

March 25, 2012

Hello All,

What a week of good weather! Great to be outdoors and see what's starting to come up, clean up the yard and visit with neighbors. And wasn't it nice to have had a warm weather break as we move through mud season into early spring?

In Montpelier, the legislature and the House worked its way through one of the busiest weeks I can remember as both bodies debated and passed numerous bills on to the other body. The days were long, often stretching into the evening and it felt like the end of the session, especially as the weather all week resembled May more than March. However we have many weeks to go as we are just now receiving Senate bills in our committees. They will take further review and often conference committees to resolve differences. Here's what we worked on in the House this week. There are many bills so my notes may seem short on each one. Please let me know if you would like more information on any of them. My goal is to give you a sense of what the various committees have recommended to the House for passage so you know what is being contemplated and have the opportunity to respond with your thoughts and questions.

H. 768 An act relating to ignition interlock restricted driver's licenses and civil suspensions

The bill makes changes to the legislation we passed allowing for ignition interlock devices as a way to control drunk driving. It also modifies the law on driver's license suspensions. Here's a link to the bill as passed the House.

<http://www.leg.state.vt.us/docs/2012/bills/House/H-768.pdf>

H. 78 An act relating to wages for laid-off employees

This bill offers protections to employees owed wages when a company goes out of business. Employees could place a lien against an employers' property for 30 days worth of unpaid wages. Also companies that are dissolving would have to notify the Department of Labor about any unpaid wages owed employees.

H. 157 An act relating to restrictions on tanning beds

This bill keeps anyone under eighteen from using tanning beds. Evidence and testimony shows that people under thirty using tanning beds face a 75% greater chance of melanoma and that melanoma is increasing faster in Vermont than elsewhere in the US. The bill passed on a unanimous voice vote.

H. 747 An act relating to cigarette manufacturers

This bill bans sale to minors of “cheaparillos”, basically small and often flavored cigars. In some states this product is totally banned.

H. 751 An act relating to jurisdiction of delinquency proceedings

The bill states “The general assembly intends this act to enhance opportunities to treat youths as juveniles in the family division of the superior court while preserving the discretion of state’s attorneys to bring criminal charges against youths in appropriate cases. Evidence-based practice and research clearly indicate that young people charged as juveniles are much more likely to receive the services necessary for their rehabilitation and are much less likely to reoffend, resulting in fewer corrections expenses for the state and more opportunities for the offender to change his or her behavior. This act therefore contains several measures designed to facilitate the filing of juvenile proceedings against some minors in the family division while retaining the discretion of state’s attorneys to charge other minors as adults in the criminal division when the facts warrant it. By promoting the treatment of youths as juveniles in the family division rather than as adults in criminal court, the general assembly intends this act to help establish a more effective way to reduce recidivism and its attendant budgetary and societal costs.”

H. 770 An act relating to the state’s transportation program

The annual transportation bill annually funds improvements to our entire transportation infrastructure. This year’s bill sees increased funding to deal with the after effects of Irene, especially to town roads, bridges and culverts. For the first time in many years the per mile allotment for maintaining town roads will increase. This helps with the municipal property tax. The bill was approved unanimously 139 to 0.

H. 468 An act relating to a renewable portfolio standard and the Sustainably Priced Energy Enterprise Development Program

Here are the state’s goals for renewable energy as written in the bill:

RENEWABLE ENERGY GOALS

(a) The general assembly finds it in the interest of the people of the state to promote the state energy policy established in section 202a of this title by:

(1) Balancing the benefits, lifetime costs, and rates of the state's overall energy portfolio to ensure that to the greatest extent possible the economic benefits of renewable energy in the state flow to the Vermont economy in general, and to the rate paying citizens of the state in particular.

(2) Supporting development of renewable energy and related planned energy industries in Vermont, and the jobs and economic benefits associated with such development, while retaining and supporting existing renewable energy infrastructure.

(3) Providing an incentive for the state's retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.

(4) Developing viable markets for renewable energy and energy efficiency projects.

(5) Protecting and promoting air and water quality by means of renewable energy programs.

(6) Contributing to reductions in global climate change and anticipating the impacts on the state's economy that might be caused by federal regulation designed to attain those reductions.

