

House Calendar

Wednesday, March 17, 2010

72nd DAY OF ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 132

An act relating to residential electrical installations

H. 408

An act relating to improving nutrition programs

H. 648

An act relating to harassment and hazing policies at independent colleges

S. 280

An act relating to prohibiting texting while operating on a highway

Amendment to be offered by Rep. Larocque of Barnet to S. 280

Rep. Larocque of Barnet moves that the bill be further amended by adding a new section to be Sec. 10a to read:

Sec. 10a. 23 V.S.A. § 1259(f) is amended to read:

(f) The penalty for violation of this section shall be as follows:

- (1) ~~\$25.00~~ \$3.00 for a first violation;
- (2) ~~\$50.00~~ \$6.00 for a second violation;
- (3) ~~\$100.00~~ \$10.00 for third and subsequent violations.

Committee Bill for Second Reading

H. 772

An act relating to alcoholic beverage tastings and other liquor licensing issues.

(Rep. Baker of West Rutland will speak for the Committee on General, Housing and Military Affairs.)

Favorable with amendment

H. 243

An act relating to the creation of an apprentice hunting license

Rep. Adams of Hartland, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting

clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4256 is added to read:

§ 4256. MENTORED HUNTING LICENSES

(a) An individual who holds a mentored hunting license shall be entitled to hunt only when accompanied by an individual, 21 years of age or older, who holds a valid hunting license under subsection 4254(b) of this title. A resident or nonresident mentored hunting license may be issued to any person who has not taken a hunter safety course as required under subdivisions 4254(b)(1) and (2) of this title, provided that:

(1) A mentored hunting license shall only be issued twice to any one individual, and each license shall last until December 31 of the year for which the license was issued.

(2) A mentored hunting license shall not be issued to any individual who has held a valid hunting license under subsection 4254(b) of this title or an equivalent license in any other state.

(3) The mentored hunting license shall not be issued to a person under 16 years of age without the written consent of the applicant's parent or legal guardian given in the presence of the agent issuing the license.

(b) Having held a valid mentored hunting license does not exempt an individual from meeting all the requirements for a hunting license under subsection 4254(b) of this title.

(c) At the time of licensing, the department shall provide each mentored hunter a document to explain the details of the mentored hunting license program and to educate the mentored hunter about hunting safety and responsibility. The applicant shall certify, according to department procedure, that he or she has read the document. The department shall provide copies of this document to all locations authorized to sell licenses pursuant to subsection 4254(e) of this title.

(d) For the purposes of this section, "accompany," "accompanied," or "accompanying" means direct control and supervision, including the ability to see and communicate with the mentored hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany only one mentored hunter at a time. The individual accompanying the mentored hunter while hunting shall sign and date the license of the mentored hunter.

(e) An individual who holds a mentored hunting license is not eligible to hunt moose pursuant to subsection 4254(b) of this title.

(f) An individual who holds a mentored hunting license shall be subject to the bag limit of the fully licensed accompanying hunter. When game is taken by a mentored hunter, it shall be deemed taken by the fully licensed accompanying hunter.

(g) Notwithstanding subdivision 5101(a)(1) of this title, after tagging and reporting game pursuant to fish and wildlife regulations, a person who holds a mentored hunting license may, unaccompanied by the fully licensed accompanying hunter, transport game the mentored hunter has taken.

(h) The scheduled amount of a fine under section 4555 of this title shall be doubled for a violation of this section, and the fine shall be assessed against the licensed adult accompanying the mentored hunter.

(i) On demand of a game warden or other officer authorized by law to make arrests, or of the owner of the land on which a person is hunting, the individual who holds a mentored hunting license shall exhibit the license.

Sec. 2. 10 V.S.A. § 4252 is amended to read:

§ 4252. ACTIVITIES PERMITTED UNDER LICENSES

Subject to provisions of this part and regulations of the board:

(1) A fishing license shall entitle the holder to take fish.

(2) A hunting license shall entitle the holder to take wild animals, except those that require a separate big game license, and to shoot pickerel.

* * *

(13) A mentored hunting license shall entitle the holder to the same privileges as permitted by the fully licensed accompanying hunter's hunting license under subdivision (2) of this section.

Sec. 3. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

* * *

(12) Mentored hunting license \$ 10.00

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

* * *

(16) Mentored hunting license

\$ 10.00

* * *

Sec. 4. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

(1) Five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

* * *

~~(CC) Appendix § 22E. Turkey reporting~~

* * *

(II) Appendix § 37, as it ~~applied~~ applies to annual deer limits

(JJ) § 4256. Mentored hunting license, and the points shall be assessed against the licensed adult who is accompanying the individual holding the mentored hunting license.

* * *

and that upon passage, the title of the bill be amended to read:

“An act relating to the creation of a mentored hunting license”

(Committee Vote: 8-1-0)

Rep. Branagan of Georgia, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources**.

(Committee Vote: 11-0-0)

H. 462

An act relating to encroachments on public waters

Rep. Bohi of Hartford, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 29 V.S.A. § 401 is amended to read:

§ 401. POLICY

Lakes and ponds which are public waters of Vermont and the lands lying thereunder are a public trust, and it is the policy of the state that these waters and lands shall be managed to serve the public good, as defined by section 405 of this title, to the extent authorized by statute. For the purposes of this chapter, the exercise of this management shall be limited to encroachments subject to section 403 of this title. The management of these waters and lands shall be exercised by the department of environmental conservation in accordance with this chapter and the rules of the board. For the purposes of this chapter, jurisdiction of the department shall be construed as extending to all lakes and ponds which are public waters and the lands lying thereunder, which lie beyond the shoreline or shorelines delineated by the mean water level of any lake or pond which is a public water of the state, as such mean water level is determined by the board. For the purposes of this chapter, jurisdiction shall include encroachments of docks and piers on the boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and encroachments of docks and piers on the Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation. No provision of this chapter shall be construed to permit trespass on private lands without the permission of the owner.

Sec. 2. 29 V.S.A. § 403 is amended to read:

§ 403. ENCROACHMENT PROHIBITED

(a)(1) Except as provided in subsection (b) of this section, no person shall encroach on any of those waters and lands of lakes and ponds under the jurisdiction of the board without first obtaining a permit under this chapter.

(2) Except as provided in subsection (b) of this section, no person shall encroach on the following waters with a dock or pier without first obtaining a permit under this chapter:

(A) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation; and

(B) Connecticut River impoundments and boatable tributaries of such impoundments upstream to the first barrier to navigation.

(3) No permit shall be granted if the encroachment adversely affects the public good.

(b) A permit shall not be required for the following uses provided that navigation or boating is not unreasonably impeded:

(1) Wooden or metal docks for noncommercial use mounted on piles or floats provided that:

(A) the combined horizontal distance of the proposed encroachment and any existing encroachments located within 100 feet thereof which are owned or controlled by the applicant do not exceed 50 feet and their aggregate surface areas do not exceed 500 square feet; and

(B) concrete, masonry, earth or rock fill, sheet piling, bulkheading, cribwork, or similar construction does not form a part of the encroachment;

(2) A water intake pipe not exceeding two inches inside diameter;

(3) Temporary extensions of existing structures added for a period not to exceed six months, if required by low water;

(4) Ordinary repairs and maintenance to existing commercial and noncommercial structures;

(5) Duck blinds, floats, rafts, and buoys.

(c) Existing encroachments shall not be enlarged, extended, or added to without first obtaining a permit under this chapter, except as provided in subsection (b) of this section.

(d) This chapter shall not apply to encroachments subject to the provisions of chapter 43 of Title 10, concerning dams, or regulations adopted under the provisions of 10 V.S.A. § 1424 concerning public waters.

(e) This section shall not apply to the installation on lake bottoms of small filtering devices not exceeding nine square feet of disturbed area on the end of water intake pipes less than two inches in diameter for the purpose of zebra mussel control.

(**Committee Vote: 9-0-0**)

H. 509

An act relating to pollution control measures for Lake Champlain

Rep. Deen of Westminster, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 4821(a) is amended to read:

(a) Program created. A program is created to provide state financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the state of Vermont, consistent with goals of the federal Water Pollution Control Act and with state water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for

the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the state shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the agency of agriculture, food and markets.

Sec. 2. 6 V.S.A. § 4900 is amended to read:

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont agricultural buffer program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative buffers and installing conservation practices in ditch networks on ~~annual cropland~~ agricultural land adjacent to the surface waters of the state.

(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed ~~40 percent of~~ the combined federal and state payment that the relevant ~~cropland~~ agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment shall be made annually at the end of the cropping season for a nonrenewable five-year period.

(c) The secretary of agriculture, food and markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont agricultural buffer program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the state or any portion of it.

Sec. 3. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The farm agronomic practices assistance program is created in the agency of agriculture, food and markets to provide the farms of Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
 - (2) cover cropping;
 - (3) strip cropping;
 - (4) cross-slope tillage;
 - (5) zone or no-tillage;
 - (6) pre-sidedress nitrate tests;
 - (7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$1,000.00 per year; ~~and~~
 - (8) educational and instructional activities to inform the farmers and citizens of Vermont of:
 - (A) the impact on Vermont waters of agricultural waste discharges;
 - (B) the federal and state requirements for controlling agricultural waste discharges;
 - (9) implementing alternative manure application techniques; and
 - (10) additional soil erosion reduction practices.
- (b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 4. 10 V.S.A. § 321(d) is amended to read:

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program in order to allow for increased or additional implementation of conservation practices on farmland protected or preserved under this chapter.

Sec. 5. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(10) “Watercourse” means any ~~depression two feet or more below the elevation of surrounding land serving to give direction to a current or flow of water having a bed and well defined bank~~ perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

Sec. 6. 10 V.S.A. § 1021(a) is amended to read:

(a) A person shall not change, alter, or modify the course, current, or cross-section of any watercourse ~~with a drainage area greater than ten square miles at the location of the proposed change, alteration or modification,~~ or of designated outstanding resource waters, within or along the boundaries of this state either by movement, fill, or by excavation of ten cubic yards or more in any year, unless authorized by the secretary.

Sec. 7. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; chapter 56 (public water supply) for construction permits; ~~and~~ chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications; and chapter 41 (regulation of stream flow) for stream alteration permits.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

(e) The secretary may issue a nonreporting general permit for certain specific stream alteration activities under chapter 41 of this title.

Sec. 8. ANR REPORT ON GENERAL PERMIT PROGRAM FOR STREAM
ALTERATION

(a) On or before January 15, 2011, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding a proposed general permit program for stream alteration under chapter 41 of Title 10.

(b) The report required under subsection (a) of this section shall:

(1) Define the thresholds, classes of activities, or other categories of activities that will be regulated under the general permit program.

