# Ethan Allen Institute

Newsletter – March 2019 (Printer Edition)

## Top Story

## EAI Launches Workplace Freedom Awareness Campaign

Last summer the United States Supreme Court ruled in Janus vs AFSCME that forcing public sector employees who did not choose to join a union to pay "agency fees" to a union was unconstitutional. Vermont was a state that enforced agency fee payments but can no longer do so.

The Ethan Allen Institute is excited to be launching an educational campaign informing Vermont public sector employees what the Janus decision means for them. Listen for our radio campaign over the next couple of weeks and check out the informational page on our website.

Go to our website for information on this issue, and if you know someone who is public sector employee, please share this information with them. http://ethanallen.org/workplace-freedom-what-you-need-to-know/

## Join Us for the Annual EAI Jefferson Day Dinner

*April 9, 2019, 5-8 pm, Trader Duke's Hotel, S. Burlington*

Every year friends of the Ethan Allen Institute gather for some good fellowship good food, and to celebrate the legacy of Thomas Jefferson.

This year we invite Montpelier attorney Paul Gillies to discuss Jefferson and the concept of Judicial Review. The exercise of judging whether a statute or an executive act is constitutional was a part of Vermont's 1777 constitution. The Council of Censors could do no more than condemn a law, but in the majority of cases the legislature responded by repealing the statute. Thomas Jefferson would have approved of this approach.

He would not have been as charitable if he read the Vermont Supreme Court's decision in *Brigham v. State* (1997), where Vermont's highest court invalidated the state's education funding system, and ordered it replaced, retaining jurisdiction just in case. To Jefferson, *Brigham* would have been as offensive as *Marbury v. Madison* (1803), where the U.S. Supreme Court issued a mandate reversing the President's attempt to undo appointments by his predecessor.

Was Thomas Jefferson right? Join us to find out!

Social hour will take place from 5 pm to 6pm, followed by dinner and our keynote speaker. Admission is $50. There will be a cash bar.

To make your reservation, please call 802-695-1448, email eai@ethanallen.org,

## Please Support EAI in 2019!

Freedom isn't free, and neither is fighting for it! We could not do what we do without the generous support of hundreds of people like you. If you have already made a contribution to our 2019 campaign, thank you! If you haven't yet, please do so today.

The Ethan Allen Institute is a 501c3 educational organization. All donations are tax deductible and anonymous.


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## Commentary:
## Single-Member Districts Will Strengthen Democracy

*By John McClaughry*

Kudoes to the Vermont Senate for passing a bill requiring that Senate districts "shall have a maximum of three members." Interestingly, two of the three sponsors of S.11 (Sens. Ashe and Sirotkin) are elected from the Chittenden District, the only district with more than three members.

The main reason Vermont has one 6-member Senate district, three 3-member districts, six 2-member districts, and 3-single member districts is historical. Because of dissatisfaction with the performance of the one-town, one-vote House, and growing population disparities between Burlington and tiny towns like Baltimore and Stannard, the voters in 1836 adopted a constitutional amendment creating a Senate. It was viewed as a body representing counties, although Vermont counties were little more than judicial districts. After the courts ordered one person, one vote redistricting in the 1960s, the Constitution was again amended in 1974 to provide for Senate districts roughly equal in population.

Ever since, the decennial redistricting of the Senate has posed unavoidable problems, largely because of shifting populations. The Constitution now says the districts must "adhere to boundaries of counties and other existing political subdivisions." There are now 13 Senate districts for electing thirty Senators from 14 counties. Rather than do the sensible thing – forget about largely fictitious counties, and elect one Senator from each five contiguous equal-population House districts – the legislature has resorted to all sorts of awkward improvisations.

The most glaring is the six-member Chittenden District (minus Colchester, tacked on to Grand Isle). Since the six Senators are elected at-large, it's almost certain they will all be Democrats, and conceivably all from Burlington itself. The Senate bill would, most likely, result in three Democratic/Progressive Senators from that Burlington core, and the other three – including possibly a Republican or two – from the "outer ring" district.

Even the operations director of the Democratic Party was quoted in *Seven Days* as observing, rightly, that "Vermont is very vulnerable to a legal challenge. The argument is, that a vote in one district counts more than a vote in another."

