

Report from Under the Golden Dome

Hello Everyone,

This 2009 legislative session was the most difficult, intense, fast paced and yes, one of the shortest sessions that I have experienced since I have served in the state house. And on June 2 we were called back into session by the governor because of his first-in-history veto of the budget passed by the Legislature. The special session finally came to a close late night, June 3. The Legislature by a vote of 100 to 50 chose to override the governor's veto. This action ensures that the budget will be in place July 1. The Legislature also passed a companion bill to the budget which addressed many of the concerns the governor expressed in his budget veto message. Some of the highlights of this bill include the creation of two, one day sales tax holidays - one this August and the other in March of 2010. We have also protected the sale of farms and timberland from increased capital gains taxation. The bill also begins to address the huge problems with the unemployment insurance funds and also creates state employee retirement incentives.

The budget as passed by the Legislature is a very painful mix of deep cuts to programs that affect the elderly, the sick and those Vermonters with the lowest incomes. It includes a modest revenue increase, closes some income and capital gains tax loop holes, uses federal stimulus revenue and even a little reserve fund to create a balanced budget. This was not an easy budget to create nor to pass in the Legislature. As difficult as this process has been and given the options, I believe that successfully overriding the veto of the budget was the best choice. The Legislature and the administration had been negotiating this budget for the past five months. In the past two weeks, negotiations and talks were held every day for hours on end. It was clear no settlement would be reached. If we had failed to override the veto I believe that we were looking at the possible shut down of most government services on July 1. I say that because the budget that the Legislature initially passed and was then vetoed was already a budget built on compromise. Although I believe that it is responsible and sustainable, it includes huge cuts to services to our most vulnerable and needy citizens. Most members of the majority party agreed that this was as far as we could go. We would not agree to any further reductions, and we were not going to agree with anything that would put more pressure on our local property taxes. With a budget now in place, we can now go forward and hopefully work together with the governor to continue to find solutions to the many problems we continue to face. It won't be easy, but I am convinced that we will work together going forward.

However, the Legislature was very productive this session. The governor is still busy signing many of the bills we passed into law. As the chair of the House Natural Resources and Energy Committee, I am very happy to report that the governor has signed or allowed to pass into law three of the four bills that were crafted by my committee and passed by both the House and the Senate. These include a bill requiring all manufacturers of anti-freeze to add an embittering agent to the product so dogs and young children will no longer be tempted to ingest the coolant. Also the use of *deca* as a fire retardant will no longer be allowed in mattresses and residential furniture. Our fire fighters have been very concerned about their exposure to this product when entering burning buildings. The most important and productive renewable energy and energy efficiency legislation in recent history, which will have an immediate and positive impact on our economy is now law. The other major piece of legislation crafted by my committee, the Vermont Yankee decommissioning bill was recently vetoed by the governor.

The following is a more complete description of the many other legislative accomplishments this session. If you would like more information please contact me by e-mail at twk@tonyklein.com or feel free to call me at 802 793 6032.

Wildlife and Water

Hunting, fishing, farming and logging have contributed much to the economy and culture of Vermont. Stewardship of Vermont's wild resources is the duty of the Fish, Wildlife, and Water Resources Committee.

H.15 is an act relating to Aquatic Nuisance Control. A more rapid response, within six months of discovery, is needed when a new invasive species is discovered in Vermont lakes or streams. The bill aligns permitting and allows our Agency of Natural Resources to respond quickly to contain and eliminate invasive species. Water recreation is an important driver of Vermont's economy and the agency needs to act efficiently to preserve our water quality.

Another area of economic concern was addressed by H.16, a bill relating to deer damaging forest resources. The woodlands sector is, after IBM, the second most important industry in Vermont. Because Vermont's forest industry depends on natural regeneration, there is a period of time when saplings are vulnerable to deer browsing. H. 16 would allow woodlands owners to keep the deer population at a level where they are not wiping out young trees. To get the number of deer down to sustainable levels we need to harvest more each year. The bill is in the Senate Natural Resources committee awaiting action in January 2010.

