**Montpelier Notes**,  An occasional email for Pownal and Woodford residents. If you would prefer not to receive these notes please reply to [botzow@sover.net](mailto:botzow@sover.net) and I'll remove you from the list. If you would like to be added please let me know. I do not give your email address to others. --Bill Botzow

February 13, 2011

Hello All,

                I stopped by the Pownal Town Office today and Town Clerk Karen Burrington was in. She informed me that ballots for Town Meeting voting are now available for those who want to vote early. I expect Woodford’s ballots are available too.

It was another full week in Montpelier as committees undertook work on the major pieces of legislation that the administration is requesting this year. The tax committees are looking at the Blue Ribbon Tax Commission report, the Health Care Committee this year’s proposal for Health Care, the Appropriations Committee is well into presentations on next year’s budget and in Commerce we now have the Jobs bill.

The jobs bill will take a great deal of work to sort through all the initiatives to make sure they work and can be afforded. We have started with a proposal to give a tax credit to companies that hire recent veterans. Clearly defining the scope of the bill and the best method for offering the tax credit will be the focus of our discussion. We understand the need as we learned that 30% of returning veterans are unemployed.  Statewide unemployment is 5.8%. We will move through the bill piece by piece with the hope of passing it out of our committee by the Town Meeting break.

Wednesday afternoon University of Vermont Extension Service held an informational reception in the State House cafeteria. I was happy to see Pownal’s Dianne Lamb there accompanied by her husband Frank. We have all been enjoying Dianne’s regular nutrition column in the Banner for many years.

---------------------------------------------

Here’s what came to the House for a vote this week.

**H. 138** **An act relating to executive branch fees**

The annual fee bill is a review of the fees government charges to provide specific services such as inspections or professional regulations. Every year the Ways and Means Committee examines a third of the fees and adjusts them up or down to reflect the cost of providing the service. This year’s bill came to the floor earlier than usual because there were fewer fees scheduled for review in this round. The bill came to the floor with unanimous committee support. The bill passed in a roll call vote 104 to 32 and I voted yes.

**H. 85** **An act relating to recognition of the Nulhegan Band of the Coosuk Abenaki Nation as a Native American Indian tribe**

**H. 86** **An act relating to recognition of the Elnu Abenaki tribe as a Native American Indian tribe**

The House General Committee unanimously recommended after careful review over a number of years and much testimony state recognition for two Abenaki tribes, the Nulhegan and the Elnu. These are the first two tribes afforded recognition since we passed legislation in the last session that set a process for state recognition. Gaining recognition will mean Vermont Abenaki artisans can seek federal arts and crafts designation to sell their handmade wares for a better price. Tribe members can also apply for federal and private education, cultural preservation, and social services grants.

**H. 46** **An act relating to youth athletes with concussions participating in athletic activities**

Because of the seriousness of head injuries, especially to young athletes, the House Education Committee worked on this bill which should help ensure that school age athletes will not further hurt themselves should they sustain a concussion. Here’s the findings section of the bill:

The general assembly finds:

(1) A concussion is a disturbance to brain function that can range from mild to severe and can disrupt the way the brain normally works.

(2) A concussion is caused by a blow to or motion of the head or body that causes the brain to move rapidly inside the skull.

(3) A concussion can occur with or without loss of consciousness, but most concussions occur without loss of consciousness.

(4) The risks of catastrophic injuries or death are significant when a concussion or other head injury is not properly evaluated and managed.

(5) Concussions can occur during any organized or unorganized sport or recreational activity and can result from a fall or from a person colliding with one or more other people, with the ground, or with other obstacles.

(6) The Centers for Disease Control and Prevention estimates that as many as 3,900,000 sports-related and recreation-related concussions occur in the United States each year.

(7) Concussions are one of the most commonly reported injuries in children and adolescents who participate in athletic and recreational activities.

(8) Continuing to participate in athletic and recreational activities with a concussion or symptoms of a head injury causes children and adolescents to be vulnerable to greater injury or even death.