That's true, and a legal challenge could produce bizarre results. One egregious example emerged from a deadlocked redistricting battle in Illinois in1964. A Federal court mandated the notorious "bedsheet ballot". Voters were handed a 33-inch long paper ballot and asked to choose 177 House members at large from 236 listed candidates.

Aside from arguments based on inequalities in voting power, there is another subtle but important argument against any multimember district, House or Senate. Those districts let incumbent protection defeat voter choice.

Consider this, in the three member district. Senators A, B, and C are running for reelection against D, E, and F. Now suppose Senator A is extremely controversial for his or her views and votes on a hot issue in the district. Challenger D is highly motivated to oust A. But D is aware that many of A's likely voters, who each have three votes, might also cast one of their three votes for D for other reasons, such as geography, name recognition, gender, party, and qualifications.

D realizes that his attack on A would alienate A's supporters. They would vote for A and two others – either incumbents or challengers - who steered clear of challenging any of their fellow candidates. D figures that his chances of winning will be lower – possibly fatally lower - if he attacks A. So D joins E and F in avoiding criticism of any of the incumbents' votes or misdeeds.

Bottom line: instead of an election giving the voters a choice to hold an incumbent accountable for his or her performance, the multimember district gives a strong incentive to all candidates to avoid any head-to-head challenge. If you wonder why we do this, bear in mind that every districting plan was designed by and approved by … incumbents.

By contrast, there are three single-member Senate districts: Orange, Grand Isle, and Lamoille. If voters in those districts disapprove of their one Senator, they can vote to replace him or her with a challenger. That's the way democracy is supposed to work.

If an incumbent Senator really believes in democracy, he or she should summon the courage to put his or her own record before the voters, and defend it in debate with a contrary-minded challenger.

By all means get rid of the six-member district. Then get rid of the three- and two-member districts as well, in both Senate and House. Or at the very least, make candidates in multimember districts file and run for "Position 1", or "Position 2" which would give the voters the same clear choice.

- *John McClaughry is vice president of the Ethan Allen Institute*

## Commentary: Progressive Policies Are Hurting Middle Class, Rural Vermonters

*By Rob Roper*

We are half way through the 2019 legislative session, and a theme is emerging. While the majority of legislators would probably insist they are looking out for our most vulnerable friends and neighbors, the flood of proposed new taxes, regulations, and curbs on traditional culture have something in common – they are almost universally hostile to low and middle income, rural, working Vermonters.

Just this week three new carbon tax proposals hit the House, all of which would make life more expensive and difficult for those who drive older cars, need larger vehicles for weather and terrain, drive further to work, and live in (and have to heat) older housing stock. An overwhelming majority of Vermonters oppose a carbon tax, yet the new legislature's crop of Green New Dealers seems more determined than ever to pass one, if not this year then next.

The school district consolidation law, Act 46, is disproportionately punitive to rural school districts. This law, which works fine for larger, more populous regions of the state, is forcing poorly matched rural school districts to combine, disbanding their local school boards, in many cases against the democratically determined will of their electorates. Some rural communities have already lost their local schools as a result, and more expect to. Even though legislators say this wasn't the intent of the law, they have done nothing to enforce their original intent or to fix the law.

Affordable housing is a huge issue facing our state, but the Act 250 "reforms" taken up this year will actually make housing more expensive and harder to build, not cheaper and easier. For example, a proposed requirement that all new construction be "carbon neutral," either through adopting costly building practices and materials or by purchasing carbon offsets, will add to the already high regulatory cost of creating new homes. These costs will be passed along to the buyer/renter, raising the cost of housing.

Additionally, the legislature's intent to herd development only into down town centers – the most expensive real estate – and to restrict it or ban it in rural areas where real estate is cheaper will also drive up housing costs and decrease incentives to build, keeping housing supplies low and prices high. The only people who will be able to afford shelter here are the very wealthy, or those poor enough and lucky enough to qualify for subsidized housing. Subsidized, of course, by middle class taxpayers, who increasingly can't afford their own rents, mortgages and property taxes.

Following last year's raising of the legal age to purchase a hunting rifle and ban on "high capacity" magazines, this year we are seeing more second amendment restrictions surface, including waiting periods for sales (48 hours or 72 hours) and a "safe storage" requirement. These further erode and show a lack of respect for Vermont's rural hunting and sport shooting traditions.