Salvage Yards

Properly operated salvage yards play a key role in recycling dead autos. Poorly operated yards amount to a serious threat of environmental degradation. The State can't afford to institute a full-blown permitting process at this time, so S.47 allows the Agency of Natural Resources to appoint a "circuit rider" to identify how many unlicensed salvage yards there are in the State. Those salvage yards currently licensed will not fall under the new rules until their licenses expire. S. 47 passed on the final day of the session.

Fish Hatcheries

Vermont's fish hatcheries contribute to the sterling reputation of Vermont's sports fishery by assuring a plentiful supply of valued species and by maintaining special brood stocks of popular sports fish species. During the budget process, when we found Vermont's financial resources stretched, much consideration was given to closing Vermont's fish hatcheries. The House argued against closure because of the value our hatcheries have to sport fishing in Vermont. The current budget keeps hatcheries open.

Investing in Vermont

This year Vermont will invest in state and municipal infrastructure, provide jobs, and strengthen the economic development of the state through its annual capital bill. The legislation incorporates federal stimulus money (ARRA) with the annual bond so that the total infrastructure spending will be over \$109,000,000.

Vermont will construct an urgently needed forensics lab in Waterbury. We will complete the renovations of the Vermont Veterans Home in Bennington. We will complete another phase of the construction of the archives facility in Middlesex. In addition to these specific building projects, major maintenance projects to state buildings will be undertaken across the state that will employ many Vermonters.

The federal stimulus money has allowed us to allocate over \$19 million to wastewater treatment projects, and another \$19 million to drinking water projects. Having access to this financing is critical as we will be able to assist so many towns with these improvements. Towns will be in a better position to undertake significant economic development with water and sewer infrastructure in place.

The Vermont Investment Package outlined in the capital bill targets infrastructure investment and job creation in an even more specific way. About \$6 million will go to Forest & Parks for maintenance and expansion of facilities. A portion of the work will likely include summer jobs for young people – like a Vermont Civilian Conservation Corps. There will also be \$1 million for the

standard building communities grants and \$1 million to create transitional and affordable housing.

We continue to pay down the backlog of school construction funding owed to towns for past projects. This year we were able to make a total of \$10 million in payments. The list of schools to receive payments and the amounts of those payments were entirely based on recommendations by the Department of Education using criteria related to the date of the project, the portion of payment already received, and other such considerations. We will continue to work our way down the list of the schools still owed the remaining \$32 million over the next three years. There is still a moratorium on new school construction project financing until we can catch up and plan for a sustainable method of school construction funding.

Corrections reorganization

The Legislature continues to monitor the progress of the re-organization and re-investment initiatives of 2008 in the Department of Corrections. During increasingly difficult economic times, our state corrections system seeks to reduce crime and to reduce offender populations. Vermont must find efficiencies and save money in all areas. In Corrections one way to do this is by targeting the substance abuse problems that underlie many crimes. We have also worked to achieve a more effective distribution of inmate populations across prison facilities.

Creating Jobs and Stimulating Vermont's Economy

The Legislature took bold actions to create jobs and foster growth for Vermont's employers. By investing wisely and creating strategic and innovative policies, Vermont's employers stand to leverage small investments into \$175 to \$200 million worth of economic activity. Such a triumph is hard to come by, particularly when times are tight. But we did it by taking a variety of forward-thinking and strategic measures: More green jobs due to new investments from federal funds and a Vermont Green Jobs Corps. Seed capital that will enable small businesses to employ more workers and expand business. Buy local: A new Farm-to-Plate Investment Program helps farmers, employers, and consumers. More powerful co-ops: A new law allows limited co-ops to raise money from investors. Stronger car dealerships mean more choices for consumers. Bolstered tourism: Vermont will invest more in bringing tourism dollars to Vermont. New income for Vermont: Vermont will be at the cutting edge with e-corporations. Protection = commerce: It may not be exciting, but insurance and trusts are big employers in Vermont. We've strengthened them with new safeguards for senior citizens and more opportunities for these businesses.