(9) Despite the existence of recognized return-to-play standards for concussions and other head injuries, some children and adolescents in Vermont with a concussion or symptoms of a head injury are prematurely permitted to participate in athletic and recreational activities, resulting in actual or potential physical injury or death.

The bill goes on to provide guidance for coaches and trainers in recognizing concussions and standardizes practices should they occur. The bill passed on a voice vote.

**H. 121** **An act relating to establishing a special motorcycle registration plate for veterans**

Vermont currently has a special license plate for veterans. This bill extends the recognition to vehicles registered at the motorcycle rate. “The type and style of the veterans’ plate shall be determined by the commissioner, except that the plate shall include the letters “MTC” along the side and the word “Veteran” along the bottom of the plate.” The bill passed on a voice vote.

---------------------------------------------

The following committee reports are edited from summaries written by other representatives.

**Transportation by Rep. Diane Lanpher**

Bridges and Roads – ARRA (American Recovery and Reinvestment Act) has made a significant difference to Vermont’s infrastructure.

Paving – Last year the paving program treated a record 412 miles of highway, which resulted in a 6% reduction in the number of miles of highway rated in very poor condition, reducing that total to 28%.  This progress has brought the percentage of good/fair roads (52%) higher than poor/very poor roads (48%). This is the first time, in many years that the state’s roads have that status.

Bridges - Of the 2,694 long structures, 322 or 12% are considered structurally deficient. A significant improvement from the 422 structurally deficient bridges reported in the previous year. Bridges with a condition rating of four (poor) or worse for any single component are considered Structurally Deficient (SD) by the national standard. The most recent national data ranks Vermont 42nd among the 50 states for percent of bridges deemed structurally deficient. Vermont was 46th last year which indicates movement in the positive direction.

**Human Services by Rep. Patsy French**

The Committee has spent time hearing and discussing reports from various entities. These have included a report from the Mental Health Oversight Committee which is the committee of the Legislature charged with overseeing mental health issues when we are not in session; reports relating to what is known as the “benefits cliff” from the Department for Children and Families (DCF); reports on Reach Up, our program to help families move out of poverty; and a report from the Palliative Care and Pain Management Task Force.

Since we adjourned last May, the Mental Health Oversight Committee (MHOC) held four meetings around the state in Brattleboro, Rutland, Burlington and St. Johnsbury. The purpose of traveling to those locations was to hear firsthand how the current community mental health system and hospitals are meeting local mental health needs. In each location the committee heard about new ways community members and local providers have found to address local needs. The committee also heard that the need for mental health services is greater than available mental health resources can provide and that this puts great stress on local governments, police and hospital emergency departments. This gives us concern for the ramifications of the proposed budget cuts to our local mental health agencies.

                The “benefits cliff” occurs when the income of an individual or a family who receive economic benefits from the State increases to a point where they are no longer eligible for those benefits (through programs such as 3 Squares, Fuel Assistance, Medicaid, Reach Up, etc.) so they are dropped from the programs. Unfortunately, the increase in income from work doesn’t come close to covering the costs for basic needs when the family has to pay for them without any assistance. This is a huge disincentive to work because it means that as a family earns more they actually end up with less money to live on than when they didn’t work as much. DCF has applied for a grant to be used to support in-depth data analysis which can be used to help redesign our benefit structure so that it will incentivize work and in fact help a family move out of poverty.

                The Reach Up reports indicated that many families in Reach Up have multiple barriers to overcome in order to be able to work to support their family. Adequate, reliable transportation is the most frequent barrier, and quality, affordable childcare is also a very common barrier. Other common barriers include lack of education, poor health and/or mental health issues.

                Our committee continues to have a strong interest in palliative care. Good palliative care provides symptom relief to an individual, in any stage of life, who has a serious medical condition. The Palliative Care and Pain Management Report is a follow-up from our work in the past few years. The report included several recommendations including working toward an expanded hospice benefit which would include a twelve month life expectancy requirement for eligibility (instead of six months) and the possibility of continuing curative therapy while on hospice. In a program in another state an insurance company found significant savings by doing this. Another recommendation is to make it possible for simultaneous eligibility for Choices for Care and hospice services. Currently, if an individual is receiving hospice services, that person can’t apply for Choices for Care to help pay for services in their home.

