
The Rosenberg Report

Vol. XL
April 20, 2006

Hello!

And Happy Spring!

Earlier this month, the State Department of Revenue announced that March was another solid month for tax collections with the state bringing in \$75 million more than in March 2005. We are now nine months into the fiscal year and collections are running \$529 million above the projections the Legislature used to create this year's budget.

That's great, but I don't think there are too many legislators willing to rest now that this latest fiscal crisis appears to be over. For too many of us, myself included, the pain of those who suffered the terrible cutbacks is still too raw, and the knowledge of everything that was neglected is still too fresh, to indulge in complacency.

This weekend the world recognizes Earth Day, and, speaking from a Massachusetts legislator's perspective, it is a hopeful occasion. Finally, after years of neglect, our environment is getting some much needed attention. Bills addressing the use of mercury and other toxins, the protection of municipal open space, the efficiency of household appliances, the prevention and clean up of home heating oil spills and the development of once-contaminated sites are just a few of the initiatives making their way through the Legislature. Without the fiscal crisis, these bills might have advanced years ago and we would be that much further along toward leaving our children a better planet. For every step forward, it seems we first have to take two steps back.

This being an election year, and with the state doing better financially, expect the tax-cut chorus to be in full voice in the coming months. Old habits are hard to break, after all. But before we get caught up in that fervor again, let's remember that we have a responsibility to the future. Progress, in the form of better schools, better health care, a better environment, etc. -- things most of us say we want -- requires leadership, and leadership means more than attempting to "buy" elections with the promise of lower taxes.

The quality of the future will be determined by the priorities we set today. Earth Day is a good time to rededicate ourselves to that fundamental idea.

Yours,



April Focus

Mercury Management Bill(now inconferencecommittee)

An Act Relative to Mercury Management

This legislation comprehensively reduces and controls the use of mercury in products in the Commonwealth. The legislation includes the following provisions:

1. Directs the Department of Environmental Protection (DEP) to participate in the Interstate Mercury Education Reduction Clearinghouse (IMERC), which is a regional mercury clearinghouse.
2. Prohibits the sale of new motor vehicles with mercury-added vehicle switches; prohibits crushing of motor vehicles without removing mercury-added components; requires management of vehicle mercury in accordance with hazardous waste laws.
3. Permits automobile manufacturers to be exempted from the cost of removing mercury-added switches by creating a plan for the collection, transportation and storage of mercury-added vehicle switches from end of life motor vehicles. Requires the plan to maintain a 90% capture rate. Absent such a plan, automobile manufacturers will bear the cost of removing mercury-added switches.
4. Provides that, if a vehicle requires the replacement of a mercury-added switch, a non-mercury switch shall be installed. However, a non-mercury switch shall not be required if no such switch is commercially available or the mercury-added switch is in an anti-lock brake system or an airbag.
5. Requires auto manufacturers to submit annual reports to the Legislature and the Department of Environmental Protection, which shall conduct audits to determine compliance with the plan, impose penalties for noncompliance, and impose additional requirements if the capture rate is not met in the first year of collection.
6. After one year of this program, an auto manufacturer may apply to DEP to implement a new plan that has been in effect in another state for at least one year and has a 90% capture rate.
7. After May 1, 2008, prohibits the sale of mercury added thermostats, thermometers, barometers and certain other measuring devices and medical instruments. Provides an exemption if use of the product is a federal requirement or thermostats,

- thermometers, barometers and certain other measuring devices and medical instruments are required by medical necessity or ordered by prescription.
8. After May 1, 2009, prohibits the sale of mercury added switches and relays in Massachusetts.
 9. Permits DEP to allow exemptions of mercury added meters and switches upon application.
 10. After October 1, 2006, prohibits the purchase by schools of mercury products unless no adequate non-mercury substitute exists. Exempts fluorescent lights, projectors and flat-screen monitors.
 11. Requires manufactures of mercury-added formulated products to disclose, upon written request by a healthcare facility, if a product contains more than one part per billion of mercury.
 12. After May 1, 2007, requires manufacturers of mercury-added products, except mercury added lamps, in Massachusetts to create a collection program for the product at its end-of-life using new or existing collection systems. Exempts refurbished medical equipment and products whose only mercury component is a removable mercury button cell battery or removable mercury-added lamp.
 13. After May 1, 2008, requires manufacturers that sell mercury added lamps to create a collection program for the product at its end-of-life using new or existing collection systems.
 14. After May 1, 2008, requires manufacturers to label mercury-added products to indicate that they contain mercury; allows labels approved in other IMERC states to be approved in Massachusetts. Exempts products whose only mercury component is a removable mercury button cell battery or removable mercury-added lamp; and refurbished medical equipment.
 15. Prohibits solid waste collectors from accepting waste they know or reasonably should know contains mercury-added products.
 16. Requires the state procurement officer to give preference to non-mercury products unless such products do not have a more benign overall environmental impact. Exempts refurbished medical equipment and vaccines.
 17. Requires DEP to submit a report to the legislature in four years on the effectiveness of these sections and recommendations for further mercury regulation.