Health Care

The Legislature's goals are to improve access to care, improve quality and to contain costs. Prevention and early detection of disease are sure ways to contain costs and keep Vermonters healthier through their lives. Insurance coverage that pays for screening is critical for early detection. H. 24 requires insurers to cover the costs of colorectal cancer screenings for people over age 50 or in high risk categories and caps the co-pay at \$100.

S.129 addresses the problem of rising costs. First, it looks at how the availability of a service affects the use (and perceived need for) that service. It sets in motion a process to uncover the causes for local differences in the use of, say, a CT scan, and then to adjust some of the mechanisms in place to monitor or affect use, thereby improving health care delivery and saving money. Second, it asks for a plan for how to integrate "shared decision-making" into the Blueprint for Health—a model that has been shown to both increase quality of care and decrease costs. Third, it sets up a work group in conjunction with Dartmouth Institute and Brookings Institution to create an "accountable care organization" (ACO) demonstration project. An ACO is a network of providers who are accountable for costs and quality and who share the savings inherent in improving quality. This is a significant initiative in payment reform.

Reforming health care

H. 444 allows farmers and other self-employed people applying for Catamount Health Care to include depreciation as an allowable business expense for income purposes, and it exempts self-employed people who lose their insurance from the 12-month waiting period. This omnibus health care bill also positions Vermont to receive federal stimulus money for health information technology. It allows providers to send a patient with chlamydia (a sexually transmitted disease) home with a prescription for his/her partner as well. It also asks providers to develop recommendations for how to coordinate stroke treatment around the state, and it sets up a pilot program, supported by a bulk purchasing pool, to provide vaccines for all adults and children in Vermont at no cost. Finally, it bans the flame retardant known as “deca” because, ironically, when it burns it’s highly toxic.

Drug marketing

One of the great contributors to rising health care costs is the amount spent on prescription drugs. S. 48 bans most gifts pharmaceutical companies give to doctors and increases transparency in the marketing of pharmaceuticals and other “prescribed products.” Vermonters spent 52% more on drugs and non-durable medical supplies in 2007 than in 2002. And by many accounts, almost a third of every dollar spent on prescription drugs now goes to marketing. This marketing occurs for prescription drugs, biologics (a class of expensive, “large-molecule” drugs) and medical devices (pacemakers, artificial knees, etc.). The bill bans gifts—including free meals—from manufacturers to providers with some exceptions, and it requires disclosure of most of these exceptions. But the manufacturer’s most important marketing tool is the ability to provide free samples. Free samples—of the newest drugs, which tend to be more expensive—tend to affect physicians’ prescribing patterns for obvious reasons. (Contrary to popular belief, these samples don’t go primarily to low-income patients.) The House bill also required manufacturers to report free samples given to providers. But a last-minute compromise with the Senate resulted in exempting free samples from disclosure.

Roads and bridges

Vermont’s roads and bridges will be getting some much needed attention at long last. While stimulus funds strengthen Vermont’s ability to respond to the enormous backlog of needed transportation projects, the assessment on fuels will see funding well beyond the quick flash of stimulus cash. The Legislature passed in the final week of session a transportation bill (T-Bill) that maximizes the stimulus funds and establishes a fund that will be available for projects far beyond.

Bonding was a part of the total package; however, the bill reserves the issuance of bonds until the need is proven. The bill imposes a 2% assessment on the retail price of gasoline, which is about 4 cents per gallon. Revenue from the assessment, along with a 3-cent-per-gallon assessment on diesel fuel, is segregated from all other transportation fund revenue in a special fund. The transportation infrastructure bond fund is dedicated to payment of the debt service on the bonds. Revenue in excess of debt service requirements may be expended on transportation capital projects.

Amtrak funding was restored, to much community delight. The agency of transportation will be seeking an additional \$100 million federal competitive rail grant. Members of the Transportation Committee will be watching the grant process over the coming summer and fall.