**Institutions & Corrections by Rep. Cynthia Browning**

Capital Bill

The Committee has begun to take testimony concerning the Capital Bill funding requests in the Governor’s proposal. This is the list of projects to which borrowed state dollars may be allocated. As we begin this process, we have also articulated criteria to use to evaluate projects systematically going forward. To some extent the attempt to formalize such rules is related to the entire “outcomes-based budgeting” analysis and initiative, and to some extent it is a reflection of dissatisfaction with past evaluations and decision-making processes.

                In terms of general criteria for allocating funds within the Capital Bill, the Committee is developing criteria or goals such as the following: One, a project should be part of some long run strategic plan for the program, agency, or building in question. In general, we should be creating productive infrastructure for state or local facilities and activities and infrastructure that supports private economic development. The investments in the Capital Bill always create work for the construction industry, but at this stage of (what we hope is) an economic recovery, we would like to generate the most jobs or work for Vermont businesses and workers that we can with the allocation of funds. Two, we would like energy efficiency and conservation, or the creation of renewable capacity, to be part of as many projects as possible in order to reduce future operating costs. There will continue to be an ongoing discussion with the Administration as to how energy efficiency should be measured and what our specific goals should be.

**Fish and Wildlife, Water Resources by Rep. Bob Krebs**

Lake Champlain TMDL

                In a letter dated January 24, 2011 the United States Environmental Protection Agency Region 1 withdrew its 2002 approval of the Vermont portion of the Lake Champlain Phosphorus TMDL (total maximum daily load).   EPA must now establish a new TMDL as determined to be necessary to implement applicable water quality standards. The roles of Vermont’s Agency of Natural Resources and the Department of Environmental Conservation are not certain now, but Vermont has been asked to work collaboratively with EPA.

Deer Doing Damage (H13)

                The discussion and testimony on this bill continues. The committee version of this bill now simply revises the existing law (10 VSA 4826) by adding a fourth area of protection, namely “a tree, sapling, or seedling on land managed for the production of a marketable forest product”. The taking of deer doing damage will now require prior approval of a Vermont game warden, and approvals are valid only for that calendar year. Under the current law a total of 100 deer (over the last 5 year period) have been reported taken (that were doing damage). Vermont Fish and Wildlife will convene a working group to review and recommend methods for addressing or limiting the damage done by deer to trees, saplings and seedlings. Their report is due to the legislature in January of 2012.

Public Trust – Fish and Wildlife (H91)

                This bill proposes to codify Article 67 of the Vermont Constitution by declaring that “the fish and wildlife of Vermont are held in trust by the state for the benefit of the citizens of Vermont and shall not be reduced to private ownership.” Further, it proposes repealing part of Act 156 (2010) which transferred regulatory oversight of a captive hunt facility to the Department of Agriculture. Regulatory authority will be returned to the Department of Fish and Wildlife. A number of conditions are being considered relative to dealing with animals currently entrapped in the captive hunt facility.

**Appropriations by Rep. Ann Manwaring**

Following hard on the heels of the Governor's Budget Address, in fact that very afternoon, Secretary of Administration Jeb Spaulding and Commissioner of Finance and Management Jim Reardon presented the details of the Administration's 2012 proposed budget. The many sections of the budget are divided among Committee members for scrutiny and analysis, and we are now proceeding agency by agency to meet with new Secretaries and Commissioners to hear their presentations.

Included in the narrative part of this year's budget recommendations for many agencies is a discussion about their performance including outcomes and measures. While we have not yet implemented a performance based budgeting process in the State, we are moving toward it, and this discussion is instructive as we shift focus from basing budgets on past experience to one in which we ask "what outcomes are we purchasing with our money".

**Health Care by Rep. George Till**

The Health Care Committee has continued to take background testimony and has begun to delve into current issues. In particular, this week there was testimony on Provider Tax issues and the Administration proposal to end the Catamount Health program and roll it into the Medicaid VHAP program.

