

March 31, 2013

Hello all,

I hope you have enjoyed the weekend. I have. Saturday it was good to see many of you at the Transfer Station and have a chance to discuss many of the issues we have been working on or may come up for a vote in the legislature. I am usually at the Transfer Station between nine-thirty and eleven but if you don't see me and want to talk send an email or call (contact info at the end of this message) and we can set up a time. Saturday afternoon I took a walk with Ruth down to the duck pond to see the Mergansers that come through this time of year. It was good to feel the warmth of the sun and see the ice letting go on the pond. Then on Sunday neighbors and their young daughters came over for an informal Easter egg hunt. The girls were beautiful in their bright spring colored outfits. This time of year brings the pleasure of seeing change and the early signs of new growth

Last week in the state house we continued our work on bills that must go to the Senate. The days were especially long and Thursday we worked until 9:30 PM to move the annual revenue and spending bills through the process. These bills always bring difficult choices but overall I believe we passed fair and balanced measures that meet the needs of the state with the financial burdens fairly distributed. Here's my weekly list of bills that passed the house.

H. 526 An act relating to the establishment of lake shoreland protection standards

Vermont's lakes from the largest to the smallest are one of our most important natural and economic resources. However, Vermont has fallen behind in shoreland protection in the northeastern states and nationally. We heard that only 17% of Vermont shore land is in good condition compared to 42% regionally and 35% nationally. New Hampshire, Maine, Massachusetts, Rhode Island and Connecticut have shoreland protection standards but Vermont does not. We put standards in place in 1971 and then repealed them in 1976. Maine and NH used our standards in 1971 and now have healthier lakes and ponds. Clear standards lead to healthier and more enjoyable lakes. The committee report on the bill cited testimony from environmentalists, scientists, educators, property owners and lake users who called for the need for standards and protection.

The bill allows for considerable statewide public input into the standards with a report back to the legislature in April 2014, before the standards are put in place in January 2015. The bill also allows towns that wish to keep their local standards to do so or develop them as long as they are

equal to the state standards. Those that chose to develop local standards have until January 2015 to do so. Also the standards that regulate Agriculture or Forestry will remain in place.

An amendment to delay this process which has been underway since 2013 was defeated 48 to 99 and the vote on the bill was 100 to 42 and I voted with the majority.

Here are the findings in the bill:

The General Assembly finds and declares that:

(1) Vermont's lakes are among the State's most valuable and fragile economic and natural resources, and the protection of naturally vegetated shorelands adjacent to lakes is necessary to prevent water quality degradation, maintain healthy habitat, and promote flood resilience.

(2) Naturally vegetated shorelands and implementation of best management practices in lands adjacent to lakes function to:

(A) intercept and infiltrate surface water runoff, wastewater, and groundwater flows from upland sources;

(B) remove or minimize the effects of nutrients, sediment, organic matter, pesticides, and other pollutants;

(C) moderate the temperature of shallow water habitat;

(D) maintain the conditions that sustain the full support of aquatic biota, wildlife, and aquatic habitat uses; and

(E) promote stability and flood resilience by protecting shoreline banks from erosion.

(3) Healthy lakes and adjacent shorelands:

(A) support Vermont's tourism economy and promote widespread recreational opportunities, including swimming, boating, fishing, and hunting;

(B) support property values and tax base; and

(C) reduce human health risks.

(4) According to the Agency of Natural Resources Water Quality Remediation, Implementation, and Funding Report in 2013, review of the development, protection, and stabilization of shorelands is necessary because of the importance of shorelands to the health of lakes.

(5) A lake or pond of more than 10 acres is located in 184 of the State's 251 municipalities. However, only 48 municipalities have shoreland zoning that requires vegetative cover. Scientifically based standards for impervious surface and cleared area adjacent to lakes are

necessary to protect and maintain the integrity of water quality and aquatic and shoreland habitat, while also allowing for reasonable development of shorelands.

(6) The State has an interest in protecting lakes and adjacent shorelands in a manner that respects existing rights of property owners to control access to land they own in lake shorelands, and the regulation of the creation of new impervious surface or cleared area in the shoreland areas should not and does not affect the ability of property owners to control access to their lands.

(7) In order to fulfill the State's role as trustee of its waters and promote public health, safety, and the general welfare, it is in the public interest for the General Assembly to establish lake shoreland protection standards for impervious surface and cleared area in the shorelands adjacent to the State's lakes.

H. 528 An act relating to revenue changes for fiscal year 2014 and fiscal year 2015

This bill passed 85 to 55 and I voted yes. The two amendments that received the most debate were one on "cloud computing" and one on reinstating the sales tax on items of clothing costing more than \$110. Here are the reasons the committee cited for their recommendations on these issues.