Even the proposals that are ostensibly designed to help working people, such as the $15 minimum wage and Paid Family Leave will do more to hurt than to help.

A $15 minimum wage hike won't matter as much in Chittenden County, where the market-level prevailing wage is already pushing hourly earnings to that level. However, in the rural communities, especially those along the Connecticut River that compete with New Hampshire and its $7.25 minimum wage, a $15 minimum wage in Vermont would be devastating to small marginal businesses. Many low wage Vermonters will lose their jobs entirely as a result of this mandate, others will lose hours. Those that do see a rise in income will disqualify for benefits, wiping out any financial gain. Every Vermonter will suffer the inflationary effects of higher labor costs being passed along to the consumer, especially those living on a fixed income.

The Paid Family Leave initiative would create a $100 million plus entitlement program that relies on a new payroll tax – essentially a 20% income tax increase for every already overtaxed Vermonter who earns a paycheck – for a benefit most Vermonters will never qualify to access. This encapsulates everything that is wrong with our statehouse mindset today: a massive tax Vermonters can't afford to pay for a new entitlement the state can't efficiently manage, and it has to be mandatory because otherwise nobody would participate of their own free will!

Take a careful look at this agenda. It's not an agenda for the people a small, rural state struggling with high taxes, a high cost of living, a rugged climate, and not enough opportunities for upwardly mobile careers. Quite the opposite. It's more like checking boxes on a list of ideological bumper sticker slogans from California.

- *Rob Roper is president of the Ethan Allen Institute.*

## Guest Commentary:
## Guess What? Vermont Has a Negative Net Worth!

*by David Coates*

Just recently the State's financial statements were published for the fiscal year ending June 30, 2018. For perhaps the first time in history, the state's Balance Sheet shows a negative net worth of $200 million. In other words, our liabilities exceed our assets. By contrast, the fiscal year ending June 30, 2017, showed our net worth was a positive $1.3 billion, so the logical question would be, what happened to give us a variance to the tune of $1.5 billion?

The answer is really quite simple. The GASB (Government Accounting Standards Board) finally required that all unfunded liabilities (pensions and other post-retirement benefits) must be recorded on governmental financial statements. Pensions were required in prior years, but the big hit this year for Vermont was the OPEB, or commonly referred to as the retiree health care benefits for teachers and state workers. These newly recorded retiree health care benefits, which now total $2.2 billion, created the negative net worth as noted above. I have previously reported this was coming, so it shouldn't be a complete shock for those who have been paying attention. Vermont is certainly not alone with a negative net worth. Several other states find themselves in a similar situation. But, Vermonters have always lived within their means, including balanced budgets, and somehow a negative net worth seems like a big step backwards.

Because the State is using a rate of return assumption of 7.5% on pension investments, which is not realistic given past results and current market conditions, I believe that our negative net worth of $200 million is really much larger. For 2018, S&P recorded a 6.2% decline and the Dow a decline of 5.6%. Over the last five years the actual rate of return for the pension investments was 6.3% and over ten years, 5.5%; nothing close to the assumed 7.5%. Per the Actuary, if the rate was 6.5%, it would add over $600 million to the State's pension liability. When that happens, it will add an additional $30 million plus in required annual payments to the $205 million now due in 2020, as you will see noted below.

Another disappointment in 2018 was the forewarned loss of the State's Triple A bond rating. One of the factors stated by Moody's that could lead to such a downgrade was "substantial growth in debt or unfunded post-employment liabilities." This loss means the State will pay more interest on new bonds issued, as will other organizations that rely on the State's bond rating.

The negative net worth and the downgrade in our ratings could both have been avoided if we had taken corrective action several years ago to make structural changes to the State's benefit plans. The Pension Commission (of which, I was one of nine members) in its 2009 report made several recommendations to improve the pensions. A key recommendation that was passed by the Commission would have required the plan participants to share in any annual costs that exceeded 3.5% (the then Legislative Joint Fiscal Committee provided the 3.5% as the annual benchmark for retirement and health care benefit increases). When the union contracts were negotiated, this recommendation was not included.

According to the PEW Foundation, there are 29 states that have some form of cost sharing or other mechanism with plan participants, but we aren't one of them, and the State would be in much better shape if it had cost sharing.