                The Provider Tax is a convoluted Federal system that allows the state to tax provider revenues (up to 5.5% currently). This money is then matched by Federal dollars currently at a rate of about 1.5/1. This extra Federal money is then used to fund our Medicaid program. Presently the tax is applied to hospitals, nursing homes, outpatient prescriptions, home health services and intermediate mental health care facilities.

                The problem arises in how to repay those providers who pay the tax. There are two mechanisms: increased Medicaid rates, and DSH payments (highly federally-regulated payment for hospitals serving a disproportionate share of Medicaid patients). The difficulty comes in the mismatch of repayment mechanisms and the amount of tax paid by individual institutions as well as the growing discrepancy between total tax collected and total amount of money returned. This amounts to $26 million underpayment in the current budget. The Administration proposes to extend the Provider Tax to Dental services and Managed Care Organizations which would generate $16 million in new provider tax which would then receive the federal match.

                The other Administration proposal discussed this week was to end the Catamount Health Program and roll the approximately 12,000 insured people into the Medicaid VHAP program. The proposal includes an increase in the deductible from $500 currently to $1200. Other cost sharing provisions such as co-pays would decrease. The change would save the State approximately $6million. Some difficulties we note are that Vermont would give up $8million in Federal matching funds and $14 million less would be paid to providers for the same services being rendered; presuming Catamount enrollees health care usage stays the same.

**Natural Resources and Energy by Rep. Mike Yantachka**

The House Natural Resources and Energy Committee is revising H.56, the Vermont Energy Bill of 2011.  We continue to take testimony on the feasibility and benefits of several biomass energy projects that are being proposed.  Major factors are the efficiency of the plants; the net available low-grade wood above and beyond the amount currently being consumed by the existing Ryegate and McNeil plants; and the impact on electric rates overall.

                H.155 Property-Assessed Clean Energy (PACE) Districts, is also under consideration. This bill will allow municipalities to opt into the program via a popular vote and administer the program on their own or joined with other municipalities with the help of Efficiency Vermont. PACE will allow municipalities to provide loans to homeowners for installing renewable energy systems. These loans would be associated with the property, and they would be repaid via the property tax bill. If the property is sold, the buyer assumes the loan repayment obligation.  Because of objections from Fannie Mae and Freddie Mac with the original PACE legislation that could allow this lien to take precedence over mortgages, H.155 makes the PACE loan secondary to the primary mortgage and any pre-existing liens. The effect of PACE is to amortize the up-front costs of renewable systems over the life of the system.

                We are also taking testimony on H.19 and H.145, both of which address the problem of carryout bags in the waste stream. H.19 was introduced on behalf of students at the Grafton Elementary School.  A group of students testified on their research of the effects of discarded plastic grocery bags on wildlife, water, landfills and the landscape. H.145 includes not only plastic bags but all disposable carryout bags. It proposes a $.10/bag fee at the checkout counter to encourage consumers to bring their own reusable bags as well as generate revenue as long as consumers continue to depend on the disposable bags.

**Judiciary by Rep. Cynthia Martin**

The Judicial retention process is underway. Here’s how it works.

                After a judge is appointed to the bench, every six years he/she goes through the retention process. This year is an extraordinary one in that there are ten judges and all five justices of the Supreme Court up for retention. Each judge/justice (Supreme Court judges are called justices) submits a request for retention and this includes biographical information, what professional, educational and civic activities they have done in the past six years, samples of judgments made and how those illustrate their judicial thinking, and finally why they wish to be retained.

                This information along with surveys garnered from lawyers, non-lawyers who have appeared in court, and courthouse personnel is compiled and given to the retention committee members for review. There are eight members of the committee: four Representatives and four Senators.

                We read all this information and then meet with each of the judges/justices. They make a statement and then we ask whatever questions we have. There is then a public hearing at which anyone can speak about any of the judges who are up for retention. The committee meets and votes on whether to retain each, and assignments are made as to who will present the case on the floor for each judge to a joint session of the legislature. Written ballots are cast and counted.

                I continue to be impressed at the quality and dedication of our judges/justices. This retention process, as opposed to general election of judges as is done in many states, contributes to a continued responsible, educated, and fair judicial process for the people of Vermont.