(2) Summarize the requirements or management practices that stream alteration activities will be subject to under a general permit, including whether any activity or class of activities will be subject to a nonreporting general permit.

(3) Summarize the scientific basis for the thresholds, classes of activities, or categories of activities regulated under the proposed general permit program.

Sec. 9. 19 V.S.A. § 996 is added to read:

§ 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR
BEST MANAGEMENT PRACTICES

(a) The agency of transportation shall work with municipal representatives to revise the agency of transportation's town and bridge standards in order to incorporate a suite of practical and cost-effective best management practices, as approved by the agency of natural resources, for the construction, maintenance, and repair of all existing and future state and town highways. These best management practices shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including stormwater runoff and direct discharges to state waters. The best management practices shall not supersede any requirements for stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that apply to state and town highways. The agency of transportation shall report to the house and senate committees on transportation, the house committee on fish, wildlife and water resources, and the senate committee on natural resources and energy by January 15, 2011, the best management practices to be incorporated into the agency of transportation's town and bridge standards.

(b) Beginning January 15, 2013, and every four years thereafter, the secretary in consultation with municipal representatives and with approval from the agency of natural resources, shall review and revise, as appropriate,

town road and bridge standards in order to ensure the standards are protective of water quality.

Sec. 10. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~ has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event, the local match shall be sufficient to cover 10 percent of the project costs. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~ has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event, the local match shall be sufficient to cover 20 percent of the project costs. The secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of \$175,000.00.

* * *

Sec. 11. REPEAL OF SUNSET OF VERMONT AGRICULTURAL
BUFFER PROGRAM

Sec. 56 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (sunset on Vermont agricultural buffer program) is repealed.

Sec. 12. Sec. 14 of No. 31 of the Acts of 2009 is amended to read:

Sec. 14. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 12 (ANR wetlands report), and 13 (Bristol Pond) of this act shall take effect July 1, 2009.

(b) Secs. 2 (retitling 10 V.S.A. chapter 37), 3 (wetlands definitions), 4 (ANR wetlands authority), 5 (wetlands permitting), 6 (recodification of aquatic nuisance control authority), 7 (water resources panel rulemaking

authority), 8 (ANR enforcement authority), 9 (appeals), and 10 (marketability of title), and 11 (transition) of this act shall take effect 45 days after such time as the water resources panel has issued both a rule updating the Vermont significant wetlands inventory maps and a rule updating the Vermont wetland rules.

(c) Sec. 11 (transition) of this act shall take effect January 1, 2010.

Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 1 (livestock fencing; best management practices), 2 (Vermont agricultural buffer program), 3 (farm agronomic practices program), 4 (VHCB; agricultural land preservation), 8 (ANR report on general permit program), 9 (agency of transportation best management practices), 11 (repeal of sunset on Vermont agricultural buffer program), and 12 (effective date of wetlands transition) of this act shall take effect upon passage.

(b) Secs. 5 (definition of watercourse) and 6 (stream alteration permits) of this act shall take effect March 31, 2011.

(c) Sec. 7 (ANR general permit authority) of this act shall take effect February 15, 2011.

(d) Sec. 10 (local match town highway programs) of this act shall take effect July 1, 2011.

and that after passage the title of the bill be amended to read: “An act relating to pollution control measures for Lake Champlain and the other waters of the state”

(Committee Vote: 9-0-0)

H. 528

An act relating to the illegal cutting, removal, or destruction of forest products

Rep. Conquest of Newbury, for the Committee on **Agriculture**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. §§ 3601–3604 are added to read:

§ 3601. DEFINITIONS

As used in this chapter:

(1) “Boundary tree” means a tree, the stem or trunk of which straddles an established property line and is jointly owned by abutting property owners.

(2) “Established property line” means a line demarcated by monuments, signs, markings, pins, reference points, markers, or other means that denote a change in ownership between abutting properties.

(3) “Harvest unit” means the area of land from which timber will be harvested or the area of land on which timber stand improvement will occur.

(4) “Harvester” means a person, firm, company, corporation, or other legal entity that harvests timber.

(5) “Landowner” means the person, firm, company, corporation, or other legal entity that owns or controls the land or owns or controls the right to harvest timber on the land.

(6) “Landowner’s agent” means a person, firm, company, corporation, or other legal entity representing the landowner in a timber sale, timber harvest, or land management.

(7) “Line tree” means a boundary tree that is blazed, painted, embedded with wire fence, or otherwise demarcated to indicate the location of the established property line.

(8) “Stump diameter” means the diameter of a tree stump remaining or the diameter of the tree at four and one-half feet from the ground if the stump remaining after harvest is greater than four and one-half feet high.

§ 3602. UNLAWFUL CUTTING OF TREES

(a) Any person who cuts, fells, destroys to the point of no value, or substantially damages the potential value of a tree without the consent of the owner of the property on which the tree stands shall be assessed a civil penalty in the following amounts for each tree over two inches in diameter that is cut, felled, or destroyed:

(1) if the tree is no more than six inches in diameter, not more than \$25.00;

(2) if the tree is more than six inches and not more than ten inches in diameter, not more than \$50.00;

(3) if the tree is more than 10 inches and not more than 14 inches in diameter, not more than \$150.00;

(4) if the tree is more than 14 inches and not more than 18 inches in diameter, not more than \$500.00;

(5) if the tree is more than 18 inches and not more than 22 inches in diameter, not more than \$1,000.00;

(6) if the tree is greater than 22 inches in diameter, not more than \$1,500.00.

(b) In calculating an assessment under this section, a law enforcement officer may rely on a written damage assessment provided by the aggrieved landowner or the aggrieved landowner's agent.

§ 3603. HARVESTING TIMBER NEAR A PROPERTY LINE

(a) A landowner who authorizes timber harvesting or who in fact harvests timber shall clearly and accurately mark with flagging or other temporary and visible means the harvest unit or the property line. Each mark of a harvest unit or property line shall be visible from the next and shall not exceed 100 feet apart. The marking of a harvest unit or property lines shall be completed prior to commencement of a timber harvest. If a violation as described in section 3602 of this title occurs due to the failure of a landowner to mark a harvest unit or property line, the landowner who failed to mark a harvest unit or property line in accordance with the requirements of this subsection shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

(b) A landowner or landowner's agent shall obtain the written permission of the co-owner of a boundary tree prior to harvesting. A landowner or landowner's agent who authorizes the harvest of or who in fact harvests a boundary tree without first obtaining permission from the abutting landowner shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

(c) A landowner or landowner's agent who authorizes the harvest of or who in fact harvests a line tree shall be assessed a civil penalty of not less than \$250.00 and not more than \$1,000.00.

§ 3604. EXEMPTIONS

The cutting, felling, or destruction of a tree or the harvest of timber by the following is exempt from the requirements of sections 3602, 3603, and 3606 of this title:

(1) the agency of transportation conducting brush removal on state highways or agency maintained trails;

(2) a municipality conducting brush removal subject to the requirements of 19 V.S.A. § 904;

(3) a utility conducting vegetation maintenance within the boundaries of the utility's established right-of-way;

(4) a harvester under the authority or contract with a landowner within a harvest unit or property that has been marked by a landowner under subsection

3603(a) of this title. A landowner who harvests timber on his or her own property shall not be a “harvester” for the purposes of this subdivision; or

(5) a railroad conducting vegetation maintenance or brush removal in the railroad right-of-way.

Sec. 2. 13 V.S.A. § 3606 is amended to read:

§ 3606. TREBLE DAMAGES FOR CONVERSION OF TREES OR
DEFACING MARKS ON LOGS

If a person cuts down, destroys, or carries away any tree or trees placed or growing for any use or purpose whatsoever, or timber, wood, or underwood standing, lying, or growing belonging to another person, without leave from the owner of such trees, timber, wood, or underwood, or cuts out, alters, or defaces the mark of a log or other valuable timber, in a river or other place, the party injured may recover of such person, in an action on this statute, treble damages in an action on this statute or for each tree the same amount that would be assessed as a civil penalty under section 3602 of this title. However, if it appears on trial that the defendant acted through mistake, or had good reason to believe that the trees, timber, wood, or underwood belonged to him or her, or that he or she had a legal right to perform the acts complained of, the plaintiff shall recover single damages only, with costs. For purposes of this section, “damages” shall include any damage caused to the land or improvements thereon as a result of a person cutting, felling, destroying to the point of no value, substantially reducing the potential value, or carrying away a tree, timber, wood, or underwood without the consent of the owner of the property on which the tree stands.

Sec. 3. 4 V.S.A. § 1102(b) is amended to read:

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(18) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

(19) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and harvesting near a property line.

(Committee Vote: 11-0-0)

H. 540

An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation

Rep. Burke of Brattleboro, for the Committee on **Transportation**,

recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 1033 is amended to read:

§ 1033. ~~PASSING ON THE LEFT~~ MOTOR VEHICLES AND VULNERABLE USERS

(a) ~~Vehicles~~ Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, ~~may~~ shall not pass to the left of the center of the highway unless the way ahead is clear of approaching traffic, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Definition. As used in this chapter, “vulnerable user” means a pedestrian and a highway worker in highway equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as, but not limited to, roller skates, rollerblades, or roller skis); a person riding, driving, or herding an animal; or a person operating a farm tractor or implement of husbandry.

(c) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user shall exercise due care, which includes using every reasonable precaution and increasing clearance from the vulnerable user, to safely clear the vulnerable user.

Sec. 2. 23 V.S.A. § 1039 is amended to read:

§ 1039. FOLLOWING TOO CLOSELY, CROWDING, AND HARASSMENT

(a) The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and the conditions of, the highway. The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

* * *

Sec. 3. 23 V.S.A. § 1065 is amended to read:

§ 1065. HAND SIGNALS

(a) ~~All~~ A right or left turn shall not be made without first giving a signal of intention either by hand or by signal in accordance with section 1064 of this title. Except as provided in subsection (b) of this section, all signals to indicate change of speed or direction, when given by hand, shall be given from the left side of the vehicle and in the following manner:

- (1) Left turn. – Hand and arm extended horizontally.
- (2) Right turn. – Hand and arm extended upward.
- (3) Stop or decrease speed. – Hand and arm extended downward.

(b) ~~No turn to right or left may be made without first giving a signal of an intention to do so either by hand or by signal in accordance with section 1064 of this title~~ A person operating a bicycle may give a right-turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

Sec. 4. 23 V.S.A. § 1127 is amended to read:

§ 1127. CONTROL IN PRESENCE OF ~~HORSES AND CATTLE~~ ANIMALS

(a) ~~Whenever upon a public highway and approaching a vehicle drawn by a horse or other draft animal, or approaching a horse or other~~ an animal upon which a person is riding, or animals being herded, the operator of a motor vehicle shall operate the vehicle in such a manner as to exercise every reasonable precaution to prevent the frightening of ~~such horse or~~ any animal and to ~~insure~~ ensure the safety and protection of the animal and the person riding or, driving, or herding.