Local municipalities had a roller-coaster experience this session, as budget discussions went round and round on town program funding. In the end, funding was protected and towns have access to an additional \$10 million in stimulus funds and a third round of enhancement grants.

Watch the roads; the paving and construction season has begun!

Transportation

The transportation budget will provide work for many Vermonters by repairing our roads and bridges. It is one area where stimulus money will be visibly helping Vermont's economy. Besides the increased tax on gasoline and diesel fuel, motor vehicle registration fees will increase. We have maintained two license plates but will save money by requiring only one registration sticker (rear plate). The recession's effect on transportation revenues means that even with the increase in taxes and fees, the state revenue projected for 2010 is still \$10 million less than in 2009. The addition of stimulus dollars has helped us add projects and thus jobs.

Town highways will be level-funded for next year with no make-up of the 15% that was lost this year. Local towns will be able to access an additional \$10 million in stimulus money.

Renewable energy

House Natural Resources and Energy passed legislation this year to help the state develop its renewable energy sector. H.446 has the public service board set long-term, stable contract prices for small renewable energy producers, ranging from solar to small wind and methane projects. As proof of the number and kinds of jobs that will be created, we counted 75 Vermont companies that were involved in building just four of the most recent farm methane digesters. Contrary to critics' assertions, this legislation protects ratepayers through strict caps on sizes of projects and total percentage that will be eligible statewide. Estimates are that at full build-out (which may take years) rates may rise from half a percent to one and a half percent (50 cents to \$1.50 on a \$100 bill). Larger consumers of electricity may be allotted special rates to protect them further. H.446 also directs federal stimulus funds intended for energy projects, aligns our building codes to make the state eligible for other federal funds, and offers programs for municipalities to build biomass projects (Montpelier and Randolph will be first) and offer low-interest loans for residents' energy-saving projects if voters so choose.

Decommissioning VT Yankee

Another important bill was the Vermont Yankee decommissioning legislation, which states that upon sale or transfer of ownership of the plant, its decommissioning fund must be shown to be adequate to begin cleaning up the site. That means that the long-term "Safestor" form of decommissioning cannot be used as a financial instrument. Safestor would put the nuclear power plant in storage while money in the decommissioning fund grows in the stock market. The fund would not need to be made whole with cash -- a parental guarantee, for example, may suffice. If the plant is NOT to operate beyond 2012, the fund must be adequate as of March 22, 2012, the day after the current license expires.

Marriage equality

Civil marriage, S.115, captured the headlines and hearts of most Vermonters who view civil marriage as a right to be accorded to all persons. The House and Senate overwhelmingly supported marriage equality, in spite of a veto by the governor. As of September 1 of this year, two persons of the same sex will be able to legally marry. In that process, no one's rights will be abridged.

Sexual violence prevention

The governor signed into law legislation that enhances the comprehensive statewide approach to preventing child sexual abuse (S.13). Education is viewed as an important component of prevention. Therefore, schools will develop educational programs to recognize and prevent sexual abuse and sexual violence, provide appropriate instruction about healthy and respectful relationships, develop and maintain effective communication with trusted adults, recognize sexually offending behaviors, and increase awareness of available school and community

resources. The school board will provide opportunities for parents, guardians and other interested persons to receive the same information.

Concern for the welfare of victims of sexual violations will be addressed through the use of special investigative units which are comprised of specially trained persons to work with victims; depositions will not be taken unless absolutely necessary. And if depositions are taken, measures will be put in place to assure the victim's well being.

A new crime, aggravated sexual assault of a child, carries significant penalties. The offender could be imprisoned for not less than 25 years with a maximum term of life, and, in addition, may be fined not more than \$50,000. The 25-year term of imprisonment required may not be suspended, deferred, or served as a supervised sentence, and the defendant will not be eligible for probation, parole, furlough, or any other type of early release until the expiration of the 25-year term of imprisonment. The court may not defer a sentence for this crime.

