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Legislative Corner: Assessing the highs and lows of the 2017 session



Highlights and Commentary offered by Representatives Sullivan, Browning, Oliver & Keefe

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With the Legislature's 2017 session finally complete, we asked the regular contributors to our Legislative Corner — Reps. Linda Joy Sullivan, Brian Keefe, Cynthia Browning and Oliver Olsen — to weigh in on a few questions about the session and the state of the Statehouse. Here are our questions and their answers.

1: New leadership took over the House and the Governor's office in January. Now that the official session has ended, how do you think the Speaker, Senate President and Governor handled their new responsibilities? What can change or improve?

Browning: I think it is worth noting that in addition to all three being new to their positions, the Governor is a Republican and the Legislative leaders are Democrats. This added extra tension to their interactions due to differences in ideology, politics, and priorities. I would recommend that the Governor develop his proposals more fully and present them as early as possible in the Legislative session so that the Legislature has time to evaluate them fully - this should be easier since he is now already in office. The Legislature should be more willing to evaluate proposals fully and seriously - even

those that they may not agree with - rather than refuse to take up ideas at first and then later claim there is no time to vet them.

Keefe: I thought Gov. Scott, House Speaker Johnson and Senate President Ashe handled their new, difficult jobs with considerable grace and skill. No, it was not perfect. They set a clear tone, however, and empowered committees to do some heavy lifting. In particular, the House Appropriations Committee on the budget, and the Senate Education Committee on amending Act 46 and granting independent schools a temporary reprieve from onerous rules.

Sullivan: Leadership handled itself professionally and competently at all levels. Compounding the challenge of having entirely new leadership within both the Legislature and the Executive branches was the natural tension that arose from having a brand new Republican Administration pushing a new agenda in a Democratic-controlled Senate and House. Still, although I know there were some frustrations this Session on both sides, everyone acquitted themselves appropriately. The process worked. I anticipate that 2018 will be more productive as we have gone through the "feeling out" process and everyone will be ready to work through the second half of the biennium.

Olsen: This was a remarkable year, with a new Governor, a new Speaker, and new Senate President Pro Tem. Governor Scott set the tone at the start of the session, with a very succinct and tangible objective: to enact a budget with no tax or fee increases. The Legislature responded to that challenge, and with the exception of the stand-off at the end of the session, I think all three leaders worked to find common ground. All three made some missteps, but in the end, I think all three can be proud of the work they accomplished.

2. Gov. Scott and legislative leadership – namely the Speaker and Senate President – took their budget positions directly to the public, through op-eds, letters to the editor from supporters, etc. Who did a better job of convincing the public? Generally, do constituents respond to these calls for action and do they change your thinking on a bill?

Browning: I don't think I can fairly judge which approach to the budget and the education property tax issues has been most successful in convincing the public - I am too close to it - but it seemed to me that people tended to be convinced based on pre-existing political positions. I have heard from constituents urging both the Democratic Legislative approach of leaving the resolution of teachers health insurance as it is in the hands of the boards and VNEA, and the Republican Governor's position that the state should now negotiate this benefit in order to ensure savings. It is always important for me to hear from constituents on any topic since their priorities and their experiences can add perspective to my own analyses of issues. However, on the issue of the teachers health insurance costs my position of trying to balance the needs of the school districts, the teachers, and the taxpayers in the most responsible and effective way was fairly consistent throughout. I thought then and think now that we need to do everything we can to control education spending in order to mitigate the growth of property taxes while still providing good benefits and compensation for teachers and other staff. I preferred the version that the Legislature adopted at the end of the session to the final version that came out of the veto session. The former left things as they are for now, while urging savings in education compensation where possible, and put in place a way to evaluate a possible future change in who negotiates teacher health insurance and how. The final version requires savings of school districts that

may cause problems for some of them, which I think is unfortunate. But I voted for it because we absolutely HAD to get the budget in place.

Keefe: Communicating complex information in simple terms is never easy, especially when trying to reach beyond one's "political base." I do like to hear from constituents, and will measure the input I get. The two bills I introduced this year, the "benefits cliff" bill and the "check engine light" bill both came from local contacts. The first bill was signed into law; the second earned a 127-11 vote of approval on the House floor.

Sullivan: I find that voters were paying attention to the sometimes complicated and nuanced budget questions that were being debated. Personally, I think the Governor had the easier message to deliver and at least at the outset delivered it more effectively. I think the counter-arguments expressed by some in the Legislature - that the Governor's budget proposal targeting teacher healthcare costs threatened a dramatic negative impact on collective bargaining - was overstated. I found that constituents I talked to were more receptive to the arguments addressing all of our concern over ever-escalating property taxes. Did those constituent concerns affect my thinking? You bet. Constituent feedback counts a lot, on every issue.

Olsen: The Governor had the greatest success getting his budget message across to the public, largely because it was a simple message that resonated with a majority of Vermonters who feel that they are overtaxed and simply tapped out. That said, it is important to keep in mind that every governor, regardless of political party, maintains a significant advantage over the Legislature when it comes to communications and messaging, simply because he owns the bully pulpit. No bill — particularly the budget — is ever black and white; part of my role is to go beyond the sound bites, to dig into the details, and make an informed decision that is in the best interests of Vermont and my constituents.

3. In your opinion, what was the Legislature's best achievement of the 2017 session? And if you could go back and change something the legislature did or didn't do, what would be?