Toxic Use Reduction Act (Passed Senate; now in House Ways and Means)

An Act Relative to the Toxic Use Reduction Act

This bill would update the very successful TURA program which has significantly reduced the use of toxics of all sorts in manufacturing and business in the Commonwealth since it was introduced in 1989. At the same time, the program is designed to encourage and support the economic viability of Massachusetts business. TURA works by encouraging alternative, less hazardous chemicals to be used in manufacturing and business applications. The result is lower emissions, lower hazards to workers, and a reduction in the amount of toxics in the environment. The bill brings this important state program more in line with federal requirements and increases scrutiny on the highest hazard chemicals.

- Comprehensively amends Chapter 21I of the General Laws, the Massachusetts Toxics Use Reduction Act (“TURA”).
- Compels companies to report on use and emissions of 900 chemicals, in addition to 600 chemicals mandated under federal law.
- Updates the law to:
 - require an advisory board to classify toxic chemicals based their hazard level,
 - lower the threshold for reporting higher hazard chemicals and reduce or eliminate TURA per chemical fees for lower hazard chemicals,
 - allow companies more flexibility in environmental planning, and
 - streamline reporting for companies and make changes in reporting to bring the state law more into conformity with federal requirements.

Home Heating Oil (passed Senate; now in House Ways and Means)

This bill creates shared responsibility to prevent ground water contamination by preventing home oil spills. It requires home owners to upgrade equipment to prevent leaks and requires insurance companies to provide coverage for reasonable rates. It allows home owners to be protected from consequences of leaks while preventing them in the first place.

Brownfields (included in the House and Senate versions of the economic stimulus bill)

This will refund the brownfields redevelopment fund at \$30 million. This has been a tremendously successful program which has encouraged developers to clean up contaminated sites and build much needed housing and commercial and industrial space. These are low interest loans that are repaid. The initial \$30 million has been expended and has created an estimated \$1.2 billion of investment in the state.

Municipal Open Space (Article 97 passed Senate; now in House Rules Committee)

This bill protects municipal open space by requiring municipalities to do a needs assessment when considering whether to build schools, etc. on open space.

Massachusetts Water Resources Authority membership proposal

On Thursday, April 20th, I began the process of rallying my western Massachusetts legislative colleagues over the Massachusetts Water Resources Authority's proposal to expand the MWRA's membership by up to 25 communities, a plan that could have serious long-term consequences for the Connecticut River region.

Whenever eastern Massachusetts has needed water, western Massachusetts has been left to deal with the environmental consequences. Adding communities to the MWRA could lead to diverting the Connecticut River. I want to make absolutely certain that western Massachusetts is involved in the MWRA's membership discussions from the very beginning, not just told what to do at the very end.

I want a full explanation of the MWRA's membership plan and I will convene a meeting with the western Massachusetts legislative delegation and MWRA Executive Director Frederick Laskey to discuss this matter.

Vermont Yankee

The western Massachusetts legislative delegation is continuing to work to stop the uprate at Vermont Yankee. In late March, after the Greenfield Recorder reported that a member of the Nuclear Regulatory Commission, Gregory B. Jaczko, had expressed "substantial concerns" to his fellow commissioners about the agency's decision to allow the plant to increase its power even though some safety issues are still under appeal, we renewed our call for a thorough, independent inspection" of the Vermont Yankee nuclear power plant before a 20 percent uprate is allowed.

Representative Christopher Donelan (D-Orange) and I rallied our colleagues -- State Senator Andrea Nuciforo (D-Pittsfield), and State Representatives Stephen Kulik (D-Worthington), Denis Guyer (D-Dalton) and Daniel Bosley (D-North Adams) -- and called on the NRC to suspend all uprate procedures. The NRC has allowed a 20 percent uprate, but a recent 5 percent boost caused vibrations that are currently under scrutiny by General Electric engineers.

In our letter to NRC Chairman Dr. Nils Diaz, the delegations stated:

"We have serious concerns about the integrity of this plant and the process that has lead to the approval of the uprate license. When approval is granted while issues are still unresolved, we are given cause to question how truly independent the NRC's engineering assessment was.

"Our overriding concern is the public safety of the people of Massachusetts and Southern Vermont. With the plant on hold at 105% due to vibration, and a Commissioner of the NRC calling the process into question, we feel the future of this plant and of the residents of Western Massachusetts are placed in needless jeopardy.

"We ask again for an independent safety assessment of The Vermont Yankee Nuclear Power Plant, an assessment independent of Entergy Corp. and independent of The Nuclear Regulatory Commission. The public has the right to the assurance that this plant is

safe, and the right to demand this process stop if the plant is deemed unsafe for increased power.”

