SALT cap workaround.

Balint Takes on the National Housing Crisis:

Our Congresswoman, Becca Balint, introduced legislation to have the country invest $500 billion in affordable housing, take new measures to prevent landlords from price-fixing, and remove zoning barriers that stymie housing construction. You can read more via SevenDays.

FAA Reauthorization Threatens BTV:

The Senate Committee on Commerce, Science, and Transportation approved a Federal Aviation Administration (FAA) Reauthorization bill that adds flights to an already at capacity Reagan National Airport (DCA). These flight changes will increase flight delays, cancellations, and congestion at DCA, which will likely have detrimental effects on Burlington International Airport. The House of Representatives voted down any changes to the DCA slot and perimeter rules on a strong bipartisan basis.

After Years of Debate, Vermonters Now Have Access to Family Medical Leave

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Enrollment in the Vermont Family and Medical Leave Insurance (FMLI) program started on February 15 and is now open.

- Eligible employers with two or more employees can enroll starting February 15th and create customized plans tailored to the unique needs of their workforce and business. Look forward to enjoying FMLI benefits starting on July 1.

What You Need to Know:

- FMLI benefits provide partial income replacement for various situations, including;
  - caring for a family member with a serious health condition,
  - bonding with a new child, addressing one's own serious health condition,
  - caring for a military service member, or
  - meeting needs related to a family member's covered active military duty or call to active duty.

Key Features of FMLI Plans:

- Option to provide combined family and medical leave or standalone family leave insurance.
- Flexible contribution arrangements: fully paid by the employer, split between the employer and employees, or fully paid for by employees as a voluntary benefit.
- Benefit duration options are six to 26 weeks per 12-month period.

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- 60 to 70% wage replacement, with additional options available through underwriting review.

Phases of Implementation:

- The initial phase of the program was successfully launched for Vermont State employees in July 2023.
- This announcement is part of the second phase
- In the final phase, FMLI benefits will be extended to individual workers, self-employed individuals, and employers with fewer than two employees in Vermont. This phase is set to commence in 2025, with benefits starting on July 1, 2025.

Learn More:

Employers in Vermont who are interested in exploring the Vermont FMLI program further can collaborate with their employee benefits brokers or visit **fmli.thehartford.com** for detailed information.

Elsewhere In The State House

Hundreds of hours of committee discussion each week culminate into our advocacy update, so not everything makes it into the overall update; however, we often cover what is left on the cutting-room floor here for our most dedicated readers.

- Read updates from Week 1, Week 2, Week 3, Week 4, Week 5, Week 6 and the last session's recap.

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- Don't forget! Vermont's biggest municipalities are setting March votes on nearly $60 million in capital projects. Read more via VTDigger here.
- The House Committee on Commerce and Economic Development continued work on the **privacy bill** with testimony from the Banker's Association about existing regulations. You should read last week's coverage of this legislation because it involves almost every business and/or nonprofit.
- H.289, the **Renewable Energy Standard modification** was in the Ways and Means Committee this week and is set to pass the House
- The Public Utilities Commission sent the legislature **a report constituting their first "check back," not a study, on the Clean Heat Standard** created under Act 18 **recommending an extension from the Legislature** to allow for a more thorough and inclusive process, ensuring the development of a thoughtful, equitable, and achievable Clean Heat Standard free of unintended consequences. It highlights efforts undertaken so far, including engaging stakeholders, establishing advisory groups, and conducting workshops which brought to the forefront concerns about the aggressive timeline set by Act 18, which could compromise the quality of the rule and its successful implementation.
- This week, the Senate Committee on Government Operations discussed a bill that proposes to create a study committee that shall examine how to best **strengthen county-level government in Vermont** to enhance and optimize public safety, tax collection, and resource allocation. Read VLCT's related testimony.

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