(7) Supporting and providing incentives for small, distributed renewable energy generation, including providing support and incentives that support locating such generation to locate renewable energy plants of small and moderate size in a manner that is distributed across the state's electric grid,

including locating such plants in areas that will provide benefit to the operation and management of the state's electric that grid through such means as reducing line losses and addressing transmission and distribution constraints.

(8) Promoting the inclusion, in Vermont's electric supply portfolio, of renewable energy plants that are diverse in plant capacity and type of renewable energy technology.

The bill passed 96 to 45 and I voted yes. Here is a short report from the Natural Resources Committee presenter of the bill.

H. 468, the energy bill of 2012, keeps Vermont on the path to reducing greenhouse gases and increasing our energy independence. It does this by setting new renewable energy requirements over the next 20 years and expanding our "standard offer" program. And it does so at a deliberate, even cautious pace to minimize rate impact and spread cost increases over the next 20 years.

The bill:

- Sets a "total renewables" target of 55% statewide beginning in 2017 (which we have already achieved), increasing to 75% by 2032. According to the Department of Public Service, Vermont is currently at about 59%, thanks in part to the fact that our Hydro Quebec contracts count toward this goal.
- Sets a requirement, in the form of a Renewable Portfolio Standard (RPS), of 35% "new renewables" by 2032. Utilities will meet this requirement over time, not overnight, which means they can continue to sell any tradable "Renewable Energy Certificates" in decreasing amounts over the next 20 years. Their ability to sell these "RECs" while the market is viable helps cushion rate impact.
- Within that 35%, sets a 10% requirement by 2032 for small "distributed generation." These are projects under 5 MW in size, sited to take pressure off the Vermont grid and help avoid costs associated with transmission upgrades. (Both the 35% and the 10% are contained within the 75% target.)
- Expands the current "standard offer" program, which provides for long-term, stably-priced contracts for small renewable generators under 2.2 MW in size. ("Standard offer" projects count toward the 10% requirement within the 35%RPS.) This bill would raise the current "standard offer" 50 MW statewide cap to a total of 150 MW over the next ten years, at a rate of 10 MW per year. The additional capacity will be rationed in annual increments to minimize rate impact and take advantage of the continually decreasing cost of renewable technologies.

The Department of Public Service estimates the maximum rate impact, which is expected to occur in the year 2025, at an average 4.3% average increase statewide. For a residential user averaging 6,900 kWh/year, this translates to a maximum of \$3/month (\$36-\$39/year), or 3.6%. This would not occur before the year 2025. For a commercial/industrial user averaging 41,000 kWh/year: maximum of \$18-

\$19/month (\$215-\$230/year), or 4.8% (maximum, not before 2025).

In terms of economic benefit to the state, the DPS estimates capital investment of distributed generation projects (in-state) of more than half a billion dollars.

H. 769 An act relating to department of environmental conservation fees

The House Ways and Means Committee recommended and we passed 91 to 46 this fee bill. It was more controversial than the first fee bill as this bill contained fees for various activities at Vermont Yankee. The administration proposal came in a little over 3 million total. The House reduced that to about 2 million, mostly on the Yankee fees.

H. 745 An act relating to the Vermont prescription monitoring system

Here's the purpose statement of this bill:

PURPOSE

It is the purpose of this act to maximize the effectiveness and appropriate utilization of the Vermont prescription monitoring system, which serves as an important tool in promoting public health by providing opportunities for treatment for and prevention of abuse of controlled substances without

interfering with the legal medical use of those substances.

The bill establishes clear guidelines for reporting, who can access the reports, and privacy protections. The bill also includes the following section making it possible to return unused drugs. In Bennington, the sherriff's office has been offering this service. This measure will take the next step statewide.

Sec. 14. UNUSED DRUG DISPOSAL PROGRAM

No later than January 15, 2013, the commissioners of health and of public safety shall establish a drug disposal program for unused over-the-counter and prescription drugs, which program shall be available to Vermont residents throughout the state at no charge to the consumer. The commissioners shall

take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

H. 627 An act relating to an opiate addiction treatment system

This bill recommends establishing statewide regional centers to treat opiate addiction, a problem that continues to grow in Vermont.

H. 772 An act relating to allocation of federal rental subsidies

This bill makes clear who has the authority and the responsibility for allocating federal housing. The goal is to make sure to the extent possible that Vermont entities are in charge, not out of state companies.