"The "cloud" tax is a misnomer for the sales tax applied in Vermont on prewritten software accessed remotely. It does not apply to all purchases made in the cloud. 21 states apply the sales tax to some aspects of remotely accessed prewritten software -- some tax infrastructure, platform, and customized software in the cloud (e.g. data storage, server farms, web development). Vermont's tax would only be on prewritten software like TurboTax or Quickbooks that consumers formerly purchased in a store and now are generally purchased online. It is an issue of fairness and of not creating a new exemption for a growing source of revenue as more technology moves to the cloud and more purchases move online. There has been some conversation about working in the Senate to allocate some of the revenue gained through taxing remotely accessed prewritten software in some way to telecommunications infrastructure expansion, which we know boosts our economy and creates hi-tech jobs.

The sales tax on clothing with the \$110 threshold was in place prior to 2006. In order to comply with the Streamline Sales Tax Agreement, which at that time didn't allow thresholds, Vermont decided to exempt all clothing. More recently, the SSTA determined that a state that used to have a threshold could continue that threshold or reinstate it. This is something that retailers lived with prior to 2006 and affects only a small amount of the total value of clothing sold. Having a threshold allows us to soften the regressive impact of applying the sales tax to clothing. It acknowledges that a regressive tax will otherwise hit lower income Vermonters harder, and basic clothing items, most of which cost less than \$110, are a necessity.

Overall the bill H.528 raises less revenue than the Governor recommended and does so fairly across all incomes. It does not raise revenue by reducing the Earned Income Tax Credit for low income working Vermonters or through break open tickets. Important to businesses, the bill

repeals the employer assessment for health care that was a burden for small business owners. When it does raise revenue there is a clear rationale as it reduces exemptions to the sales tax on non-essential items such as candy or soda. Overall, the bill asks those who can afford it to pay a little more and minimizes cuts to anti-poverty programs.

H. 530 An act relating to making appropriations for the support of government

Every bill on the House floor is introduced by the reporter of the bill in a short speech. Here is how Rep. Martha Heath from Westford, Chair of the House Appropriations Committee introduced this year's budget bill.

“Mr. Speaker,

Preparation of the FY14 budget required, for the 7th year in a row, addressing a gap between available resources and estimated expenditures. While the nation is easing its way out of the Great Recession, revenues for the state of Vermont have just returned to 2008 levels. Finding the right balance between maintaining necessary services while making investments for the future was the challenge my committee faced.

The budget before you today spends less than what was proposed by the administration and leaves \$9M in reserves. This is a responsible course of action. Federal sequestration will impact Vermonters in many arenas, from the military to education, and we will have to evaluate those new needs. Putting money aside makes sense both for addressing these potential needs and for keeping the state on a more financially sustainable path.

This budget also makes important investments. It addresses the Medicaid cost shift by increasing provider reimbursement by 3%. This benefits hospitals and doctors as well as our VNAs, Designated Agencies and others that serve the developmental service, mental health and choices for care populations. Language in the bill directs insurance companies to acknowledge this change in their rates, thus lowering health insurance rate increases from what they would otherwise be. This should directly impact Vermonters who purchase private insurance. We've eased the transition for Vermonters moving from Catamount and VHAP into the Exchange by providing premium and cost sharing subsidies in the amounts recommended by our Healthcare Committee. For the first time we are appropriating dollars for LIHEAP in our base budget, reluctantly recognizing that what was for many, many years a federal responsibility must now be partially paid for by the state.

While we weren't able to do all that the administration proposed in the area of childcare, the budget does change the fee scale in the subsidy program to help parents return to work and move to self-sufficiency. Finally, we make an investment in higher education that will all be used to provide scholarships to students thus lowering the debt burden on young Vermonters while giving them better employment options. This is a critical investment in our future.

We've taken steps to both build jobs and get people back to work. By investing in the work of the Clean Energy Development Fund, working lands, and supporting employers hit by Irene we are building industries and jobs of which Vermont can be proud.

Mr. Speaker, the administration presented the legislature with a budget that combined investments in programs that we supported with sources of revenue that did not work. In working through this seemingly insurmountable challenge, your Appropriations Committee has worked hard to find the right balance between fiscal responsibility and making investments for the future.” – Rep. Heath

The budget bill every year is the most deliberated and debated bill we pass. This year was no exception. The most significant debate concerned Reach Up. The committee position was thought too frugal by some and too lenient by others. It basically put a cap on Reach up at five years with allowable exceptions if an individual was complying with their plan but individual circumstances warrant a waiver. Amendments were offered but the Appropriations Committee position prevailed.

Here are some of the highlights of the Budget as passed by the House. The budget:

- Increased the appropriation to Higher Ed, the first increase in four years, by making available \$2.5 million additional scholarships for Vermont students,
- increased payments to Medicaid providers by 3% to reduce the shift of costs to private and insurance pay patients. ;
- budgeted \$6 million for home heating fuel assistance for the first time, replacing federal money;
- placed a 5-year cap on Reach Up clients and also increased the fee scale for child care beneficiaries, expanding the number of people who are financially viable to work;
- increased the investment in Working Lands;
- supported the Regional Development Corporations with an additional \$200,000 to expend their work in developing economic opportunities throughout the State;
- appropriated \$325,000 to provide all eligible school children lunch as well as breakfast, to improve learning opportunities;
- Set aside \$6 Million in a reserve for the impact of Federal Sequestration. Revenues raised in the tax bill also enacted last week added an additional \$3.1 Million to this Reserve for a total of \$9.1 Million.
- Increased the subsidy to child care providers.