**Government Operations by Rep. Debbie Evans**

The lion’s share of our work in committee has been centered on H.73: amendments to the public records law. Legislative studies were undertaken in 2005 and 2007 on the State’s public records law. There are an estimated 260 exemptions, or reasons that the public can be denied access to records. These are not all located in one place but embedded throughout state statutes. Without a better understanding of why an exemption has been made we will never know if it strikes an appropriate balance between your privacy and your right to know. The committee heard recommendations for changes from those who have run into obstacles. One of the more important ones was making reimbursements for legal fees mandatory when a party wins a lawsuit against the state over denial of public records.

                One of the things being considered is a requirement that all legislation that exempts information from public view go through the Government Operations Committee, as exemptions have been slipped into legislation over the years.

                According to our state archivist, “Our public records laws should be routinely revisited and, if necessary, repealed or clarified; and that should be essential. We should not lose sight of the fact that our public records law was designed to make government, not the lives of citizens, more transparent.”

                This law will also include municipalities to aid them in the number of public documents that are requested and ways to successfully manage their records. We have taken testimony from many stakeholders. It is a common desire to make the process of requesting public records a less intimidating process for all involved.

**General, Housing, and Military Affairs by Rep. Kesha Ram***Residential Electrical Safety:* GHMA unanimously passed H.114, An Act Related to Electrical Installations, out of committee this week. Supported by emergency personnel, the Vermont Homebuilders Association, Renewable Energy Vermont, Associated General Contractors, and approved by the House last biennium, this bill would accomplish three main things:

* Require a licensed electrician to inspect all structures, including single-family owner-occupied homes, in the event of an emergency disconnect before power can be restored.
* Create a type-S (specialty) license for renewable energy installations in one- and two-family dwellings.
* Remove the exemption for one- and two- family dwellings from requiring a licensed electrician to perform all electrical work - except for homeowners in their own home or on their personal farm structures, who are still allowed to do their own work unlicensed.

The committee sees this as an important bill to reduce the likelihood of unsafe wiring that could lead to a residential electrical fire, as well as to help skilled, licensed electricians obtain work.

**Ways and Means by Rep. Rachel Weston**

The Ways and Means committee created a committee bill that embodies all of the recommendations within the Blue Ribbon Tax Commission Report. We have voted it out of committee with the intent of providing a bill framework for committee discussion and to ensure that it is on the legislative website so that the public will have access to the text. The bill will be reassigned back to Ways and Means so we can further discuss it and figure out which parts, if any, of the report we intend to pass into law.

                The committee also took testimony about the 'Entertainment Tax'. Changes made in last year's conference committee eliminated the exclusion of non-profit arts ticket sales from sales tax collection. Many such organizations would like to repeal this change, and return non-profit arts ticket sales to their previous status as untaxed.

                The committee also began to take testimony about how to re-coup internet sales tax. As things currently stand, items sold into Vermont over the internet are subject to the Sales and Use Tax and should be paid by the purchaser. In practice, the purchaser rarely pays these taxes. Many States would like to have the Sales Tax collected at the point of sale on the internet, much like it is collected at the point of sale at a store in Vermont. Many large Internet based companies, such as Amazon.com and Overstock.com are resisting this change, despite the fact that they are collecting tax for some states, and making the threat to drop affiliate nexus from their services from States who try to collect Sales Tax. We will continue to hear more about this issue next week.

                We also passed a bill addressing an issue that affects school districts who commission students to private schools. The change will provide them with a more flexible structure to financially plan for enrolling students who arrive after the school district budget has been set.

---------------------------------------------

As always please let me know if you have comments, concerns or cheers for any of the legislation I write about. I can convey your thoughts to the committees of jurisdiction. I hope everybody has a good safe week. Forecast calls for a thaw later in the week. With all the snow around, make sure if you can that melt water has somewhere to go.

Stay in touch,

Bill

Rep. Bill Botzow

1225 South Stream Road

Bennington, VT 05201   
802 447-7717

[botzow@sover.net](mailto:botzow@sover.net)

[bbotzow@leg.state.vt.us](mailto:bbotzow@leg.state.vt.us)