The unfunded liability for pensions increased by $73 million this past year and now totals $2.3 billion. The State continues to fund pensions in accordance with actuarial recommendations, which increased from $66 million in 2008 to $205 million in 2020 and continues to place great stress on our revenues and other important programs.

However, the State is NOT funding the actuarial recommendations for the retiree healthcare plans, leaving a substantial shortfall every year. In 2020, this will be around $85 million and will continue to grow unless something is done. Obviously, it is not being paid because the State does not have the resources available without raising taxes. Finally, since 2009 the State's population has essentially remained the same, the total workforce has decreased by around 15,000, however, the number of retired and active participants in the pension plans has increased by 17%. One must ask why we are providing benefits that we cannot afford and are not paying. Instead, we just keep running up the tab for the next generation and the one after that.

*- David Coates is KPMG Managing Partner (Retired)*

## Events

**March 12**. EAI President Rob Roper will appear on the Sound Off! Show with Linda Kirker, 7-8pm on channel 15, St. Albans. (Rescheduled from Feb 26th).

**April 9**. Save the Date! EAI's annual Jefferson Day dinner event will take place on Tuesday, April 9, at Trader Duke's, 1311 Williston Road, South Burlington. Social hour at 5:00, dinner at 6:00. Paul Gillies will speak on "Jefferson, the Constitution, and the Courts: Lessons from Vermont's History."

**Liberty Camp, 2019**. We are getting an early start recruiting 6th to 8th graders for summer Liberty Camp this year. Our tentative places and dates so far are St. Albans, July 23-25. If you are interested, please email lkirker@myfairpoint.net for more information.

To Schedule an EAI presentation in your community, please email rob@ethanallen.org.

## Roll Calls

- House blocks allowing all school districts to delay forced mergers (69-74)
- House passes unrestricted right to abortion up to the point of delivery (106-37)
- House blocks parental notification in cases where a minor seeks an abortion (37-109)
- House blocks state ban on partial birth abortion (43-101)
- House blocks restrictions on third-trimester abortions (40-107)

- Senate passes $15 minimum wage by 2024 (19-8)

## News & Views

**In Case You Missed It.** EAI President Rob Roper and former board member Art Woolf were quoted in this Wall Street Journal opinion piece, *Has Vermont Had It with Bernienomics? The state's voters love Bernie but not the results of his agenda.* (WSJ, 2/21/19) Here's to hoping the author is correct!

**Carbon Tax Bills Have Hit the House**. Three Carbon Tax bills have been introduced in the House. H477 — An Act Related to a Carbon Charge will add a $5 per tonne charge on carbon starting in 2020 and increase to $50 by 2030. For heating oil and diesel fuel sold in Vermont, the tax starts at a nickel and increases to 51-cents a gallon over the next decade. For gasoline, it would start at 4.5 cents per gallon and eventually get to 44-cents per gallon. For propane, it starts at 3-cents and ends up at 29-cents per gallon. Source: 2015 Vermont Legislative Counsel Carbon Tax Rate Calculations, found here. H.463 would add up to 40-cents a gallon in carbon charges. H.462 An act relating to addressing climate change mandates the state of Vermont eliminate fossil fuel consumption by 2050, making reductions "legally enforceable. The state of Vermont could sued if it fails to meet the goal in 2050 or key benchmarks in 2025 and 2035 (25% and 50% of the 1990 baseline).

**Will Others Learn from Vermont's Nuclear Mistake?** "The Green New Deal proposed by Rep. Alexandria Ocasio-Cortez (D) today excludes nuclear energy from the proposed mix. If it were ever actually attempted nationally, it would increase greenhouse gas emissions — just as a similar effort did in Vermont…. In 2005, Vermont legislators promised to reduce emissions 25% below 1990 levels by 2012, and 50% below 1990 levels by 2028, through the use of renewables and energy efficiency only. What's happened since? Vermont's emissions rose 16.3%. That's more than twice as much as national emissions rose during the same period." (Forbes, 2/7/19)

**Latest Climate Polls**: " NBC News reports that two new polls find that more Americans believe that global warming is happening. However, the Associated Press—NORC Center poll shows that only 28% of those polled would be willing to pay as much as $10 a month to fight climate change, while 68% would not be willing to spend that much." (CEI 1/30/19)