These investments are important to our area. For example, the increased Medicaid and childcare subsidies means an extra 1.3 million to Bennington County.

In the final vote on the budget it passed 91 to 49 and I voted yes.

H. 60 An act relating to providing state financial support for school meals for children of low-income households

This bill proposes using state funds to pay an eligible student's portion of a reduced-price school lunch. This is because federal funds are decreasing though it is well established that nutrition is important for learning. These are General Fund, not local property tax dollars. The bill passed 120 to 10 and I voted yes.

H. 329 An act relating to the Use Value Program

The bill proposes "to change the rate of the land use change tax. The bill would change the way certain types of land are categorized and would provide an easy opt-out for landowners who are currently enrolled in the Use Value Program but who choose not to stay in the Program. The bill also would require the Vermont Agricultural and Forest Products Development Board to work on ways to improve the Use Value Program"

Here is a short article on this year's Current Use Bill by Rep. Alison Clarkson who sponsored the bill.

CURRENT USE 2013 by Alison Clarkson

"The Current Use bill 2013 continues our efforts to improve and strengthen this invaluable tax policy, making it fairer and financially more sustainable. This tax policy, formally known as Use Value Appraisal, is often referred to as "the most important, most successful conservation program in Vermont" and it is one of the foundation blocks for Vermont's Working Landscape.

H.329 has five major elements:

1. It reinstates a meaningful penalty when owners withdraw land for development. Putting the 'teeth' back into the penalty will help reduce abuse of Current Use by deterring short-term enrollment of land not intended for long-term agricultural and forestry use.
2. It provides for an 'Easy Out'
3. It creates a Study Committee to look at the Municipal Reimbursement rates

4. It asks the Division of Property Valuation and Review to create a consistent method of assessing conserved land and land in Current Use

5. It repeals the administratively unworkable legislation that the Legislature enacted last year.

Ways and Means eliminated the painless withdrawal penalty, which was based on pro-rated value (which assumes all your acres are of equal value) and replaces it with a tiered version of the original penalty based on fair market value. The new tiered penalty system rewards landowners who have kept their land in Current Use for longer time periods:

- 0-12 years @ 10% FMV;
- 12-20 years @ 8% FMV; and,
- 20 plus years @ 5% FMV.

Immediate family members will be able to step into the shoes of the previous owner – allowing the land to be continuously enrolled. A new owner could keep the land in Current Use but would have to re-enroll it – and start the clock afresh.

Each year we see 3- 5,000 acres pulled out of Current Use, with current penalties of about \$500,000. In the future, with the new tiered fair market value penalty in place, once we return to normal markets, we expect to see an increase in the penalties, the Land Use Change Tax, of \$2.7 to 3 million a year. Combined with the properties going back onto the grand list as a result of our Easy Out provisions, the FY14 budget is anticipated to have a \$1.5 million increase.

Ways and Means has asked for a study to examine the rate that the state reimburses our towns for land in Current Use. We have found them to be wildly inequitable, even among similar towns. For example: in 2009, Shelburne received a reimbursement of \$35.43 per acre, while next door Charlotte received \$6.83 per acre and St. George received \$3.08 per acre. Similar disparities exist all over the state. And, we are asking Property Valuation and Review to provide guidance for consistent assessment of lands in Current Use and conserved lands.

Lastly, this bill repeals the wastewater provisions imposed on the Department of Forest, Park and Recreation. They proved to be an administrative nightmare.

Facts about Current Use/Use Value Appraisal: UVA is the tax policy, enacted in 1978, which taxes land on its ‘use value’ – on how the land is used – not on its market value. This has helped preserve VT’s working landscape – its agricultural and forestry industries – and kept them viable for the past 30 years. It has been critically important in protecting our farms from rising land values and property taxes – especially important in high real estate value areas. It requires that enrolled forestland be managed productively. Its success has helped VT maintain its scenic beauty upon which our dairy, forestry, specialty foods, and tourism industries have been built.

- 1/3 of VT’s land – about 2.3 million acres - are in Current Use:

- 2/3s of these are forest acres and 1/3 are agricultural acres
- These acres represent about 17,000 parcels and 13,800 owners.
- Vermont residents own about 75% of enrolled land.

While preserving a way of life and our working landscape in Vermont, Current Use also has a profound economic impact on our state. It is estimated that Current Use has about a \$4 billion impact in VT – from dairy, to specialty foods – meats, cheeses and maple syrup, to the wood that heats our office buildings, homes and schools – or that is used in making furniture – to the jobs: butchers, loggers, farmers, truckers, feed and seed businesses, vets, foresters, artists, furniture makers – and it includes their income taxes, sales taxes, and the huge economic impact of tourism.”

As always, here's wishing you a very good week.

Stay in touch,

Bill

Rep. Bill Botzow