(b) The operator of a motor vehicle shall yield to any ~~cattle, sheep, or goats~~ which are animals being herded on or across a highway.

Sec. 5. 23 V.S.A. § 1139(a) is amended to read:

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction and generally shall ride as near to the right side of the roadway as practicable ~~exercising due care when passing a standing vehicle or one proceeding in the same direction,~~ but shall ride to the left or in a left lane when:

(1) preparing for a left turn at an intersection or into a private roadway or driveway;

(2) approaching an intersection with a right turn lane if not turning right at the intersection;

(3) overtaking another highway user; or

(4) taking reasonably necessary precautions to avoid hazards or road conditions.

Sec. 6. 23 V.S.A. § 1141(a) is amended to read:

(a) ~~No~~ A person ~~may~~ shall not operate a bicycle at nighttime from one-half hour after sunset until one-half hour before sunrise unless it is equipped with a lamp on the front, which emits a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear, which shall be visible at least 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. Lamps emitting flashing or steady red lights visible to the rear may be used in addition to the red reflector.

Sec. 7. REPEAL

23 V.S.A. § 1053 (passing pedestrians on a highway) is repealed.

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Jewett of Ripton to the recommendation of amendment of the Committee on Transportation to H. 540

Rep. Jewett of Ripton moves to amend the recommendation of the Committee on Transportation in Sec. 1, in subsection (b), by striking the words “pedestrian and a highway worker in highway equipment” and inserting in lieu thereof the words “pedestrian, including a highway worker”

H. 590

An act relating to mediation in foreclosure proceedings

Rep. Jewett of Ripton, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Rule 80.1 of the Vermont Rules of Civil Procedure is amended to read:

RULE 80.1. FORECLOSURE OF MORTGAGES AND JUDGMENT LIENS

* * *

(b) Complaint; Process.

(1) Complaint. The complaint in an action for foreclosure shall set forth the name of the mortgagor and mortgagee, the date of the mortgage deed, the

description of the premises, the debt or claim secured by the mortgage, any attorney's fees claimed under an agreement in the mortgage or other instrument evidencing indebtedness, any assignment of the mortgage, the condition contained in the mortgage deed alleged to have been breached, the names of all parties in interest and, as to each party in interest, the date of record of the instrument upon which the interest is based, shall pray that defendants' equity of redemption in the premises be foreclosed and explain that the defendant or defendants must enter their appearance in order to receive notice of the foreclosure judgment which will set forth the amount of money they must deposit to redeem the premises and the period of time allowed them to deposit this amount. The plaintiff shall attach to the complaint copies of the note and mortgage and proof of ownership thereof, including all assignments and endorsements of the note and mortgage. All parties in interest shall be joined as parties defendant. Failure to join any party in interest shall not invalidate the action nor any subsequent proceedings as to those joined. A claim for foreclosure in an action under this paragraph may not be joined with a claim for a deficiency except when a defendant in the answer has requested foreclosure pursuant to a power of sale in the mortgage.

* * *

Sec. 2. 12 V.S.A. § 4523(b) is amended to read:

(b) The plaintiff shall file a copy of the complaint, without supporting attachments, in the town clerk's office in each town where the mortgaged property is located. The clerk of the town shall minute on the margin of the record of the mortgage that a copy of foreclosure proceedings on the mortgage is filed. The filing shall be sufficient notice of the pendency of the action to all persons who acquire any interest or lien on the mortgaged premises between the dates of filing the copy of foreclosure and the recording of the final judgment in the proceedings. Without further notice or service, those persons shall be bound by the judgment entered in the cause and be foreclosed from all rights or equity in the premises as completely as though they had been parties in the original action.

Sec. 3. 12 V.S.A. § 4531a is amended to read:

§ 4531a. FORECLOSURE; POWER OF SALE

(a) When a power of sale is contained in a mortgage and the plaintiff in the foreclosure complaint, or the defendant in his or her answer requests a sale, the court may upon entry of judgment of foreclosure order that if the property is not redeemed within the time period allowed by the court, the property be sold pursuant to such power and the court may further determine the time and manner of the sale. If a sale is ordered with respect to any property other than

farmland or a dwelling house of ~~two~~ four units or less when currently occupied by the owner as his or her principal residence, the redemption period shall be eliminated or reduced by the court to no more than 30 days. If the property is not redeemed, the plaintiff shall thereupon execute the power of sale and do all things required by it or by the court. No sale of a dwelling house of ~~two~~ four units or less when currently occupied by the owner as his or her principal residence may take place within seven months of service of the foreclosure complaint, unless the court finds that the occupant is making waste of the property or the parties mutually agree after suit to a shorter period.

(b) When a power of sale is contained in a mortgage relating to any property except for a dwelling house of ~~two~~ four units or less that is occupied by the owner as a principal residence, or farmland, instead of a suit and decree of foreclosure, the mortgagee or assignee may, upon breach of mortgage condition, exercise the power of sale without first commencing a foreclosure action or obtaining a foreclosure decree, and may give notices and do all such acts as are authorized or required by the power, including the giving of a foreclosure deed upon the completion of the foreclosure sale; but no sale under and by virtue of a power of sale shall be valid and effectual to foreclose the mortgage unless the conditions of sections 4532 and 4533a of this title are complied with.

* * *

Sec. 4. 12 V.S.A. chapter 163, subchapter 9 is added to read:

Subchapter 9. Mediation in Foreclosure Actions

§ 4701. MEDIATION PROGRAM ESTABLISHED

(a) This subchapter establishes a program to assure the availability of mediation and compliance with the federal Home Affordable Modification Program (“HAMP”) requirements in actions for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence.

(b) To be qualified to act as a mediator under this subchapter, an individual shall be licensed to practice law in the state and shall be required to have taken a specialized, continuing legal education training course on foreclosure prevention or loss mitigation approved by the Vermont Bar Association.

§ 4702. OPPORTUNITY TO MEDIATE

(a) Prior to commencing an action for foreclosure of a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence, Vermont counsel for the mortgagee shall notify the mortgagor that an action for foreclosure is imminent, and that mediation is available in order

You should request a meeting even if you are already talking to your lender or mortgage servicer because those conversations will not necessarily stop foreclosure. **You will not have to pay the mediator.**

I REQUEST A MEETING WITH MY LENDER OR MORTGAGE SERVICER AND A NEUTRAL THIRD PARTY.

Printed name: _____

Your street address or P.O. box: _____

Your town/city and zip code: _____

Your telephone number: _____

Your e-mail address, if any: _____

Signature: _____ Date: _____

(c) If no request for mediation is received by mortgagee's attorney within 20 days of receipt of the notice by the mortgagor, or if mediation is held but is not successful, the mortgagee shall allege in any complaint, and mortgagee's attorney shall certify on personal knowledge, that notice of the availability of mediation was properly given, that the mortgagor did or did not request mediation, and, if requested, that mediation occurred but was not successful. Mortgagee shall attach to the complaint proof of delivery of the notice and the mediator's report, if mediation occurred.

(d) After an action for foreclosure is commenced, and until the expiration of 20 days from the date of service of the summons and complaint, the court, on motion or request of a party, shall order mediation unless mediation has previously been completed, in which case such order shall be issued only upon a showing of good cause. Thereafter, on its own motion or on the motion of a party for good cause, the court may order mediation. All mediation shall be completed prior to the expiration of the redemption period, and the redemption period shall not be stayed on account of pending mediation. If a mortgagor requests mediation after judgment has been entered, the court may grant the request only if the mortgagor has returned a request for mediation in an amount of time sufficient to allow for a proper mediation to occur, and the court determines that the mortgagor is not attempting to delay the case. The mediator shall report the results of the process, as described in subsection 4704(b) of this subchapter, to the court and both parties in writing.

(e) The court may, on motion of a party, find that the requirements of this subchapter have been met, and that the parties are not required to participate in mediation under this subchapter because they participated in a proceeding providing the substantive protections of mediation under this subchapter.

§ 4703. MEDIATION

(a) Prior to or during all mediations under this subchapter:

(1) the mortgagee shall consider available foreclosure prevention tools, including reinstatement, loan modification, forbearance, and short sale;

(2) the participants shall use the calculations, assumptions, and forms established by the HAMP guidelines, and employ all HAMP-related “net present value” calculations in considering a loan modification conducted under this subchapter; and

(3) the mortgagee shall produce for the mortgagor and mediator documentation of its consideration of the options available in subdivisions (1) and (2) of this subsection, including the data used in and the outcome of any HAMP-related “net present value” calculation.

(b) In all mediations under this subchapter, the mortgagor shall provide to the mediator information on his or her household income and any other information required by HAMP.

(c)(1) The following persons shall participate in any mediation under this subchapter:

(A) the mortgagee, or any other person, including the mortgagee’s servicing agent, who shall have:

(i) authority to agree to a proposed settlement, loan modification, or dismissal of the foreclosure action;

(ii) real time access during the mediation to the mortgagor’s account information and to the records relating to consideration of the options available in subdivisions (a)(1) and (2) of this section, including the data and factors considered in evaluating each such foreclosure prevention tool; and

(iii) the ability and authority to perform necessary HAMP-related “net present value” calculations and to consider other options available in subdivisions (a)(1) and (2) of this section during the mediation;

(B) counsel for the mortgagee; and

(C) the mortgagor, and counsel for the mortgagor, if represented.

(2) The mediator may permit a party identified in subdivision (1) of this subsection to participate in mediation by telephone or videoconferencing.

(d) The mediator shall include in the mediation process under this subchapter any other person the mediator determines is necessary for effective mediation.

§ 4704. MEDIATION REPORT

(a) Within seven days of the conclusion of any prelitigation mediation, the mediator shall report the results of the process to both parties in writing. If prelitigation mediation does not result in a settlement or if the court orders mediation after an action for foreclosure has commenced, within seven days of the conclusion of the mediation, the mediator shall report the results of the process to the court and both parties in writing.

(b) The report shall not disclose the mediator's assessment of any aspect of the case or substantive matters discussed during the mediation, except as is required to report the information required by this section. The report shall contain the following items:

(1) The date on which the mediation was held, including the starting and finishing times.

(2) The names and addresses of all persons attending, showing their role in the mediation and specifically identifying the representative of each party who had decision-making authority.

(3) A summary of any substitute arrangement made regarding attendance at the mediation.

(4) All HAMP-related "net present value" calculations and other foreclosure avoidance tool calculations performed prior to or during the mediation and all information related to the requirements in subsection 4703(a) of this subchapter.

