



2008 Final Legislative Wrap Up

The Vermont General Assembly adjourned on Saturday, May 3, 2008, at 4:30 p.m. Unlike the past two years, there will be no veto session this summer. The General Assembly will reconvene on Wednesday, January 7, 2009, following November elections in which all 150 House seats and all 30 Senate seats, as well as all statewide offices, will be on the ballot. A political overview is set forth below after a summary of VADA issues. A separate summary of H.887, the omnibus health care reform bill, and other pertinent health care bills is attached.

VADA Issues

The following bills of interest to VADA members were passed by the House and Senate during the 2008 legislative session and are awaiting the governor's signature:

S.350, Energy/Gas Guzzler Tax Studies – This is a global warming bill that adds greenhouse gas (GHG) emissions as a factor to be considered across state government programs, including transportation, solid waste management, agriculture, air quality and zoning. The main concept is the creation of a regional GHG inventory and registry to set the stage for expansion of the existing Regional Greenhouse Gas Initiative (RGGI) beyond the electricity sector. Items of particular interest to VADA are:

- Section 14 creates a “Vermont Climate Change Oversight Committee” to oversee program development of the Governor’s Committee on Climate Change (a/k/a the Pomerleau Commission) recommendations as follows:

The primary mission of the committee shall be to consider the recommendations of the governor’s commission on climate change and its plenary group and the recommendations of the Vermont council on rural development and to delegate and oversee program development by appropriate working groups that shall make recommendations with regard to how climate change issues should best be addressed in statute and as part of the climate change action plan. Membership of the working groups shall include members of the Vermont climate collaborative, wherever possible. The working groups shall develop recommendations that shall be designed to reduce greenhouse gas emissions in ways that are permanent, quantifiable, and verifiable, and shall bring those recommendations back to the climate change oversight committee. The committee shall assure that these recommendations:

- (1) identify barriers to be overcome in reducing the greenhouse gas emissions of the state;
- (2) identify areas that merit priority consideration in this regard because of their ease of implementation and their potential to reduce greenhouse gas emissions;
- (3) develop recommendations for ways to overcome those barriers;
- (4) identify resource needs and funding options; and
- (5) facilitate state and private entities in addressing these issues.

The Governor's commission on climate change had a recommendation regarding imposing a new low mileage vehicle tax among its list of options to consider so this study puts that on the table. The committee is to present a preliminary report to the General Assembly by January 30, 2009, and a final report by January 30, 2010.

- Section 17 requires the secretary of the agency of natural resources to report by January 30, 2009, on implementation of the green labeling of motor vehicles law that passed last year.
- Section 18 contains a "Report on Incentives for Efficient Transportation" as follows:

By December 15, 2008, the agency of transportation, in collaboration with the University of Vermont transportation research center and the agency of natural resources, shall report to the house and senate committees on natural resources and energy and on transportation, to the house committee on ways and means, and to the senate committee on finance with:

- (1) An analysis of the role of motor vehicles in creating and contributing to air contaminants in Vermont, and a determination of what portion of overall statewide energy consumption is due to the use of motor vehicles.
- (2) Recommendations regarding policy options that would encourage and reward efficient transportation, reduce the amount of greenhouse gases generated by the transportation sector, and support alternative modes of transportation.
- (3) Recommendations for public education regarding clean and efficient transportation.
- (4) Other recommendations regarding the efficient use of transportation services.

As of this writing, the final bill text is not yet available on-line in a single document.

S.358, Enhanced Drivers Licenses - This bill directs the Department of Motor Vehicles to implement the federal enhanced driver's license program and establishes for a \$25 fee per license. S.358 establishes the information that must be displayed on the license and requires a radio frequency identification (RFID) microchip to be embedded in the license. It outlines application requirements and restricts the use of the electronically readable information embedded in the RFID chip.

[Bill Text as Passed by the House and Senate](#)

S.152, Lead in Consumer Products – This bill phases out lead in consumer products, including children's toys and jewelry. Initially the bill contained a phase out of the sale

of car batteries containing lead but that section was removed. There are two areas that affect motor vehicles:

- Wheel weights (section 2740h(1))- Beginning September 1, 2011, no person shall sell a new motor vehicle with wheel weights containing more lead than allowed by this law. The motor vehicle manufacturers claim they can meet these limits.
- Nonresidential paints and primers (section 2470h(3)) – Beginning January 1, 2009, any person who sells these paints containing more lead than allowed by this law must post a warning sign at the point of sale. Beginning January 1, 2011, the bill prohibits a person from selling paints that exceed the lead limits in the bill. Starting January 1, 2012, paints above the lead limits in the bill may not be USED in Vermont. We checked with a number of dealers and vehicle manufacturers and they all stated that the paint they currently use in Vermont for vehicles is lead free. Dealers should check with their paint suppliers to ensure lead levels are below those limits set in the law.