Browning: While I am tempted to choose balancing the budget without new taxes and fees, which was a major accomplishment, instead I will choose the Ethics Bill. This legislation will provide to the public greater disclosure of sources of income for statewide office holders and legislators. It will also prevent either legislators or executive staff from leaving public service and immediately going to work for corporations of which that they had budgetary or regulatory oversight. Both of these new provisions are essential in order to assure the voters that public officials are truly working in the public interest and not for special interests.

Keefe: Undoubtedly, the biggest legislative achievement was passage of a balanced budget without increasing taxes or fees. Importantly, the bill also increased funding for such priorities as early childhood education, state colleges, housing, economic development and clean water. I would have liked to see action on the bill clarifying definitions for independent contractors, so hopefully we'll get to that next.

Sullivan: I am proud of the fact that we adopted the ethics legislation. I don't think that we have had a history of abuse involving Legislators or Administration officials who leave public service to become

lobbyists, which was one of the focuses of the bill. But the fact that Vermont has had in place no formal ethics framework has been a real black mark for the State. The final approach was appropriately balanced — it adds much needed transparency around sources of outside income while recognizing disclosure limits that respect that we have a part time citizen's Legislature. And the creation of an ethics board was very badly needed infrastructure. As far as changes, I wouldn't so much point to specific bills we should not have advanced. Rather, I saw a fair amount of legislative time being spent debating bills that were more about advancing certain individual and philosophical agendas than about making positive changes to the State and to the well-being of Vermonters. We just don't have the time in our short session to dedicate to "causes."

Olsen: The best achievement of the 2017 session was temporarily derailing efforts by the State Board of Education to restrict access to school choice options. The operative word is "temporarily" - this fight is far from over, and will pick up again next legislative session. I wish that we could have done more to permanently stop the anti-school choice forces, but this will be an ongoing fight.

4. What's the single biggest issue or challenge the Legislature will face when it next returns for formal session?

Browning: I think that we need to undertake fundamental tax reform in order to ensure a simpler, more effective, and more equitable tax code. Vermonters deserve better than what we have. My bill H.538 represents some of my ideas on this matter: I think that simplification could lead to lower property tax rates and better support for Vermonters that need it.

Keefe: Our biggest challenge next year will be balancing the state budget in the face of expected funding cuts at the federal level.

Sullivan: I anticipate the hardest task we will have is to determine how best to react to whatever social service expenditure reductions Congress makes during the upcoming federal budget and tax reform season, or how to more effectively anticipate the inevitable push for additional federal spending reductions in 2018, or both. With a Governor vowing not to raise revenues and a Legislature absolutely committed to maintaining the welfare of Vermonters, we are going to be very challenged in the next several years carrying any of the load now carried by the feds. The reality is that we just don't have a robust commercial tax base sufficient to carry additional weight, even if there was an appetite to increase tax revenues, and we can't resort to property taxes. Trouble ahead.

Olsen: The single biggest issue facing the Vermont Legislature next year will depend on actions taken in Washington over the next several months, specifically with the federal budget and changes to Medicaid. Congress is actively debating budget proposals and changes to the Medicaid program that would have severe consequences for Vermont's state budget.

5. Gov. Scott vetoed the marijuana legislation with specific revisions in mind. What are your thoughts on his reasoning and what should the state's marijuana policy look like in the future? How much should Massachusetts' policy affect what Vermont will decide?

Browning: If we are to legalize recreational use of cannabis we need 1) better tests for impaired driving

and more trained officers to ensure highway safety, and 2) enhanced programs to prevent use by young people. I think that Governor Scott had similar concerns. Also, I would like to regulate this new industry in a way that prevents the development of a corporate lobby like the tobacco industry. I hope that we can learn from the experiences of other states.

Keefe: On marijuana policy, I think Vermont can yet benefit from "lessons learned" in other states on the long-term impact of legalization. Concentrated derivatives, in the form of pills, candy and oils, for example, is a growing concern for me and one for which I haven't grasped the full implications. I think the jury is still out on traffic impacts and behavior changes among youths. Pot has already been decriminalized in Vermont; I still have questions about how and when to legalize.

Sullivan: Today, marijuana is a cash crop sold by certain Vermonters who are in the business of profiting on drug use. And the Vermonters who sell marijuana in our communities and in our schools don't do it alone. There exist unregulated national and regional and local marijuana distribution networks that support the sales who are today reaching into our schools for profit. In my book, the trade in marijuana today is a form of organized crime. And we all know that many of these people who illegally sell marijuana also carry other retail lines - drugs that are more powerful and addictive and dangerous. I personally don't advocate marijuana use, and I see the risks of legalizing it, but widespread marijuana consumption is just not going to go away. We absolutely must take it out of the hands of organized criminal networks. Of course, we need also to work very hard at educating our youths as to the dangers of substance abuse and to prevent other harms that flow from inappropriate uses.

In the end, I'm not so much concerned about what other states are doing or about lost tax revenues. We need a sensible approach to dealing with the fact that marijuana use is widespread and isn't simply going to go away. The regulation proposal advanced by the Senate seems more sensible than legalizing use while condoning a black market in pot.

Olsen: I support the relaxation of Vermont's marijuana laws, and I voted for the legalization bill that was ultimately vetoed by the Governor. Prohibition has not worked, and we need to allocate our limited resources to fighting the very real problems we have with our opiate addiction crisis. I think the Governor had reasonable concerns when he vetoed the bill, and the compromise that has since been worked out by the Governor and legislative leaders is a good one.

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