(5) The results of the mediation, stating whether full or partial settlement was reached and appending any agreement of the parties.

§ 4705. COMPLIANCE WITH OBLIGATIONS

Upon receipt of the mediator's report, pursuant to subsection 4704(a) of this subchapter, the court shall promptly and without hearing determine whether the servicer has complied with all of its obligations under subsection 4703(a) of this subchapter.

§ 4706. EFFECT OF MEDIATION PROGRAM ON FORECLOSURE ACTIONS FILED PRIOR TO EFFECTIVE DATE

The court shall, on request of a party, require mediation in any foreclosure action on a mortgage on any dwelling house of four units or less that is occupied by the owner as a principal residence that was commenced prior to the effective date of this subchapter but only up to 30 days prior to the end of the redemption period.

§ 4707. NO WAIVER OF RIGHTS; COSTS OF MEDIATION; EXEMPTIONS

(a) The parties' rights in a foreclosure action are not waived by their participation in mediation under this subchapter.

(b) The mortgagee shall pay the required costs for any mediation under this subchapter. The mortgagor shall be responsible for mortgagor's own costs, including the cost of mortgagor's attorney, if any, and travel costs.

(c) No mortgagee may shift to the mortgagor the costs of the mortgagee's or the servicing agent's attorney's fees or travel costs related to mediation.

(d) The requirements of this subchapter shall apply only to foreclosure actions involving loans that are subject to the federal HAMP guidelines.

Sec. 5. EFFECTIVE DATE

This act shall take effect 45 days after passage but no later than July 1, 2010.

Sec. 6. SUNSET

This act shall be repealed on the same day as the expiration date of the federal Home Affordability Modification Program ("HAMP").

(Committee Vote: 7-2-2)

H. 594

An act relating to access to restroom facilities

Rep. Bissonnette of Winooski, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 140 is added to read:

CHAPTER 140. RESTROOM ACCESS

IN RETAIL ESTABLISHMENTS

§ 4511. DEFINITIONS

For purposes of this chapter:

(1) "Customer" means an individual who is lawfully on the premises of a retail establishment.

(2) "Eligible medical condition" means Crohn's disease, ulcerative colitis, irritable bowel syndrome, any other inflammatory bowel disease, or any medical condition that requires immediate access to a toilet facility.

(3) "Retail establishment" means a place of business open to the general public for the sale of goods or services.

§ 4512. RETAIL ESTABLISHMENTS; RESTROOM ACCESS; LIABILITY

(a) A retail establishment that provides a toilet facility for its employees shall allow a customer to use the facility during normal business hours if all of the following conditions are met:

(1) The customer requesting the use of the employee toilet facility suffers from an eligible medical condition or uses an ostomy device and provides a statement signed by a physician which indicates that the customer suffers from an eligible medical condition or uses an ostomy device.

(2) Two or more employees of the retail establishment are working at the time the customer requests use of the employee toilet facility.

(3) The employee toilet facility is not located in an area where providing access would create an obvious health or safety risk or a security risk to the retail establishment.

(4) A public restroom is not immediately accessible to the customer.

(b) A retail establishment or an employee of a retail establishment is not civilly liable for the injury or death of a customer resulting from any act or omission in allowing a customer to use an employee toilet facility pursuant to this section, unless the act or omission is willful or grossly negligent.

(c) A retail establishment is not required to make any physical changes to an employee toilet facility under this section.

(d) A retail establishment shall not be in violation of chapter 139 of this title solely by reason of allowing a customer to use an employee toilet facility pursuant to this section.

(Committee Vote: 10-1-0)

H. 639

An act relating to motor vehicle insurance for volunteer drivers

Rep. Smith of Mendon, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4211 is added to read:

§ 4211. VOLUNTEER DRIVERS

(a) An insurer may not refuse to issue motor vehicle liability insurance to an applicant solely because the applicant is a volunteer driver. An insurer may

not impose a surcharge or otherwise increase the rate for a motor vehicle policy solely on the basis that the named insured, a member of the insured's household, or a person who customarily operates the insured's vehicle is a volunteer driver.

(b) For purposes of this section, "volunteer driver" means a person who provides services, including transporting individuals or goods, without compensation above mileage expenses to a charitable organization or nonprofit corporation established under Title 11B, pursuant to a written agreement.

(c) This section does not prohibit an insurer from refusing to renew, imposing a surcharge on, or otherwise raising the rate for a motor vehicle liability insurance policy based upon factors other than the volunteer status of the insured driver.

Sec. 2. EFFECTIVE DATE

Sec. 1 of this act shall apply to all policies and contracts offered, issued, or renewed on and after September 1, 2010.

(Committee Vote: 11-0-0)

H. 680

An act relating to termination of occupancy of farm employee housing

Rep. Toll of Danville, for the Committee on **Agriculture**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS AND RECOMMENDATIONS

The general assembly finds:

(1) Vermont farmers frequently provide housing to their employees as a benefit of agricultural work performed.

(2) Farmers and their employees have a reasonable expectation that where housing is provided as a benefit of employment, each party has certain rights and responsibilities that should be mutually understood.

(3) The purpose of this act is to provide a clear and consistent framework for the rights and responsibilities of farmers and their employees where housing is provided, including due process protections for the farm employee.

(4) With the increasing presence of a mobile workforce, the general assembly recognizes that English may not be the primary language for a number of farm employees in Vermont.

(5) The general assembly therefore recommends that the agency of agriculture, food and markets, the department of health, the department of labor, the department of economic, housing and community affairs, and other appropriate agencies make available on their websites the notice provisions set forth in 9 V.S.A. § 4469a(c) in the languages most commonly used by farm employees in Vermont.

(6) The general assembly further recommends that state agencies providing guidance on farm employer-employee relations direct farmers who provide housing to their employees:

(A) upon commencement of farm employment, to inform a farm employee in the employee's native language that, unless otherwise provided by contract, the right to occupy farm housing will end upon termination of farm employment; and

(B) upon termination of farm employment, to provide the notice provisions set forth in 9 V.S.A. § 4469a(c) to the farm employee in the farm employee's native language.

Sec. 2. 9 V.S.A. § 4469a is added to read:

4469a. TERMINATION OF OCCUPANCY OF FARM EMPLOYEE
HOUSING

(a) For the purposes of this section:

(1) "Farm employee" means an individual employed by a farm employer for farming operations.

(2) "Farm employer" means a person earning at least one-half of his or her annual gross income from the business of farming as that term is defined in Section 1.175-3 of the regulations issued by the United States Department of the Treasury under the Internal Revenue Code of the United States, as amended.

(3) "Housing provided as a benefit of farm employment" means housing owned or controlled by the farm employer, whether located on or off the farm premises, and provided for the occupancy of the farm employee and the farm employee's family or household members for no payment other than the farm employee's labor. Payment of utility and fuel charges paid by the farm employee does not affect the designation of housing provided as a benefit of farm employment.

(b) Unless otherwise provided in a written employment contract, a farm employer who provides housing to a farm employee and the farm employee's family or household members as a benefit of the employment may terminate that benefit and all rights of the employee and the employee's family or

household members to occupy the housing when the employee's employment is terminated.

(c) The termination of the housing benefit shall be by written notice served upon the former farm employee by a law enforcement officer in accordance with Rule 4 of the Vermont Rules of Civil Procedure. The notice shall be served together with a summons and complaint seeking a writ of possession under this section to remove the former farm employee from occupancy of the farm housing. The notice shall include the following statements, in boldface print:

"Your employment and housing benefit have been terminated.

"Your employer has filed a legal proceeding in _____ County superior court to obtain a court order directing you and any family or household member cohabitating in the dwelling to vacate and leave the dwelling and remove all of your possessions. The address and telephone number of the court are as follows: _____ .

"The court will hold a hearing on your former employer's request for a court order directing you to leave and vacate the dwelling. The hearing will be held on _____ at _____ in the _____ am/pm at the courthouse at the address listed above. You have the right to be served with notice of the hearing at least ten days prior to the hearing date. You have the right to appear at this hearing. At the hearing, your former employer must prove that the dwelling is needed for housing a replacement employee, and that your failure to vacate is causing actual hardship.

"If you believe that your employment was terminated wrongfully, that your dwelling house was not habitable, or if you have any other claim against your former employer, you may file a counterclaim against your former employer as explained in the summons and complaint that are being served upon you with this notice.

"Filing a counterclaim against your former employer will not delay or stop the court from ordering you to leave and vacate the dwelling.

"You may wish to seek legal advice from a licensed attorney. If you believe you cannot afford an attorney, you may contact the clerk of the court listed above for information about the availability of an attorney at public expense, although you may not be entitled to an attorney at public expense."

(d) A farm employer shall be entitled to a show cause hearing on an expedited basis for the purpose of demonstrating that the failure of the former farm employee to vacate the farm housing is causing an actual hardship to the farm employer. The show cause hearing shall be held not less than 10 calendar

days after service on the former employee of the notice described in subsection (c) of this section. The issue before the court at the hearing shall be whether the farm employer has suffered actual hardship because of the unavailability of the farm housing for a replacement employee.

(e) If the court finds that the farm employer has suffered actual hardship because of the unavailability of the farm housing for a replacement employee, the court shall enter an order approving a writ of possession, which shall be executed no sooner than five days nor later than 30 days after the writ is served, to put the plaintiff into possession.

(f) If the court does not make a finding on behalf of the farm employer, the farm employer may seek an eviction pursuant to sections 4467 and 4468 of this chapter and subchapter 3 of chapter 169 of Title 12. In any action pursuant to this section, the farm employer may file a motion for payment of the reasonable rental value of the premises into court pursuant to 12 V.S.A. § 4853a.

(g) The right of a former farm employee to pursue any claim that he or she may have against the former farm employer by way of a counterclaim in a civil action brought pursuant to this section is expressly preserved. The assertion of a counterclaim shall not have the effect of delaying or preventing the removal of the employee from the housing, nor shall the employee be entitled to obtain injunctive relief in the form of repossession of farm housing. A former employee who prevails on a counterclaim shall be entitled to relief as provided by applicable law.

(h) Sections 4455, 4461, and 4467 of this chapter shall not apply to housing provided to a farm employee as a benefit of the employment.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 11-0-0)

Action Under Rule 52

J.R.H. 42

Joint resolution urging the DC delegation to support the Main Street Fairness Act

(For text see House Journal 3/16/2010)

J.R.H. 43

Joint resolution urging Congress to amend the Toxic Substances Control Act of 1976

(For text see House Journal 3/16/2010)

Action Postponed Until May 28, 2010

Governors Veto

H. 436

An act relating to decommissioning funds of nuclear energy generation plants.