The Department of Corrections will be carrying out a comprehensive systems approach to the management of sex offenders upon their release which employs longer and more intensive community supervision of high-risk sex offenders.

Tougher registry requirements

Once again, in S.125, the goal was a continuing effort to protect those in our community who are the most vulnerable. The avenue followed here was a response to the federal Adam Walsh Act which calls for extensive additions to the Internet sex offender registry. Addressed in this legislation is the practice of "sexting," the transmission of indecent pictures on cell phones by teens. Those participating in "sexting" will be held accountable and educated as to the consequences of their actions but will not be placed on the registry.

Persons who have been released from incarceration may be placed on the registry accessible on the Internet. Whether they are placed on the Internet registry will be determined by the offense and whether they have been deemed at high risk of offending again or have committed crimes that require lifetime registry. Additionally, fingerprinting of suspects will be allowed at the charging stage and access to records of an inmate who has been released into the community that may be relevant to current investigation may be accessed by court order. Change of name to avoid being listed on the registry will not be possible and persons moving into Vermont who are already listed on other state registries will be listed on the Vermont registry.

Supporting Vermont's affordable housing system

A bill relating to mobile home parks was an early focus of the Housing Committee. Testimony led us to conclude that we needed to gather more information before we moved forward with the bulk of the bill, so a committee will report back to us in January. Legislative council will also work to compile the statutes relating to mobile home parks; language relating to mobile homes and parks is scattered across our books and in order to effect further change we will have to try to bring it all under one section. We expect to pass out a fuller version of H. 92 next spring.

The House is concerned about the future of the Vermont Housing and Conservation Board (VHCB) and the impact cuts will have on programs VHCB supports. The survival of VHCB is important to much of the housing work Vermont hopes to accomplish in the future. The budget bill preserves much of the funding and also contains language to reconfigure the VHCB board and clarifies the importance of VHCB in the handling of ARRA (federal stimulus) funds moving forward.

The House also heard testimony with respect to Vermont Housing and Finance Administration (VHFA)'s request for added use of their "moral obligation" ability. Given the crisis with the secondary mortgage market, VHFA is being asked to pledge more funds for each large loan they make and if they are going to continue to make the best use of their funds, they need to use moral obligation bonds to secure loans. Given the size of VHFA and the continued room

under our bonding capacity, the permission to expand the use of bonding in this manner should not be a problem for VHFA or Vermont's credit rating.

Education

The miscellaneous education bill, H.427, does many things. Of interest to parents and students: It permits parents of children in a district that does not maintain an elementary school to give early notice of intent to send their child to a non-designated but approved school in the coming year. The district will pay the lesser of three amounts but never greater than its average per-pupil tuition.

It increases access to high quality programs for teen parents and more clearly lays out the responsibilities of the district and providers. It requires the Department of Education, state's attorneys and judges to develop model uniform truancy programs. It also uses existing school student support teams to focus on at-risk students and report on the needs addressed, strategies used and successes. (It permits the Department of Education to oversee after school programs instead of the Department of Children and Family Services.) Students will NOT have to drop out of school to access high school completion programs.

Of interest to school administrators and boards: The bill requires schools to announce their tuition rates earlier, so that sending districts can better prepare their budgets. It allows districts to designate a public high school for its students. It allows a district to choose either to include or exclude tuition from its calculation; either one may increase or decrease per-pupil costs. It updates hearing and vision screening practices. It mandates that approved capital construction, planning for small school merger, certain after-school programs and programs for at-risk youth are not included in the calculation for the divided vote. It simplifies the ballot language for a divided vote and clarifies for the voters why the vote is divided. Finally, it permits the commissioner rather than the State Board of Education to grant variances in limited circumstances and inform other districts of these innovations.

Another bill, H.405, requires the state colleges, UVM, Vermont's independent colleges, and the Department of Education to come together to look at the issue of barriers to school success and to jointly develop and report on strategies to expand educational opportunities for students to succeed in elementary and secondary schools and post-secondary education.