[Bill Text as Passed by the House and Senate](#)

H.889, T-Bill – The transportation bill for 2009 contains sections of interest to VADA. Section 29 directs the state treasurer, in conjunction with the agency of transportation and the joint fiscal office to look into bonding as a source of transportation funding. Sec. 35 is a public transit study. The bill also contains what has come to be known as “**Project Smooth Ride.**” In late March, Governor Jim Douglas and legislative leaders announced the state would spend an additional \$3 million on paving projects in an effort to repair damage caused by the severe winter. This supplemental paving money was approved by the legislature and will cover about 80 miles of road around the state (See Section 22).

[Bill Text as Passed by the House and Senate](#)

Additional Transportation Bonding Money for FY 09 (S.365, Capital Bill)

In his late session stimulus package, Governor Douglas recommended the legislature approve up to \$10 million in additional state bonding for transportation. S.365 requires the bonding to be approved by the Capital Dept Affordability Advisory Committee (CDAAC) which does not convene until October 2008. The transportation funding will be available for use in 2008 projects through an addendum to the transportation budget, which will be presented by AOT to a special legislative panel before June 30, 2008. AOT will also present the panel with a reserve list of construction projects that can be delayed if CDAAC does not approve the full \$10 million for bonding. This somewhat backwards method of funding transportation projects was devised so the state’s timeline for approval of additional bonded indebtedness would not be accelerated. *Section 27 of S.365 as passed is not available yet on line but the conference committee report for S.365 can be found in the House Journal for May 3, 2008.*

[House Journal May 3, 2008](#)

S.297, Stiff Hitch - This bill clarifies the definition of "stiff hitch" in the motor vehicle statutes by providing that a vehicle being towed with a stiff hitch need not be registered. S.297 also adds a definition of “all surface vehicle” and revises the definition of “all-terrain vehicle.”

[Bill Text as Passed by the House and Senate](#)

S.241, Veteran's License Plates – This bill revises the law related to the issuance of veteran's license plates. It also requires DMV to study the issuance of "distinctive" license plates.

[Bill Text as Passed by the House and Senate](#)

S.342, Lake Champlain Quadrcentennial Commission License Plates – This bill authorizes the use of these commemorative plates to be placed over the front license plate on a vehicle from July 1, 2008 to June 30, 2010.

[Bill Text As Passed by the House and Senate](#)

Bills of Interest That Did Not Pass – Dead Upon Adjournment

H.656, Tire Tax – After a heavy lobbying effort by VADA, this bill to impose a 50 cent tax on each new tire sold in Vermont was defeated in the House Ways and Means Committee. The estimated \$300,000 raised would have gone into a special fund to pay nonprofit groups and solid waste districts to clean up and dispose of waste tires. Rep. Jon Anderson, D-Montpelier, pushed hard for this bill and according to recent news accounts he intends to pursue it again next year.

[Bill Text As Introduced](#)

S.133, Junior Operators Licenses and Primary Seat Belt Enforcement – S.133 passed the House and Senate last year but stalled in a conference committee. The Senate-passed version contains provisions for junior operators, a ban on the use of cell phones while driving by those under the age of 18, and primary enforcement of Vermont's seat belt law to persons under age 18. The House amended the bill with primary enforcement of the seat belt law for all Vermonters regardless of age and further requiring that adults may only drive with a "hands-free" cell phone. In the end, the House and Senate were unable to agree and the bill died.

[Bill Text As Passed By the House](#)

H.237, Used Car Lemon Law – This bill was referred to the House Transportation Committee and never had a hearing. [Bill Text As Introduced](#)

H.676, Motor Vehicle Leasing Disclosures – This bill would require and implement standards for the disclosure of terms in retail motor vehicle leases to all lessees. The bill was referred to the House Commerce Committee and never had a hearing. [Bill Text As Introduced](#)

Vehicle Registration Fee to Fund Brain Injury Programs - There was an attempt in the Senate to amend H.691, the fee bill, to require that a \$1 per year fee be added to vehicle registrations to be put into a fund to assist traumatic brain injury patients. The provision was struck on the Senate floor by a 15-12 vote.

General Legislative Overview

Issues

State government's two largest budget categories are healthcare and education. Initiatives to "reform" the underlying systems to spare taxpayers from escalating costs have been the headline issues of recent legislative sessions. This was not true during the 2008 session for one simple reason: no money.

Bills to accelerate the shift from an acute care system to a chronic care system and to tax health insurance premiums to raise \$35 million over seven years to pay for the transition from paper to electronic medical records in physicians' offices did pass, as did a provision allowing for health insurance premium discounts for those with healthy living habits. These steps were modest, however, compared with creation in the last biennium of a new state-defined and subsidized insurance product known as Catamount Health.

The amount of time spent by legislators discussing a bill to eliminate the State Board of Education and to bring the commissioner under the direct authority of the governor reflects how little of substance was accomplished with regard to education quality or funding. That bill did not pass, nor did last-minute efforts by the education lobby to repeal the so-called two-vote requirement for local school budgets that will commence in 2010.