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Committee Bill for Second Reading

H. 775

An act relating to technical changes to the records management authority of the Vermont state archives and records administration.

(Rep. Devereux of Mount Holly will speak for the Committee on Government Operations.)

H. 776

An act relating to rental housing.

(Rep. Head of South Burlington will speak for the Committee on General, Housing and Military Affairs.)

H. 778

An act relating to amending miscellaneous provisions in Vermont's public retirement systems.

(Rep. Hubert of Milton will speak for the Committee on Government Operations.)

H. 779

An act relating to potable water supply and wastewater system permits.

(Rep. Fagan of Rutland City will speak for the Committee on Fish, Wildlife & Water Resources.)

Favorable with Amendment

H. 709

An act relating to creating a prekindergarten–16 council

Rep. Peltz of Woodbury, for the Committee on Education, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. POLICY

It is the policy of the state of Vermont to encourage and enable all Vermonters to acquire the postsecondary education and training necessary for the state to develop and maintain a highly educated and engaged citizenry and a competitive workforce.

Sec. 2. 16 V.S.A. § 2905 is added to read:

§ 2905. PREKINDERGARTEN–16 COUNCIL

(a) A prekindergarten–16 council (the “council”) is created to help coordinate and better align the efforts of the prekindergarten–12 educational system with the higher education community in order to increase:

- (1) postsecondary aspirations;
- (2) the enrollment of Vermont high school graduates in higher education programs;
- (3) the postsecondary degree completion rates of Vermont students; and
- (4) public awareness of the economic, intellectual, and societal benefits of higher education.

(b) The council shall be composed of:

- (1) the commissioner of education or designee;
- (2) the commissioner of labor or designee;
- (3) the president of the University of Vermont or designee;
- (4) the chancellor of the Vermont State Colleges or designee;
- (5) the president of the Vermont Student Assistance Corporation or designee;
- (6) the president of the Association of Vermont Independent Colleges or designee;
- (7) a principal of a secondary school selected by the Vermont Principals’ Association;
- (8) a member of a school board selected by the Vermont School Boards Association;
- (9) a superintendent selected by the Vermont Superintendents Association;
- (10) a teacher selected by the Vermont-National Education Association;
- (11) a member of the Building Bright Futures Council or designee;

(12) a technical education director selected by the Vermont Association of Career and Technical Center Directors;

(13) a representative from the business and industry community selected by the Vermont Business Roundtable;

(14) an advocate for low income children selected by Voices for Vermont's Children;

(15) a member of the house of representatives, who shall be selected by the speaker and shall serve until the beginning of the biennium immediately after the one in which the member is appointed;

(16) a member of the senate, who shall be selected by the committee on committees and shall serve until the beginning of the biennium immediately after the one in which the member is appointed; and

(17) a member of the faculty of the Vermont State Colleges, the University of Vermont, or a Vermont independent college selected by United Professions AFT Vermont, Inc.

(c) The council shall develop and regularly update a statewide plan to increase postsecondary aspirations among students of all ages and otherwise advance the purposes for which the council is created, which shall include strategies to:

(1) increase the percentage of Vermonters who earn an associate's or higher level degree or a postsecondary certification;

(2) identify and address areas of educator preparation that could benefit from improved collaboration between the prekindergarten–12 educational system and the higher education community;

(3) promote early career awareness and nurture postsecondary aspirations;

(4) develop programs that guarantee college admission and financial aid for low income students who successfully complete early commitment requirements;

(5) enhance student engagement in secondary school, ensuring that learning opportunities are relevant, rigorous, and personalized and that all students aspire to and prepare for success in postsecondary learning opportunities;

(6) expand access to dual enrollment programs in order to serve students of varying interests and abilities, including those who are likely to attend college, those who are from groups that attend college at disproportionately low rates, and those who are prepared for a postsecondary curriculum prior to graduation from secondary school;

(7) develop proposals for statewide college and career readiness standards and assessments;

(8) create incentives for adults to begin or continue their postsecondary education that consider, in part, emerging labor markets; and

(9) ensure implementation of a prekindergarten–16 longitudinal data system, which it shall use to assess the success of the plan required by this subsection.

(d) Together with the secretary of administration or the secretary's designee, a higher education subcommittee of the council shall perform any statutory duties required of it in connection with the higher education endowment trust fund. The following members of the council shall be the members of the higher education subcommittee: the president of the University of Vermont, the chancellor of the Vermont State Colleges, the president of the Vermont Student Assistance Corporation, the president of the Association of Vermont Independent Colleges, the representative from the business and industry community, the member of the house of representatives, and the member of the senate.

(e) The legislative and higher education staff shall provide support to the council as appropriate to accomplish its tasks. Primary administrative support shall be provided by the legislative council.

(f) For attendance at meetings during adjournment of the general assembly, legislative members of the council shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406, which shall be paid for by the general assembly. Members of the council identified in subdivisions (b)(7)–(14) of this section who are not state employees and whose participation is not otherwise reimbursed shall be entitled to compensation and reimbursement for expenses for attending meetings at the per-diem rate established in 32 V.S.A. § 1010, which shall be paid on a pro-rata basis by the University of Vermont, the Vermont State Colleges, the Vermont Student Assistance Corporation, and the Association of Vermont Independent Colleges.

(g) The council shall annually elect one of its members to be chair.

(h) The council shall meet at least six times yearly.

(i) The council shall report on its activities to the house and senate committees on education each year in January.

Sec. 3. 16 V.S.A. § 2885 is amended to read:

§ 2885. VERMONT HIGHER EDUCATION ENDOWMENT TRUST FUND

* * *

(d) During the first quarter of each fiscal year, ~~beginning in the year 2000,~~ ~~the commission on higher education funding~~ secretary of administration or the secretary's designee and the higher education subcommittee of the prekindergarten-16 council created in section 2905 of this title may authorize the state treasurer to make an amount equal to up to two percent of the assets available to Vermont public institutions for the purpose of creating or increasing a permanent endowment. In this subsection, "assets" means the average of the fund's market values at the end of each quarter for the most recent 12 quarters, or all quarters of operation, whichever is less. Therefore, up to two percent of the fund assets are hereby annually allocated pursuant to this section, provided that the amount allocated shall not exceed an amount which would bring the fund balance below the initial funding made in fiscal year 2000 plus any additional contributions to the principal. One-half of the amount allocated shall be available to the University of Vermont and one-half shall be available to the Vermont ~~state colleges~~ State Colleges. The University of Vermont or Vermont ~~state colleges~~ State Colleges may withdraw funds upon certification by the withdrawing institution to the commissioner of finance and management that it has received private donations which are double the amount it plans to withdraw.

(e) Annually, by September 30, the state treasurer shall render a financial report on the receipts, disbursements and earnings of the fund for the preceding fiscal year to the ~~commission on higher education funding~~ secretary of administration or the secretary's designee and the higher education subcommittee.

(f) All balances in the fund at the end of any fiscal year shall be carried forward and used only for the purposes set forth in this section. Earnings of the fund which are not withdrawn pursuant to this section shall remain in the fund.

(g) The University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation shall review expenditures made from the fund, evaluate the impact of the expenditures on higher education in Vermont, and report this information to the state treasurer each year in January.

Sec. 4. REPEAL

16 V.S.A. § 2886 (commission on higher education funding) is repealed, and the commission shall cease to exist on the effective date of this act.

Sec. 5. IMPLEMENTATION

(a) All members of the prekindergarten-16 council created in Sec. 2 of this act shall be selected before August 1, 2010.

(b) The commissioner of education shall convene the first meeting of the prekindergarten–16 council before September 1, 2010.

(c) The strategies developed by the prekindergarten–16 council pursuant to subdivision 2(c)(1) of this act shall include the goal of ensuring that at least 60 percent of the adult population will have earned an associate’s or higher-level degree by 2020.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-1-1)

Rep. Miller of Shaftsbury, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Appropriations**.

(Committee Vote: 10-0-1)

S. 288

An act relating to the Vermont recovery and reinvestment act of 2010

Rep. Botzow of Pownal, for the Committee on **Commerce and Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * VRRRA 2010 Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to supplement and support the programs and policies established in No. 54 (H.313) of the Acts of 2009, the Vermont Recovery and Reinvestment Act of 2009, and to provide other economic incentives.

(b) The provisions of this act provide short-term economic stimulus to certain sectors of the Vermont economy, and invest in long-term strategies that are consistent with the four principal goals of economic development identified by the commission on the future of economic development and codified in 10 V.S.A. § 3(b) as follows:

(1) Vermont’s businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The programs identified in this act shall strive to meet the challenge of improving their economic development results by taking steps to meet the two outcomes for economic development stated in Sec. 8(b) of an Act Relating to Challenges for Change, No. 68 (S.286) of the Acts of the 2009 Adj. Sess. (2010): (1) Vermont achieves a sustainable annual increase in nonpublic sector employment and in median household income; and (2) Vermont attains a statewide, state-of-the-art telecommunications infrastructure. As also identified in the Challenges for Change Act, Sec. 8(a)(3) in S.286, such steps shall include:

(1) identifying measurable results of improvement;

(2) designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3;

(3) directing available state funds to these strategies; and

(4) using objective, data-based indicators to measure performance of these strategies.

* * * SFSF General Services Fund Appropriations * * *

Sec. 2. STATE FISCAL STABILIZATION FUND; GENERAL SERVICES FUND; APPROPRIATIONS

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, is hereby appropriated as prescribed in Secs. 3–10 of this act.

(b) For the specific purpose of ensuring SFSF funds are expended in a timely fashion and in accordance with the deadlines and restrictions established under ARRA, and also to ensure that the objectives of the appropriations contained herein are accomplished, the secretary of administration is authorized to substitute general fund appropriations for the SFSF appropriations in this section, and in such an event, the secretary is authorized to expend the SFSF funds on any other authorized general fund expenditure.

(c) It is the intent of the general assembly that, unless otherwise stated, the appropriations of SFSF funds made pursuant to this act are expended as quickly as possible so as to have an immediate stimulative impact on Vermont's economy. However, to the extent it is not feasible or prudent for a program to expend all funds in fiscal year 2010, the funds may be carried forward to fiscal year 2011 and otherwise expended in accordance with the provisions of this act.

(d) It is the intent of the general assembly that any program receiving SFSF funds pursuant to this act make all reasonable and practicable efforts to ensure that such funds are evenly and equitably distributed throughout the entire state of Vermont.

Sec. 3. ENTREPRENEURS' SEED CAPITAL FUND

The amount of \$400,000.00 is appropriated to the entrepreneurs' seed capital fund established under chapter 14A of Title 10.