H. 550 An act relating to the Vermont administrative procedure act

This bill makes sure that when the committee that oversees the act comes upon issues outside of its jurisdiction that it can request review by legislative committees that have jurisdiction over the issue.

H. 640 An act relating to promoting tourism and marketing

My House Commerce and Economic Development Committee recommended this bill. The findings well state the case for the proposed studies in the bill.

FINDINGS

The general assembly finds:

(1) Vermont's economy remains heavily reliant on successful four-season tourism. According to Economic and Policy Resources (*A Benchmark Study of the Economic Impact of Visitor Expenditures on the Vermont Economy*, 2009), direct spending by visitors totals \$1.42 billion annually, visitor spending supports 33,530 (11.5 percent) jobs, and tourism accounts for nearly \$200 million of state revenue from lodging, meals, gas, and property taxes.

(2) Vermont enjoys the tremendous advantage of being within a day's drive of 80 million people in the surrounding metropolitan markets. We share this advantage with our neighboring states and provinces, and, with more visitors opting to stay closer to home and forgo the trip to an airline-dependent

destination, it is critically important that we more effectively compete with our neighbors when marketing to our core markets.

(3) Our neighboring states and provinces, with which Vermont competes in a similar arena, outpace Vermont in per-capita tourism spending.

(4) The state annually funds a tourism budget to promote Vermont's travel, recreation, and cultural opportunities to markets within and beyond our borders. As a steward of the Vermont brand, the department of tourism and marketing uses this funding to promote Vermont as a preferred destination.

This money is leveraged with both public and private sector partners to enhance the efforts of the travel and tourism industry as a whole.

(5) The recent examples of the expansion of Porter Airlines to Burlington and the need for additional marketing following the damage from Tropical Storm Irene, demonstrated the need for a flexible funding source for marketing resources that can be deployed rapidly when needed.

(6) Flexible and timely promotional funding will encourage a healthy tourism sector and, in turn, deliver additional tax revenue to Vermont, as well as help grow Vermont businesses and employment opportunities.

(7) Beyond tourism and marketing, the state should evaluate whether it could significantly benefit from a source of flexible funding, whether through a fast action fund or similar mechanism, to enable a rapid and meaningful response to specific economic development opportunities as they arise.

H. 691 An act relating to prohibiting collusion as an antitrust violation

After taking testimony in the Commerce Committee we referred this bill to the Judiciary Committee. The bill brings us into line with other states in making collusion a criminal as well as a civil matter. That way, if there are individuals in a company guilty of price fixing for example, the Attorney General can go after them rather than the whole company.

H. 771 An act relating to making technical corrections and other miscellaneous changes to education law

This year's miscellaneous education bill was non-controversial and largely made small technical corrections. Among other measures it made clear the voting rights of individuals on school boards who live in unorganized towns and gores.

H. 412 An act relating to harassment and bullying in educational settings

In recent years the legislature has passed bills addressing bullying in school and related settings. This bill clarifies the standard needed to prevail in a civil action by stating:

(1) The student was subjected to unwelcome conduct based on the student's or the student's family member's actual or perceived membership in a category protected by law by 9 V.S.A. § 4502.

(2) The conduct was either so pervasive or so severe and the cause of a continuing hostile environment, that when viewed from a reasonable person's standard, it substantially and adversely affected the student's equal access to educational opportunities or benefits provided by the educational institution. The bill also directs the Human Rights Commission to come up with a plan for system wide education.

H. 498 An act relating to parity for primary mental health care services

This bill makes sure that co-pays are equivalent to other health care services.

H. 699 An act relating to scrap metal processors

Copper and metal theft from people's homes and businesses has been a recurring and growing problem. This bill clarifies and simplifies for scrap metal processors what to do and how to report if they cannot establish the identity of the person selling them scrap metal. This was another Commerce Committee bill.

H. 730 An act relating to miscellaneous consumer protection laws

This Commerce and Economic Development Committee bill puts in place protections for individual and business consumers in several areas such as unlicensed internet lending, lead in children's food, unsolicited credit transactions by phone where disclosure requirements are not met, and other measures such as studying what consumer protections may be warranted for seniors. It passed on a unanimous voice vote.