**On the Green New Deal**. "This is far more than an environmental manifesto. In addition to 'clean and renewable energy,' it calls for jobs for everyone, living wages, parental leave, racial and gender justice, health care for all, strengthened labor law, vastly increased infrastructure investment, justice for indigenous people, a radical rethinking of monetary policy, and a new approach to antitrust policy. In other words, it reaches deeply into every corner of the economy…. The semanticists can debate whether that is or isn't the same as 'controlling the means of production.'" Allan Murray, CEO, Fortune Magazine, 2/11/19

**After Being Lambasted on Social Media for Making a Joke About Elizabeth Warren…** "Observation: many polarizing politicians actually LIKE each other, privately help each other, then publicly stir the pot, playing for votes. That's fine. Only thing wrong with it is when we buy it whole cloth, breeding intolerance, anger and total inability to laugh at ANYTHING." – Rob Lowe, Actor, 2/10/19. Lowe had merely tweeted if Warren were elected president it would give new meaning to Commander in "Chief."

**Medicare for Nobody:** "Last year, the [Social Security]program's trustees projected that its main trust fund (which is itself a kind of accounting fiction) would be depleted in 2026, three years earlier than previously anticipated. The program wouldn't simply stop, but revenues would only be sufficient to cover 91 percent of expenses, a percentage that would decline over the next 15 years. Over the next 75 years, the program faces $37 trillion in unfunded liabilities." Apparently Bernie isn't listening. (Nothing new about that).

**The Terrors of Climate Change**: "The global GDP currently stands at about $80 trillion. Growing at 3 percent annually, it would rise to $903 trillion by 2100. A 2.6 percent reduction means that it would only be $880 trillion by 2100. A 0.3 percent decrease implies a global GDP of $900 trillion. The IPCC report recommends that the world spend more than $45 trillion between now and 2035 in order to endow $2.7 trillion more in annual income on people living three generations hence." (Ronald Bailey, Reason, 2/22/19) Doesn't sound like too good a deal.

**Why Teachers Unions Strike: "**A year after [West Virginia's] 20,000 teachers struck to get a 5% pay raise and no reductions in rich benefits, they walked off the job Tuesday to kill an education reform bill that would have increased school choice and accountability. The West Virginia Education Association [NEA] gave the walkout order to defeat legislation that would have allowed all of seven charter schools in the state over the next three-and-a-half years. The bill would also have created educational savings accounts for private or online schools and removed seniority as the only criterion for teacher layoffs. Competition and judging teachers by student performance are mortal threats to the union K-12 monopoly." (WSJ 2/20/19)

**Vote Suppression - Not:** "Researchers for the National Bureau of Economic Research found that between 2008 and 2016, voter ID laws had "no negative effect on registration or turnout, overall or for any specific group defined by race, gender, age or party affiliation."...According to the study, voter registration and turnout rates did not change to any significant extent after voter ID laws took effect. Out of the millions of registered voters the researchers studied over eight years, no statistically observable change in voting behavior could be attributed to voter ID laws." (Heritage 2/27/19)

**Carbon Tax Futility:** From Megan McArdle, a national carbon tax supporter: "Zeroing out U.S. emissions and moving the whole country into yurts wouldn't prevent the climate from warming, because Americans are not the biggest problem anymore. The problem is the more than 6 billion people who aren't living in the rich world." (*Washington Post* 2/14/19). Vermont's carbon tax advocates apparently favor the Vermont yurt plan as a motivating example to China and India.

**Government Medicine at work:** A British Medical Association survey in 2016 found that 84% of General Practitioners in the UK National Health System believed their job was "unmanageable" and the work load "excessive". This is a common feature of government-run health care systems, since patient demands are near-infinite, and money to pay the providers is painfully finite. (MIT *Technology Review*, November 2018)

## Book of the Month

**Hitmakers**
*The Science of Popularity in an Age of Distraction*
By Derek Thompson

- *Reviewed by Rob Roper, president of the Ethan Allen Institute.*

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## The Final Word

Payroll Tax/Paid Family Leave

Should the legislature levy a $100 million-plus payroll tax in order to pay for new Paid Family Leave entitlement program?

1. Yes.
2. No.

CLICK HERE to make your voice heard