Sec. 4. RURAL BROADBAND; VTA

The amount of \$3,165,00.00 is appropriated to the Vermont telecommunications authority (VTA) for the purpose of making broadband services available to at least 12,000 households or businesses in locations where such services are not currently available, as provided in 30 V.S.A. § 8079, as established in Sec. 11 of this act.

Sec. 5. VERMONT EMPLOYMENT TRAINING PROGRAM

The amount of \$1,200,000.00 is appropriated to the department of economic, housing, and community development for the program operations of the Vermont employment training program established under 10 V.S.A. § 531.

Sec. 6. TOURISM AND MARKETING; MEDIA ADVERTISING

The amount of \$400,000.00 is appropriated to the department of tourism and marketing to increase the frequency of and expand the media buys in the state's key regional markets for Vermont's recreation and hospitality operations. These funds shall be expended in calendar year 2010 with the goal of increasing the number of visitors throughout all regions of the state this year.

Sec. 7. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$778,000.00 is appropriated to the Vermont economic development authority (VEDA) to be used by the Vermont agricultural credit corporation for the Vermont agricultural credit program established under 10 V.S.A. § 374a to assist Vermont farmers with capital to meet operating and related needs.

(b) The amount of \$100,000.00 is appropriated to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330, as provided in Sec. 13 of this act.

(c) The amount of \$122,000.00 is appropriated to the secretary of agriculture to be transferred as follows:

(1) \$100,000.00 the farm-to-school program established under 6 V.S.A. § 4721.

(2) \$22,000.00 to the farms 2 + 2 program offered by the University of Vermont and the Vermont Technical Colleges.

Sec. 8. CHAMPLAIN BRIDGE CLOSURE; GRANTS AND LOANS

(a) The amount of \$500,000.00 is appropriated to the agency of commerce and community development for a grant to the Addison County economic development corporation (ACEDC) for the purpose of providing grants and loans to businesses and organizations that have incurred economic losses as a direct result of the closure of the Lake Champlain bridge at Crown Point, with oversight and reporting provided by the Vermont office of economic stimulus and recovery.

(b) Grants for loss in revenue. The ACEDC shall award grants to any business or organization that, due to the bridge closure, suffered revenue losses of at least 20 percent during the fourth quarter of calendar year 2009 as compared with the same period in 2008. Awards under this subsection shall compensate up to 50 percent of uninsured losses.

(c) Grants for increased expenses. The ACEDC shall award grants to any business or organization for the purpose of compensating losses incurred during the fourth quarter of calendar year 2009 directly attributable to the closure of the bridge as follows:

(1) up to 75 percent of a documented, uninsured increase in transportation costs.

(2) up to 75 percent of documented, uninsured costs incurred in paying employee per diems to cover increased commuting time and expenses.

(3) up to 75 percent of documented, uninsured costs incurred for equipment rentals or the hiring of custom haulers necessary to continue business operations.

(d) Any grant made pursuant to subsections (b) and (c) of this section shall not exceed \$20,000.00. No business or organization shall be eligible for more

than one grant. ACEDC shall not award more than \$150,000.00 in grants under this section.

(e) Loans. The ACEDC shall establish criteria for making low-or-no-interest loans to businesses and organizations negatively impacted by the closure of the Champlain Bridge. The loans shall be to assist such entities with maintaining payroll, ordering inventory, and covering operational expenses. The ACEDC shall establish underwriting criteria, and any other terms and conditions deemed necessary to carry out the purposes of this subsection. The ACEDC shall issue up to \$350,000.00 in aggregated loans.

(f) The Addison County economic development corporation may use 0.5 percent of the appropriation made under this section for administrative costs.

(g) On November 1, 2010, all unexpended funds shall be transferred to the Vermont economic development authority (VEDA). In addition, all loan repayments shall be transferred to VEDA. Any funds received by VEDA pursuant to this subsection shall be transferred to the entrepreneurs' seed capital fund established under chapter 14A of Title 10. ACEDC may retain any interest.

Sec. 9. VEDA; VERMONT JOBS FUND

The amount of \$1,700,000.00 is appropriated to the Vermont economic development authority to provide interest-rate subsidies on loans approved under the Vermont jobs fund established in 10 V.S.A. § 234.

Sec. 10. MICROBUSINESS DEVELOPMENT; INDIVIDUAL DEVELOPMENT ACCOUNTS

(a) The amount of \$100,000.00 is appropriated to community capital of Vermont for the job start loan fund to support low and moderate income business owners who do not have access to conventional bank loans.

(b) The amount of \$200,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families. These funds shall not be used to secure a federal match. Of this appropriation:

(1) \$100,000.00 shall be transferred to the individual development account (IDA) program; and

(2) \$100,000.00 shall be transferred to the micro-business development program.

Sec. 11. 30 V.S.A. § 8079 is added to read:

§ 8079. BROADBAND ADOPTION PROGRAM

(a) There is established the Vermont broadband adoption program to be administered by the Vermont telecommunications authority for the purposes of accelerating the subscription to and use of broadband Internet access by the public and increasing the sustainability of broadband networks in Vermont, especially in rural and underserved communities. Through this program, the authority shall insure that broadband service is provided to at least 12,000 households and businesses left unserved by private entities.

(b) The authority shall expend monies appropriated to the Vermont broadband adoption program consistent with this section.

(c) For purposes of this section, a “community” shall be a local geographic area of the state defined by the authority and consisting of one or more geographic areas with a defined boundary, including municipalities, telephone exchanges, ZIP codes, or census blocks.

(d) For purposes of this section, “broadband” service shall mean Internet access services which provide download speeds not less than 1.5 megabits per second and upload speeds not less than 200 kilobits per second. Service provided by satellite shall not qualify as “broadband.” In addition, the authority shall give priority to broadband services which meet or exceed the minimum technical service characteristic objectives established pursuant to section 8077 of this title, and may adopt any new such objectives established pursuant to section 8077 of this title in place of the definition provided in this subsection.

(e) In each fiscal year in which funding is available for the program, the authority shall establish target communities in which it will offer incentives to broadband service providers. In selecting the target communities, the authority shall consider, to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband services by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband services to all regions of the state.

(f) For each target community, the authority shall seek proposals through a competitive process from broadband service providers who agree to improve, expand, or introduce broadband service in the community. The authority shall consider in its selection of broadband service providers the factors used in selecting the target communities, and also the quality of the proposed broadband services and the plans of applicants to market and promote the adoption of its broadband services in the target communities. Based on the number and quality of proposals received, the authority may seek additional proposals, adjust the boundaries of the communities it has defined, or elect to not provide assistance in some target communities.

(g) Broadband service providers that agree to receive assistance under this program for a target community shall within 18 months make broadband service available to all occupied nonseasonal home and business locations within the community at upload and download speeds which shall be specified in a grant agreement with the authority, which shall not be less than speeds commonly offered by the broadband service provider in other areas it serves in the state.

(h) The authority shall provide a broadband service provider selected to receive assistance for a target community with a grant per new broadband subscriber in the target community. The amount of the grant shall be equal to a monthly refund level established by the authority. Prior to July 1, 2013, the authority shall not establish a monthly refund level exceeding \$20.00 per month. Grants shall be sufficient to provide the monthly refund level for a period of 12 months. The broadband service provider shall apply the amount of the monthly refund level as a credit to the amount owed by a subscriber for service. The authority may require new subscribers to claim the credit on line, which may include initiating one or more on-line transactions with state services offered on line. To the extent possible and consistent with the cost-effective administration of the program, the authority shall limit grants awarded such that they are awarded for subscribers who have not previously had broadband service available in the target community.

(i) Prior to distribution of grant funding, the authority shall seek and obtain a reasonable demonstration that a selected broadband service provider has adequate capital funding available to complete the expansion of service required by subsection (g) of this section.

(j) Broadband service providers that agree to receive assistance under this program shall offer a broadband service on at least one tier of service at a price that shall not exceed the amount of the monthly refund level for one year after the subscriber initiates service. Broadband providers may offer additional tiers of broadband service or bundles of broadband service and other services without limit on price due to participation in this program.

(k) For good cause, if no satisfactory proposals to provide service in a target community are received, the authority may provide partial or full refunds for reasonable nonrecurring charges associated with initiation of service and may either establish for a target community a monthly grant level higher than otherwise allowed by subsection (h) of this section, or modify the price limitations of subsection (j) of this section, or both. In no case shall the monthly refund level exceed the price of the lowest tier of broadband service offered in a target community.

(l) During any quarter it receives assistance under this program, a broadband service provider shall provide information regarding broadband service availability, adoption, speed, and price to the entity selected by the National Telecommunications and Information Administration to receive funding for broadband data collection in Vermont under the state broadband data and development grant program established under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5 and the Broadband Data Improvement Act of 2008, P.L. No. 110-385.

(m) The authority may use up to 10 percent of the funds appropriated to the program to provide financial incentives for new subscribers in target communities to conduct transactions with state government on line instead of in person or in paper form, not to exceed \$50.00 per new subscriber. Notwithstanding any other provision of this section, the authority may use up to 50 percent of the funds appropriated to the program to provide any state match which may be required if Congress extends the federal telephone lifeline program to include broadband service, or if Congress enacts any other program to provide financial assistance for low income consumers of broadband service as it may be defined under federal law. If the authority acts pursuant to this subsection, it shall send notice to the commissioner of public service, the speaker of the house, and the president pro tempore of the senate. Upon receipt of such notice, the commissioner of public service shall make a recommendation to the general assembly within six months regarding changes to Vermont statutes or rules regarding the telephone lifeline program and changes which may be required to provide ongoing support for a similar program for broadband.

(n) Of the funds appropriated to the broadband adoption program, the authority may use up to five percent for administration of the funds received.

(o) On or before January 1, 2011, the authority shall submit a report to the house committee on commerce and community development and the senate committee on economic development, housing and general affairs that details the progress it has made in reaching the goals of the broadband adoption program established by this section, specifically in terms of reaching the 12,000 unserved Vermonters.

* * * Agreements Pertaining to Telecommunications Facilities * * *

Sec. 12. 30 V.S.A. § 8079 is added to read:

§ 8079. AGREEMENTS; TELECOMMUNICATIONS FACILITIES

In awarding loans or grants to entities as permitted under subdivision § 8062(a)(6) of this title, the authority shall develop terms and conditions applicable to agreements covering telecommunications infrastructure that ensure payments accrue in reasonable installments and at reasonable intervals, particularly with respect to the time period commencing after an agreement is entered into but before the telecommunications facility that is the subject of the agreement is ready for commercial use.

* * * Farm-to-Plate Investment Program * * *

Sec. 13. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(b) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to nonprofit farmers' markets and like entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation of the recommendations contained in the strategic plan of the farm-to-plate investment program.