H. 440 An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education

This bill found, in my mind, a suitable compromise on the long discussed question of whether the Commissioner of Education should report to the Governor. The bill makes the Commissioner the Secretary of Education, but keeps the state board as a control on education policy and implementation. Board members now serve six year terms. This bill would allow three consecutive three year terms for a total of nine years and require that appointees are experienced and knowledgeable in education matters. The real authority in education still lies at the local level in the decisions voters make on school budgets and in local school boards oversight of their schools, but this bill will facilitate coordinated state wide education policy. It passed 114 to 17 and I supported the recommendation of the education committee because it balanced the responsibilities of the secretary and the board while making sure local decision making stays intact.

H. 759 An act relating to permitting the use of secure residential recovery facilities

As the state transitions to a new mental health care system, this bill allows the use of residential recovery facilities to house clients as long as they are secure.

H. 467 An act relating to limited liability for a landowner who permits a person to enter the owner's land for recreational use

This bill adds non-commercial aviation to the list of activities where a landowner has some liability protection. This will help private flying clubs and small private airports in the state develop recreational possibilities.

H. 781 An act relating to making appropriations for the support of government

In many ways the budget is the most important bill of the session as it funds the state's priorities each year. Here is a short article on the budget from budget committee member Rep. Ann Manwaring that well describes the challenges this year and the choices made to bring a balanced budget from the committee to the full house.

“For the fifth year in a row, we began our FY 13 budget deliberations facing a projected shortfall, this time \$50 Million in the \$1.3 Billion General Fund budget as proposed by the Governor. The total budget approved today when all funds are combined, including Federal Funds, the Education Fund, the Transportation Fund, etc. is \$5.01 Billion. This represents an overall increase of 6.4% over the FY 12 budget, an increase which looks large until you realize that almost half the increase relates to Irene recovery and another \$43 Million resulted from school boards approving a 3% increase in their budgets, rather than the 1.7% proposed in the budget.

That leaves about a 2.5% increase over the current year. 2% of that amount is largely accounted for by \$55 million in increases driven by a change in the Federal Medicaid reimbursement rate, increased retirement costs, and negotiated pay increases, most of which are to restore the cuts State workers took to help Vermont through the worst of the recession, and to replenish the Tobacco special fund which also had been used to help during the downturn in revenues.

This appropriations bill creates a new system of reserve accounts. We still maintain the Stabilization Reserve, which is required to be in the range of 5% of what is appropriated in the General Fund. Stabilization Reserves are a staple of government accounting, required by GASB (Governmental Accounting Standards Board) and which is used only to smooth out cash flow issues and to otherwise be held in reserve. Our bond rating depends on the continued existence of this stabilization fund. But within the new budget, a framework is created to deal with end of the year revenue surpluses, one of which creates a true rainy day fund. In the future, surpluses will be divided three ways. 50% will go to the General Fund transfer to the Education Fund until the base transfer returns to its statutory requirement, 25% will go to a reserve fund to cover unanticipated cuts in Federal programs, such as LIHEAP, and the other 25% will go into a new fund called the rainy day fund, which can be used to cover future state revenue shortfalls.”

The bill passed 101 to 40 and I voted yes.

H. 778 An act relating to structured settlements

This bill was also reviewed in Commerce before Judiciary reviewed the bill from the point of view of the courts who have responsibility for the design and transfer of structured settlements. A structured settlement is a payment a person may receive over time from a damage suit. Briefly, the bill gives the judge guidance and a process to follow, allowing for independent financial advice when a person wants to sell a settlement they may have received but the judge has reason to believe it may not be in the person's best interest.

H. 779 An act relating to the water quality of state surface waters

This bill would require the secretary of natural resources "to submit a report to the general assembly regarding how to enhance, implement, and fund programs to improve the water quality of state surface

waters. The bill would also transfer the rulemaking authority of the water resources panel of the natural resources board to the agency of natural resources." The report would detail how best to meet the goal of improving and protecting state surface waters.

H. 613 An act relating to governance of the Community High School of Vermont

This bill made needed clarifying corrections to the statute governing the Community High School of Vermont that is part of the state's corrections system.

If you happen to have read all the way to here, congratulations. It was a long list of bills for the week as it represents many weeks work of all the House committees. Next week we will deliberate the capital bill and the miscellaneous tax bill and others.

As always, please let me know if you have questions and when I can help put you in touch with departments and agencies in state government. I hope everybody has a very good week.

Stay in touch,

Bill

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