Agriculture in Vermont

Vermont is the Green Mountain State, literally, because we're 78% forestland and another 14% farmland—making an astounding 92%. But keeping that rural resource productive and profitable remains a deep challenge. Both sectors are going through a punishing downturn: dairy farmers will lose, on average, approximately 40 cents on every gallon of milk they produce in 2009, and lumber demand is down approximately 70% since last fall and mill layoffs are approaching 50%.

The House Agriculture Committee has, this session, continued last session's overall strategy to *support the diversification* of Vermont agriculture as well as our *existing, largely dairy, base*. We have also worked to expand opportunities for the forest and wood products sector. We also took a productive, cross-committee approach, as we developed two bills (Farm to Plate, and Biomass) in partnership with Commerce and House Natural Resources and Energy, respectively. The committee developed seven bills to support ongoing *diversification*:

H.58, Dairy Goat Milk This bill defined new standards for goat's milk to help this growing sector develop further. Goat's milk currently brings farmers five times as much as cow's milk, and Vermont cheese producers are looking for more supply.

H.62, Working Farm Dogs Vermont's many small farms include animals (such as sheep, chickens, and turkeys) as well as crops (think woodchucks!) that need protection from predators. This bill allows registered working dogs on farms to do their work without being subject to local dog laws, such as leash laws or complaints about barking.

H.125, Raw Milk There is consumer demand for fresh, local raw (unpasteurized) milk. While

small-scale sales have always been allowed under Vermont law, there were no defined standards until this bill, which creates 20+ rules to help promote sanitation, safe handling, animal health, and consumer education. This milk also currently sells for six to ten times as much as store-bought milk.

H.152, Biomass Energy This bill establishes a biomass energy development working group to help develop the environmentally safe and sustainable harvesting of more low-grade forest wood for use in generating both heat and electricity. A modest increase in this activity will add \$200 million dollars to the Vermont economy.

H.192, EBT Vermonter's spend approximately \$7M each month purchasing food with food stamps (now called 3 Squares), but local farmers have been largely unable to sell to these customers for the lack of Electronic Benefit Transfer (credit card) machines at farmer's markets. This bill provides machines for another 7 markets this year.

H.231/H.313, Farm to Plate This bill addresses the greatest opportunity in Vermont agriculture today: we only grow 3% of the food we eat, and we send \$2.6 billion dollars a year out of state to purchase our food. A 10% shift in our consumption from out-of-state sources to in-state sources generates \$500 million in economic activity, which exceeds the total gross receipts for milk even in a year with high milk prices.

This bill will inventory and map our fragmented food system to find the gaps and opportunities to increase in-state growing, processing, distribution, and consumption of Vermont-grown food.

JRS.26, Industrial Hemp This resolution calls on the federal government to re-recognize and legalize hemp (the non-psychoactive cousin of marijuana). Hemp was once widely grown and has many, many profitable uses from food to fiber to fuel. Last year we created an in-state program to support hemp, but we must first get a change in federal law before crops can be grown.

S.94/H.93, Maple Sugaring on State Lands This bill supports the further development of a small program that allows the state to license state-owned forests for maple sugaring. There is a good opportunity here as maple sugar is at an all-time high on world markets, and Vermont maple sugar is perceived as a premium product.

S.89, VMC and Milk Surety Bonding The committee developed this legislation to provide ongoing support for *our existing dairy base*. The bill directs the Vermont Milk Commission to meet again to consider establishing an over-order premium for milk sold in Vermont. The bill also established a bond requirement for large-scale processors purchasing milk from Vermont milk cooperatives in order to protect the coops from potential losses, as at any given time they are owed \$10-12 million dollars for milk already delivered.

Emergency Loans for Spring Planting The House and Senate Agriculture Committees, working with the Agency of Agriculture and the Administration, developed an \$8 million dollar loan program with VEDA to enable farmers to buy the seed and fertilizer required for spring planting.

In these bills taken together, the House Agriculture Committee, and the House as a body, is making wise choices to invest in the future of Vermont.