* * * Audit Strategy for Job Creation * * *

Sec. 14. AUDIT STRATEGY; JOB CREATION

On or before January 1, 2011, the state auditor of accounts shall develop and recommend to the house committee on commerce and economic development and the senate committee on economic development, housing and

general affairs an audit strategy designed to comprehensively validate job-creation programs in Vermont. The audit strategy shall seek to incorporate design elements that take into account possible “job inflation” caused by multiple economic development programs claiming creation of the same job.

* * * Increased Moral Obligation for Vermont Jobs Fund * * *

Sec. 15. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$70,000,000.00~~ \$100,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

* * * VEDA: Increased Flexibility for Inter-Fund Lending Transfers * * *

Sec. 16. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(c) Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority ~~to establish a line of credit in an amount not to exceed \$30,000,000.00 to be advanced to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title.~~

(d) Monies in the fund may be loaned to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title at interest rates and on terms and conditions to be set by the authority ~~to establish a line of credit in an amount~~

~~not to exceed \$3,000,000.00 to be advanced to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title.~~

(e) Monies in the fund may be loaned to the Vermont 504 corporation to support its lending operations as established pursuant to subdivision 216(13) of this title at interest rates and on terms and conditions to be set by the authority.

* * * VEDA: Extension of Time for Economic Recovery and
Opportunity Program * * *

Sec. 17. Sec. 5.507 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) shall be amended to read:

Sec. 5.507. VEDA – ECONOMIC RECOVERY AND OPPORTUNITY PROGRAM

(a) The state treasurer in consultation with the secretary of administration shall negotiate an agreement to advance up to \$1,250,000 to the Vermont economic development authority (“VEDA”) in fiscal year 2009.

~~(b) In fiscal 2009, a write-down of the advance in the amount of \$257,000 shall be made as an estimate of subsidy costs to be incurred by VEDA in 2009. Any difference between the actual subsidy costs incurred by VEDA in any fiscal year 2009 through 2013 shall be adjusted in the following year’s write-down amount.~~

(e) VEDA shall submit the advance agreement to the state treasurer and secretary of administration; said agreement shall include the following:

(1) ~~The agreement shall be structured to allow~~ a structure that allows VEDA flexibility to use the subsidy funds in the most effective way to generate new loan volume as quickly as possible to act as a stimulant to the Vermont economy; and

(2) ~~Terms~~ terms of repayment or write-down of the advance ~~in years 2010 through 2013 shall be contingent on VEDA’s demonstrated use of the advance proceeds, and any interest earned thereon, to offset the revenue lost by VEDA over the same period as a result of subsidies made by VEDA to its borrowers.~~

(3) ~~The subsidies to VEDA borrowers will be for a maximum of three years from the date of closing of each enrolled loan.~~

(4) ~~A maximum of \$18 million in VEDA loans can be made under the program over a 24 month period commencing on the effective date of the legislation.~~

~~(5) The program will terminate when all VEDA borrowers enrolled in the program have completed their respective three year subsidy periods.~~

~~(d)~~(c) Upon termination of the program any amount of the advance, or the interest earned thereon, not used for the subsidy program shall be repaid by VEDA to the state.

* * * Recovery Zone Facility Bond (RZFB) Program * * *

Sec. 18. RZFB PROGRAM; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$135,000,000.00 of recovery zone facility (private activity) bonds to Vermont, which must be issued before the end of calendar year 2010.

(b) The federal government issued the bonding authorizations to 11 of Vermont's 14 counties; however, in the opinion of the Vermont attorney general, Vermont counties do not have the necessary authority to issue or authorize others to issue facility bonds. ARRA allows the counties to waive their allocations to state government, which they did. In October 2009, the emergency board approved a plan designating the Vermont economic development authority (VEDA) as the entity responsible for issuing the bonds.

(c) The recovery zone facility bond (RZFB) program is designed to aid certain businesses through the issuance of tax-exempt bonds. Tax-exempt bonds traditionally carry lower interest rates than conventional bank loans because income earned by purchasers of these bonds is exempt from federal and, in some cases, state tax. VEDA is encouraged to take any steps necessary to increase public awareness of the RZFB program.

(d) VEDA is authorized to increase the current \$25,000,000.00 cap per project to \$50,000,000.00.

* * * Recovery Zone Economic Development Bond (RZEDB) Program * * *

Sec. 19. RZEDB; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$90,000,000.00 of recovery economic development bonds to Vermont. The Vermont municipal bond bank is responsible for issuing the bonds, which must be issued before the end of calendar year 2010.

(b) The recovery zone economic development bonds (RZEDBs) are a category of Build America Bonds (BABs), and sometimes referred to as "super BABs." They reduce by 45 percent the cost of the kind of tax-exempt bonding normally done by towns, counties, school districts, and the state. They may be

used to fund capital expenditures for real and personal property; public infrastructure and facilities; and expenditures for job training and education programs.

(c) The Vermont municipal bond bank, in consultation with the Vermont League of Cities and Towns, shall make all reasonable efforts to inform public entities in Vermont about the availability, terms, and conditions of REZDBs to Ensure that Vermont, as a whole, is able to maximize the use of these favorable instruments of economic development.

* * * Legislative Priorities for ARRA Funds * * *

Sec. 20. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

With respect to federal funds potentially available to the state of Vermont as competitive funds under the ARRA and in addition to any other legislatively identified priorities established with regard to ARRA funds, the general assembly establishes the following equal priorities as outlined in this section.

(1) Railroad projects determined by the Vermont office of economic stimulus and recovery as being consistent with Vermont's transportation plan.

(2) With respect to passenger rail funds requested by the state, funds for making upgrades to passenger rail service along the western corridor, such as the Ethan Allen Express improvements and extension corridor program. This corridor program consists of track and crossing improvements and a bridge project along the existing Ethan Allen Express Amtrak route as well as an extension of that service from Hoosick, NY to Bennington, from Bennington to Rutland and from Rutland to Burlington. The program will serve to support intercity passenger rail service through the most populous area of the state and further connect vital economic regions of the state to each other and to the state of New York.

(3) Telecommunications projects determined by Vermont's chief technology officer as being consistent with the goals and policies established under chapter 91 of Title 30.

Sec. 21. REPEAL; PRIORITIES FOR MUNICIPAL TELECOMMUNICATIONS

Sec. 17(d) of No. 54 of the Acts of 2009 (municipal priorities for municipal communications services) is repealed.

Sec. 22. COORDINATION OF FARM-TO-PLATE, FARM-TO-SCHOOL, AND FARM-TO-INSTITUTIONS PROGRAMS

For the purposes of avoiding duplication of administration and better coordinating resources, the Vermont farm-to-plate investment program, in

consultation with the secretary of agriculture, shall include in its strategic plan for agricultural economic development required by 10 V.S.A. § 330(c)(1), a recommendation for the oversight and coordination of the farm-to-plate investment program established under 10 V.S.A. § 330, the farm-to-school program established under 6 V.S.A. § 4721, and any other farm-to-institutions partnerships designed to increase institutional purchases of fresh, locally grown food.

* * * Public Service Board: Smart Grid; Notice * * *

Sec. 23. 30 V.S.A. § 218(b)(3) is added to read:

(3) If the board approves or requires a utility to adopt a rate design that includes dynamic pricing, the board may alter or waive the notice and filing provisions that would otherwise apply under section 225 of this title for such real-time pricing rate plan, provided the board insures that each customer receives notice of the price of electricity the customer will be charged in advance of the time at which the customer uses the electricity.

* * * Study: Buy Local * * *

Sec. 24. STUDY ON STATE PURCHASE OF LOCAL GOODS AND SERVICES

The secretary of administration shall conduct a study to evaluate the opportunities and feasibility of increasing the volume of state purchases of both goods and services from local suppliers. The secretary shall report his or her findings to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on or before January 15, 2011.

* * * Digital Nonprofit Corporations * * *

Sec. 25. 11B V.S.A. § 1.20 is amended to read:

§ 1.20 FILING REQUIREMENTS

* * *

(c) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form or in an electronic format prescribed by the secretary of state.

* * *

(g) If the secretary of state has prescribed a mandatory form or electronic format for a document under section 1.21 of this title, the document must be in or on the prescribed form.

* * *

Sec. 26. 11B V.S.A. § 1.21(a) is amended to read:

(a) The secretary of state may prescribe the form or electronic format of and furnish on request, forms or specifications for formats for:

- (1) an application for a certificate of existence;
- (2) a foreign corporation's application for a certificate of authority to transact business in this state;
- (3) a foreign corporation's application for a certificate of withdrawal; and
- (4) the biennial report.

Sec. 27. 11B V.S.A. § 1.23 is amended to read:

§ 1.23. EFFECTIVE DATE OF DOCUMENT

(a) Except as provided in subsection (b) of this section, ~~section~~ subsection 1.24(c) of this title, and section 2.03 of this title, a document is effective:

- (1) at the time of filing on the date it is filed, as evidenced by ~~the secretary of state's endorsement on the original document~~ any means the secretary of state may use for the purpose of recording the date and time of filing; or
- (2) at the time specified in the document as its effective time on the date it is filed.

* * *

Sec. 28. 11B V.S.A. § 1.24(a) is amended to read:

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document:

- (1) contains an incorrect statement; or
- (2) was defectively executed, attested, sealed, verified, or acknowledged; or
- (3) was undeliverable because the electronic transmission was defective.

Sec. 29. 11B V.S.A. § 1.25(b) is amended to read:

(b) The secretary of state files a document by ~~stamping or otherwise endorsing~~ recording it as "Filed," together with the secretary of state's name and official title ~~and on~~ on the date and the time of receipt, on both the ~~original and copy of the~~ document and on the record of the receipt for the filing fee. After filing a document, except as provided in sections 5.03 and 15.10 of this

title, the secretary of state shall deliver a copy of the document ~~copy~~ to the domestic or foreign corporation or its representative.

Sec. 30. 11B V.S.A. § 1.27 is amended to read:

§ 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

~~(a) A certificate attached to a copy of a document bearing the secretary of state's signature (which may be in facsimile) and the seal of this state or a certificate as to the nonexistence of records relating to a corporation is conclusive evidence as to whether or not the original is on file with the secretary of state.~~

~~(b) A certificate by the secretary of state that a diligent search has failed to locate documents claimed to be filed with the secretary of state shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the records in the custody of the secretary of state.~~

~~(c) The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.~~

A certificate from the secretary of state delivered with a copy of a document filed with the secretary of state is conclusive evidence that the document is on file with the secretary of state.

Sec. 31. 11B V.S.A. § 1.40 is amended to read:

§ 1.40. DEFINITIONS

* * *

(4) "Bylaws" means the code or codes of rules (other than the articles) adopted pursuant to this title for the regulation or management of the affairs of the corporation, stored or depicted in any tangible or electronic medium, and irrespective of the name or names by which such rules are designated.