Our position is simply this: There should be no uprate. But if they insist on moving forward, they should not do so until the plant has been thoroughly inspected, proven to be able to handle the uprate and every safety concern has been addressed. We are hopeful the remaining commissioners can be persuaded that this is the only reasonable course.

Energy Efficiency (signed into law)

A bill that would broaden the current Massachusetts Appliance Efficiency Standards Act and establish minimum efficiency requirements for various appliances was signed into law on Nov. 22nd, 2005. Among the appliances added are: central furnaces, boilers, commercial clothes washers, commercial refrigerator-freezers, high-intensity discharge lamps, torchiere lamps and certain types of transformers. This places Massachusetts at a higher level than federal standards on energy efficiency for appliances and other products.

Noteworthy

UMass Collective Bargaining

On April 13th, the Legislature approved a \$128 million supplemental budget for fiscal '06 that included \$30.1 million to fund collective bargaining agreements (UMass included); \$23 million for snow and ice removal; \$73.1 million for utility costs; \$12 million for costs associated with an underground storage tank; \$6.5 million for judgments and court settlements; \$4.4 million in security income; \$6.5 million for costs at the state's correctional facilities, including the Franklin County Jail; \$1.5 million for veterans' life insurance and other annuity costs; \$3 million for Department of Mental Retardation facilities; and \$5.9 million for trial court utility costs.

Lt. Gov. Healy signed the bill into law on April 14th.

Uncapping the Lottery

Late last month, House and Senate leaders agreed to lift the cap imposed in 2003 on the amount of aid available to cities and towns from the state Lottery.

Uncapping the lottery will raise the amount of local aid available in fiscal '07 by \$158 million to a total of more than \$920 million.

Foster Care Bill

Earlier this month, the Special Legislative Committee on Foster Care, which I co-chair with Representative Marie Parente (D-Milford), unveiled a bill that would make some much needed changes to the Department of Social Services. The bill follows in the wake of the death of 4-year-old Dontel Jeffers last year and the recent alleged abuse and near death of 12-year-old Haleigh Poutre - both children in custody of the Department of Social Services (DSS).

The 10-section bill, co-authored by Representative Parente and myself, would require all cases of child abuse to be reported directly to district attorneys so that prosecutors can conduct their own investigations. Additionally, DSS would be required to report Crimes Against the Child directly to local police and put together a "multi-disciplinary team" in the area to investigate the case.

Currently, DSS conducts its own evaluation and investigation prior to it being advanced to the district attorneys or police. Only in cases of serious physical injury are the district attorneys involved, and DSS is not required to report child abuse incidents to local police. The changes would make such checks statutorily required.

Under our bill, children placed in foster care would be examined by a doctor within two weeks of being placed, a measure that is currently not required. The bill also sets up new advisory boards to oversee those physician visits in each of the six DSS regions.

Our bill also seeks to alter the procedure governing decisions about ending life supports for children in DSS custody, an issue brought to light earlier this year when DSS sought to remove Poutre from the supports she had relied on for more than four months. Our proposal would require DSS to seek a second medical opinion and provide both opinions to the court prior to making an end-of-life decision.

Currently, officials handling the cases of children in DSS custody are not required to seek more than one opinion nor provide medical information to the court.

Anti-Gang Bill

An Act Reducing Gang Violence

On March 30th, the governor signed into law a major anti-crime bill that had been championed in the Legislature by Sen. Jarrett Barrios (D-Cambridge).

The new law:

- Establishes a statewide witness protection program administered by a Witness Protection Board made up of law enforcement and legal professional. The program is funded at \$500,000 in FY06 and \$1 million in FY07.
- Creates new penalties for witness intimidation by gang members.
- Prohibits use of grand jury testimony to intimidate a witness, but protects constitutional rights of journalists and defendants.
- Cracks down on the use of "community guns," a practice used by gangs where a gun is passed from one member to another for use in crimes.
- Creates a new perjury standard for violent crimes.

(Click here for complete text)

<http://www.mass.gov/legis/laws/seslaw06/sl060048.htm>

Elder Choice

The effort to give thousands of Massachusetts senior citizens and disabled adults a greater voice in how they receive long-term care services took a major step forward earlier

this month when the Senate approved a bill to revamp the delivery of long-term care across the state.

Here is a summary.