In terms of broad public policy initiatives, the most successful bill of the session was a carry-over from the first year of the biennium. That was the energy bill that extends the concept of an electric efficiency utility to all fuels used by Vermont businesses and residences. Some grind-it-out bills such as a long rewrite of the state's juvenile code and an aggressive attempt to reduce prison costs by closing one facility and using the savings to ramp up recidivism prevention efforts, were notable accomplishments of the session, but attracted little public interest.

The economic stimulus package proposed by Governor Douglas two weeks before the end of the session did create the vehicle for one significant breakthrough. That is a \$10 million per year increase in the state's bonded indebtedness to begin working on deteriorating roads and bridges. The rest of the stimulus package, as with most state government efforts to affect the larger economy, nibbles around the edges with provisions such as sales tax holidays, relaxed permitting requirements for housing construction and low-interest financing or tax credits for businesses in areas of high unemployment.

Politics

With neither US Senator up for election in 2008 and first-term Democratic Congressman Peter Welch likely to cruise to re-election in November, the focus in 2008 will be on the governor's race and the degree of Democratic control of the General Assembly.

The failure of the Vermont Democratic Party to field an early and credible candidate for governor, which would have driven Progressive Anthony Pollina out of the race before he got started and set up a direct contest with three-term incumbent Republican Governor James Douglas, is a stunning example of political incompetence. Particularly if Senator Obama is the Democratic nominee for president, the 2008 election represents an excellent opportunity for Democrats to elect the governor of Vermont, but only in a two-way race, not the three-way contest that is now inevitable.

Demand for change at the national level, the excitement of an Obama candidacy attracting younger voters to the polls, the fatigue that voters feel after three terms of any governor and the declining state economy all set the stage for a winning Democratic campaign for governor of Vermont in 2008. But when a Progressive runs for governor, seven out of every ten votes he gets come from the Democratic side of the ledger. The political damage to the Democratic Party's stature and future in Vermont by their failure to capitalize on this opportunity cannot be exaggerated. It will flow all the way down the ticket.

House Speaker Gaye Symington, D-Jericho, announced she will run as the Democratic candidate for governor on Monday, May 12th. In spite of her tenure as Speaker, it is likely that half or more of Vermont voters do not know who Symington is. Unless she has access to \$1 million very quickly to introduce herself to voters, she has little chance of mounting a credible challenge to Douglas. With Pollina having started early and likely to attract from 15 to 20 percent of the votes, even a well-funded and well-run campaign by Symington will be an uphill battle. There are those who believe that results similar to those in 2002 when Douglas got 46 percent, Democratic Doug Racine 42 percent and Independent Con Hogan 11 percent would lead the heavily Democratic legislature to elect the second-place finisher over the plurality vote winner. (If no candidate gets 50%, the constitution requires the General Assembly to decide the election.) Unless the margin between the top two finishers is razor thin, this outcome is very unlikely. Politicians who ignore the will of the voters, even in a secret ballot, do so at their own risk.

In other statewide races, Republican Lt. Governor Brian Dubie, Democratic Attorney General William Sorrell, Democratic State Treasurer Jeb Spaulding, Democratic Secretary of State Deb Markowitz and first-term Democratic Auditor Tom Salmon have no opposition for re-election at this time. Of these officials, it appears that only Salmon could be vulnerable and that would occur only if he faced a re-run of his close victory over former Republican Auditor Randy Brock.

Both houses of the General Assembly will remain in Democratic hands following the 2008 elections. With no announced retirements at this time, the 23 Democrats that

control the 30-member Vermont Senate likely will maintain or slightly increase their numbers. President Pro Tem Peter Shumlin, D-Windham, will return as President Pro Tem.

With Speaker Symington's retirement, prospects for the Democrats in the House are not as clear, though most of the candidate recruiting for the 2008 elections was done in the first year of the biennium by Symington and her strong leadership team. As of this writing, nine House Democrats, one Independent and only one Republican had announced their retirements from the General Assembly. Historically, between 25 and 35 new House members are elected in each election. The mid-July filing deadline for candidates means that we will not have a clear picture of House races until mid-summer.

Combined with Progressives and Independents, Democrats now control 101 of 150 House seats. It is difficult to build on that kind of majority, because targets are few in number. Republican leaders have, during the past three or four months, indicated their renewed interest in moderating the generally conservative image of their House candidates and in raising money to support them. These efforts combined with the leadership vacuum at the top of the Democratic caucus could mean that the Republicans will add 5 to 10 seats to their current total of 49.

Even with such gains by Republicans, the Democrats will continue to control the House by a wide margin and will elect the next speaker. Likely candidates are majority leader Carolyn Partridge, D-Windham; majority whip Floyd Nease, D-Johnson; and Rep. Shap Smith, D-Morristown.

In summary, six months before the 2008 elections it appears very likely that, when the dust settles, political control in Vermont will remain the same as it is today-- a moderate Republican governor and a left-leaning General Assembly trying to find a way to express its political philosophy in legislation that can pass and become law without a gube