* * *

(8) "Deliver" ~~includes mail~~ or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

* * *

(35) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper

that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(36) “Meeting” means any structured communications conducted by participants in person or through the use of an electronic or telecommunications medium permitting simultaneous or sequentially structured communications.

(37) “Sign” or “signature” includes any manual, facsimile, conformed, or electronic signature.

Sec. 32. 11B V.S.A. § 1.41(b) and (c) are amended to read:

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, facsimile, or other form of wire ~~or~~, wireless, or electronic communication; or by mail or private carrier, or other method of delivery. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Notice to members. Written notice by a domestic or foreign corporation to its members, if in a comprehensible form, is effective when:

(1) mailed first class postpaid and correctly addressed to the members address as shown in the corporation’s current record of members; or

(2) electronically transmitted to the member in a manner authorized by the member.

Sec. 33. 11B V.S.A. § 7.01(f) is amended to read:

(f) An annual or regular meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 34. 11B V.S.A. § 7.02(f) is amended to read:

(f) A special meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 35. 11B V.S.A. § 7.04(e) is added to read:

(e) For purposes of this section, written consent may be evidenced by an electronic communication or an electronic record.

Sec. 36. 11B V.S.A. § 8.20(c) is amended to read:

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special

meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously ~~hear~~ communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 37. 11B V.S.A. § 16.01(d) and (e) are amended to read:

(d) A corporation shall maintain its records in written form or in another form, including electronic form, capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office (or, if none in this state, then the registered office):

* * *

(5) all written or electronic communications to members generally within the past three years, including the financial statements furnished for the past three years under section 16.20 of this title;

* * *

Sec. 38. 11A V.S.A. § 2.06(b) is amended to read:

(b) The bylaws of a corporation may contain any provisions for managing the business and regulating the affairs of the corporation that are not inconsistent with law or the articles of incorporation, and may be stored or depicted in any tangible or electronic medium.

* * * Vermont Public Power Supply Authority * * *

Sec. 39. 30 V.S.A. § 5012 is amended to read:

§ 5012. GENERAL POWERS AND DUTIES

The authority shall have all of the powers necessary and convenient to carry out this chapter, including without limitation those general powers provided a business corporation by section 1852 of Title 11, and including, without limiting the generality of the foregoing, the power:

* * *

(12) ~~jointly or~~ jointly with utilities or on its own to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in projects or portions of projects, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state. It may also enter

into and perform contracts with any person with respect to the foregoing. If the authority acquires or owns an interest as a tenant in common with others in any projects within the state, the surrender or waiver by the other property owner of its right to partition the property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of the period, or as unduly restricting the alienation of such property;

* * *

(17) to make and execute all contracts and agreements and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter; ~~and~~

(18) to enter into contracts determined by the authority to be useful for the prudent management of its assets, purchases, funds, debts, or fuels, including interest rate or other swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, and leases or other risk management instruments to the full extent that a business corporation is authorized to enter into such contracts;

(19) to acquire stock, shares, securities, membership units, or other equity or participation interests in entities that directly or indirectly construct, own, or operate electric generation or transmission facilities within or outside the state to the full extent that a business corporation is authorized to acquire such interests; and

~~(18)~~(20) to do all things necessary, convenient or desirable to carry out the purposes of this chapter or the powers expressly granted or necessarily implied in this chapter.

Sec. 40. 30 V.S.A. § 5013 is amended to read:

§ 5013. SPECIAL POWERS

* * *

(c) A municipality or cooperative shall be obligated to fix, revise and collect fees and charges for electric power and energy and other services, facilities and commodities furnished or supplied through its electric ~~department~~ ~~or~~ system at least sufficient to provide revenues adequate to meet its obligations under any such output and capacity contract and to pay all other amounts payable from or constituting a charge and lien upon those revenues.

* * *

(e) The authority and any member municipality or cooperative or other utility (whether or not such utility is a member of the authority) that is acting

pursuant to a contract with the authority may expend its funds, including without limitation the proceeds of its notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, determines will effectively accomplish such purposes. Such facilities, projects, and programs may include, but shall not be limited to, providing or financing facilities or projects for conservation or load management, which may be: (i) owned or operated by the authority or any member municipality or cooperative or other utility or by others; (ii) leased or licensed by the authority or any member municipality or cooperative or other utility to others, or financed by ~~loans~~ loans by the authority or any member municipality or cooperative or other utility to others, in either case on such terms and conditions as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, may determine. Any member municipality or cooperative or other utility may issue its notes, bonds or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this subsection.

Sec. 41. 30 V.S.A. § 5017 is amended to read:

§ 5017. POWERS OF MUNICIPALITIES

~~A municipality, after an affirmative vote of the qualified voters at any duly warned annual or special meeting to be held for that purpose, may by resolution of its legislative body enter into contracts with the authority for the purchase, sale, exchange, or transmission of electric energy and other services, on such terms and for such period of time as the resolution may provide. A municipality may by resolution of its legislative body enter into a contract with the authority related to the issuance of bonds and notes as authorized by section 5031 of this title only after an affirmative vote of the qualified voters at any duly warned annual or special meeting held for that purpose. The required vote may either approve a specific contract with the authority or it may approve generally the right for the municipality to enter into all such contracts with the authority by resolution of its legislative body.~~ A municipality may appropriate electricity-derived revenues received in any year to make payments due during that year under any contract made by the municipality with the authority. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment of a municipal electric plant.

Sec. 42. 30 V.S.A. § 5031 is amended to read:

§ 5031. BONDS AND NOTES

(a)(1) The authority may issue its negotiable notes and bonds in such principal amount as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, establishment of reserves to secure the notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Without limiting the generality of the foregoing, such bonds and notes may be issued for project costs, or the authority's share of costs of projects which may include:

* * *

(5) The notes and bonds shall be authorized by resolution or resolutions of the authority, shall bear such date or dates and shall mature at such time or times as the resolution or resolutions may provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination of them. The resolution or resolutions may provide that the notes and bonds bear interest at a given rate or rates, be in certain denominations, be in temporary, coupon or registered form, carry certain registration privileges, be executed in a given manner, be payable in a given medium of payment, at a place or places within or without the state, and be subject to specified terms of redemption. The authority may participate in any state or federally created or supported bond programs. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

* * *

* * * International Trade Agreements: Prior Approval * * *

Sec. 43. 9 V.S.A. chapter 111A is added to read:

CHAPTER 111A. APPROVAL OF INTERNATIONAL TRADE AGREEMENTS

§ 4125. FINDINGS AND PURPOSE

The general assembly makes the following findings of fact:

(1) Today's international trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas. Restrictive government procurement rules, for example, may undermine state purchasing laws and preferences that are designed to promote good jobs and a healthy environment.

(2) Economic development and environmental policies that might be constrained by government procurement provisions in international trade agreements include buy-local laws, recycled-content laws, and renewable energy purchasing requirements. Measures that conflict with obligations in one or more international trade agreements could be challenged as potential barriers to trade.

(3) Currently, the Office of the United States Trade Representative asks state governors, without input from state legislatures, whether they will commit state purchasing to trade rules. States, through their governors, may opt into or out of trade rules dealing with government procurement.

(4) Historically, the general assembly and the governor have worked together to adopt and implement state procurement policies. The decision to consent to the coverage of Vermont under procurement provisions of international trade agreements should also include consultation with the legislative branch.

(5) If new trade rules permit states to opt into or out of trade rules dealing with investment and services, in addition to procurement, then the general assembly intends for the procedures in this chapter to apply to those provisions as well.

§ 4126. DEFINITIONS

As used in this chapter:

(1) “Commission” means the commission on international trade and state sovereignty established in 3 V.S.A. § 23.

(2) “International trade agreement” or “trade agreement” means a trade agreement between the federal government and a foreign country. It does not include a trade agreement between the state and a foreign country to which the federal government is not a party.

§ 4127. APPROVAL OF TRADE AGREEMENTS

(a) If the United States government provides the state with the opportunity to consent to or reject binding the state to a trade agreement, or a provision within a trade agreement, then an official of the state, including the governor, may not bind the state or give consent to the United States government to bind the state in those circumstances, except as provided in this section.

(b) When a communication from the United States trade representative concerning a trade agreement provision is received by the state, the governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the president pro tempore of the senate, the speaker of the house of

representatives, and the relevant legislative standing committees of jurisdiction.

(c) The commission shall review and analyze the trade agreement and issue a recommendation on the potential impact of the trade agreement to the governor.

(d) Prior to binding the state to the trade agreement, the governor shall consider the commission's recommendation and then shall report his or her intended action on the trade agreement to the members of the emergency board. A majority of the emergency board may request an opportunity to consider the issue at a meeting and make a recommendation to the governor prior to the governor binding the state.

(e) Upon completion of the consultation process provided for in this section, the governor may bind the state to the trade agreement.

Sec. 44. 3 V.S.A. § 23(b) is amended to read:

(b) Membership. There is created a commission on international trade and state sovereignty consisting of:

(1) ~~the chair of the house committee on commerce or his or her designee~~ two legislators appointed by the speaker of the house;

(2) ~~the chair of the senate committee on economic development, housing and general affairs or his or her designee~~ two legislators appointed by the committee on committees;

(3) a representative of a nonprofit environmental organization, appointed by the governor from a list provided by the Vermont Natural Resources Council;

(4) a representative of organized labor, appointed by the governor from a list provided by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees' association;

(5) the secretary of commerce and community development or his or her designee;

(6) the attorney general or his or her designee;

(7) a representative of an exporting Vermont business, appointed by the governor; ~~and~~

(8) a representative of a Vermont business actively involved in international trade, appointed by the governor;

(9) the secretary of agriculture or his or her designee;

(10) a representative of a human rights organization, appointed by the governor; and

(11) a representative of a Vermont chamber of commerce, appointed by the governor.

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

(**Committee Vote: 11-0-0**)

Rep. Manwaring of Wilmington, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Commerce and Economic Development** and when further amended as follows:

First: In Sec. 2, subsection (b), after the words “the secretary of administration is authorized to substitute” by adding the words “any authorized”

Second: In Sec. 5, by striking out the words “the program operations of” and inserting in lieu thereof “grants for”

Third: In Sec. 8, subsection (f), by striking out the work “The” and inserting in lieu thereof “Unless other funds for administrative costs become available, the”

(**Committee Vote: 10-0-1**)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Information Notice

CROSS OVER GUIDELINES

The following is a guideline concerning cross over :

The Appropriations and Ways & Means committees need to have their bills reported out and brought into the Clerk’s office by Friday, March 19, 2010.