An Act Regarding Choice of Long Term Care Setting

- The bill seeks to ensure that individuals who are eligible for MassHealth long term care are able to receive services in the setting they prefer.
- The bill directs the Division of Medical Assistance to create clinical eligibility criteria to determine if individuals - who meet existing financial criteria to receive MassHealth - are eligible to receive a long term care benefit.
- Those deemed eligible would be given a choice of care setting that is least restrictive and most appropriate to meet his or her needs. The funding allocated for the care of said individual would follow him or her to their location of choice, whether it be in a nursing home institution or in community-based care setting.
- MassHealth beneficiaries seeking admission to a nursing home facility will be required to receive a pre-admission screening. This screening will include an assessment of their community-based care options to determine if the individual could be appropriately cared for in an environment outside of a long term care facility. Participation in the pre-screening process will be on a voluntary basis for individuals who are seeking entrance into the facility on a private pay basis.

Round-up

TeamRosenberg kicks off!

I wanted to let you know that I will be kicking off my re-election campaign in May with an event at China Gourmet in Greenfield on Monday, May 1st, from 5-7 p.m., and an event in Amherst at The Hickory Ridge Country Club on Friday, May 19th, also from 5-7 pm. Hope to see you there!

I'll be facing two opponents, so this year promises to be another exciting election season and I'm looking for folks to join my team to help with my re-election effort. If you'd like to participate, please click here to find out how. Thanks!

Join *TeamRosenberg!*

<http://www.stanrosenberg.com/teamrosenberg.php>

State grants

Here are a few grants that have come our way recently:

The Executive Office of Environmental Affairs and the Department of Environmental Protection awarded the following Municipal Climate Protection Grants:

- \$10,000 to the City of Northampton and the Pioneer Valley Planning Commission for the implementation of idling reduction in three communities;
- \$3,500 for the Town of Shutesbury for 2kw PV for the town's Elementary School.

The Massachusetts Technology Collaborative made the following Green Building Awards:

- \$4,160 to Hillel House at UMass-Amherst for a feasibility study for the proposed installation of a photovoltaics system.
- \$150,013 to Cooley Dickinson Hospital in Northampton for a feasibility study for a combined heat and power biomass system.

The Department of Environmental Protection made the following Municipal Waste Reduction grants:

- \$229 for Amherst
- \$4,815 for Northampton
- \$494 for South Hadley
- \$535 for Hatfield
- \$7,520 for Greenfield
- \$1,148 for Shutesbury
- \$3,600 for Montague

The Executive Office of Environmental Affairs and the Department of Conservation and Recreation made the following Urban and Community Forestry Heritage Tree Care grant:

- \$4,002 for the Hampshire Court House Heritage Tree Care Project

The Executive Office of Environmental Affairs made the following Urban Brownfields Site Assessment grant:

- \$65,000 for Northampton to conduct an assessment of the Baystate Village Cutlery Raceway property

Home rule

I was the chief sponsor of the following home rule petition that was signed into law on March 31, 2006

An Act Relative to the Membership of the Hampshire County Housing Authority
Section 1 of chapter 419 of the acts of 1976 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be in Hampshire county, in this act called the county, a public body politic and corporate to be known as the Hampshire County Regional Housing Authority, in this act called the authority. The authority shall be managed, controlled, and governed by 5

members, 3 of whom shall constitute a quorum. Four members shall be appointed by the county commissioners of Hampshire county, but not more than 1 of the members shall be chosen from any 1 city or town. One member shall be appointed for an initial term of 1 year, 1 member shall be appointed for an initial term of 2 years, 1 member shall be appointed for an initial term of 4 years, 1 member shall be appointed for an initial term of 5 years, and 1 member shall be appointed by the department of housing and community development, in this act called the department, for an initial term of 3 years, their successors to be appointed in the same manner and by the same body for terms of 5 years from expiration of the terms of the original appointees.

Trivia

Now for the answer to our previous question:

Who was the schoolmaster of the first public secondary school in America, The Boston Latin Grammar School, established in 1635?

The answer is: Philemon Pormort

And our winner is Joseph B. from somewhere in cyberspace. We'll send Joseph information on who to contact in my Boston office and we'll look forward to seeing him at the State House. Congratulations! And thanks to everybody who played along!

Now to this month's question and another chance to win lunch and a State House tour:

Who is the state's official blues artist?

Submit your answer to tumitch@sprynet.com and watch this space for the correct answer and the prize winner.

Links

Here are a few links. Until next time . . .

Join TeamRosenberg! <http://www.stanrosenberg.com/teamrosenberg.php>

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Forward this link to a friend www.stanrosenberg.com/issues/rosenreportreg.html

Guide to Lawmaking -- <http://www.state.ma.us/legis/lawmkng.htm>

Massachusetts State Government Home Page – <http://mass.gov/>

The Legislature's web page – <http://www.state.ma.us/legis/>

Senate's Bill Text System – <http://www.state.ma.us/legis/billsrch.htm>

Legislative Tracking System – <http://www.state.ma.us/legis/ltsform.htm>

My personal website – <http://www.stanrosenberg.com/>

The Rosenberg Report (February, 2006, edition) --
<http://www.stanrosenberg.com/issues/feb2006.html>