

# House Calendar

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Thursday, March 18, 2010

73rd DAY OF ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**

**Action Postponed Until March 18, 2010**

**Favorable with Amendment**

**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. 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)**

### **Third Reading**

#### **H. 243**

An act relating to the creation of an apprentice hunting license

#### **Amendment to be offered by Rep. McAllister of Highgate to H. 243**

Rep. McAllister of Highgate moves that the bill be amended in Sec. 1, 10 V.S.A. § 4256(d), by striking “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” and inserting in lieu thereof “means that the mentored hunter is in the direct control and supervision of the licensed hunter and is within 15 feet of the licensed hunter”

#### **Amendment to be offered by Rep. Pellett of Chester to H. 243**

Rep. Pellett of Chester moves that the bill be amended in Sec. 1, 10 V.S.A. § 4256(a), by striking subdivision (a)(1) in its entirety and inserting in lieu thereof the following:

(1) A mentored hunting license shall be issued only once to any one individual, and the license shall last until December 31 of the year in which the license is issued.

**H. 462**

An act relating to encroachments on public waters

**H. 509**

An act relating to pollution control measures for Lake Champlain

**H. 540**

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

**Amendment to be offered by Rep. Webb of Shelburne to H. 540**

Rep. Webb of Shelburne moves that the bill be amended by striking Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

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

§ 1127. CONTROL IN PRESENCE OF HORSES AND ~~CATTLE~~ OTHER 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 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 animal and to ~~insure~~ ensure the safety and protection of the horse or 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.

**H. 590**

An act relating to mediation in foreclosure proceedings

**Amendment to be offered by Rep. Koch of Barre Town to H. 590**

Rep. Koch of Barre Town moves that the bill be amended in Sec. 4, 12 V.S.A. § 4702, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:



(c) If a request for mediation is received by the mortgagee's attorney within 20 days of receipt of the notice by the mortgagor, the mortgagee's attorney shall refer the case to a qualified mediator, who shall promptly schedule a mediation session, giving notice to all appropriate parties. If no request for mediation is received by the 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 the 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. The mortgagee shall attach to the complaint proof of delivery of the notice and the mediator's report, if mediation occurred.

**Amendment to be offered by Rep. O'Brien of Richmond to H. 590**

Rep. O'Brien of Richmond moves that the bill as amended be further amended in Sec. 4, 12 V.S.A. § 4701, by striking subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) To be qualified to act as a mediator under this subchapter, an individual shall:

(1)(A) be licensed to practice law in the state; or

(B) have completed at least 40 hours of training in mediation and have four years of experience as a professional mediator; and

(2) be required to have taken a specialized, continuing legal education training course on foreclosure prevention or loss mitigation approved by the Vermont Bar Association.

**H. 639**

An act relating to motor vehicle insurance for volunteer drivers

**H. 680**

An act relating to termination of occupancy of farm employee housing

**H. 772**

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

**Amendment to be offered by Rep. Baker of West Rutland to H. 772**

Rep. Baker of West Rutland moves to amend the bill by adding a new Sec. 7a to read as follows:

Sec. 7a. 7V.S.A. § 301 is amended to read:

§ 301. DISTRIBUTION OF MALT OR VINOUS BEVERAGES;

## CERTIFICATE OF APPROVAL

The liquor control board may grant to a manufacturer or distributor of malt and vinous beverages, not licensed under the provisions of this title, a certificate of approval which ~~shall authorize such~~ authorizes the manufacturer or distributor to sell or export such beverages either to holders of bottlers' or wholesale dealers' licenses issued by the board under the provisions of sections 226 or 227 of this title.

### **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.)**

#### **Amendment to be offered by Rep. Head of South Burlington to H. 776**

Rep. Head of South Burlington moves that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. chapter 124 is added to read:

#### CHAPTER 124. RENTAL HOUSING; MINIMUM HABITABILITY STANDARDS

#### § 5021. RENTAL HOUSING; MINIMUM HABITABILITY STANDARDS; GENERAL PROVISIONS

(a) The purpose of these standards is to protect the health, safety, and well-being of the occupants of rental housing by establishing minimum habitability standards for all residential rental housing in Vermont.

(b) Each rental property in the state must comply with all applicable housing laws and codes, including the laws relating to lead poisoning in 18 V.S.A. §§ 1759–1760, the rental housing health code promulgated by the department of health, the Vermont fire and building safety code promulgated by the department of public safety, and regulations regarding potable water and septic systems promulgated by the agency of natural resources.

(c) For purposes of this chapter, "dwelling unit" includes all rental dwellings, dwelling units, rooming houses, rooming units, and mobile home lots used as regular residences.

(d) The minimum habitability standards described in this chapter apply to all dwelling units in the state. The standards do not apply to transient occupancy in a hotel, motel, or other lodging licensed by the department of health during the time the occupancy is subject to a tax levied under chapter 225 of Title 32.

#### § 5022. SANITATION FACILITIES

(a) Every dwelling unit shall:

(1) Contain the unit space to store, prepare, and serve foods in a sanitary manner.

(2) Contain within the unit a flush toilet, sink, and bathtub or shower.

(3) Be connected to, and every rental mobile home lot shall have access to, a supply of potable water sufficient in quantity and pressure to meet the ordinary needs of the occupants.

(4) Be equipped so that each kitchen sink, lavatory sink, shower, and tub is connected with water-heating facilities capable of safely heating an adequate yield of water.

(5) Be connected to, and every rented mobile home lot shall have access to, a public sewage system, if available, or to a properly operating subsurface wastewater disposal system.

(b) The owner of any dwelling unit shall provide and maintain appropriate receptacles for the removal of garbage and rubbish and shall ensure that arrangements are made for the removal of garbage and rubbish.

(c) The owner of a dwelling unit shall ensure that all common spaces are free from rodent and insect infestation and shall be responsible for the extermination of rodent and insect infestation in all common spaces and in each infested dwelling unit if infestation exists in two or more dwelling units.

#### § 5023. BUILDING SYSTEMS

(a) Heating facilities in all dwelling units shall be able to maintain a room temperature of at least 65 degrees Fahrenheit in all habitable rooms when the outside temperature is less than 55 degrees Fahrenheit.

(b) Every habitable room in a dwelling unit shall have ventilation to the outdoors, including at least one window or door that can be opened to the

outdoors without tools, and every bathroom shall have ventilation to the outdoors.

(c) Every habitable room in a dwelling unit shall contain at least two duplex electrical outlets or one duplex electrical outlet and a light fixture, and each bathroom and entrance shall be adequately lit.

#### § 5024. STRUCTURAL ELEMENTS

Every dwelling unit shall be weather tight, waterproof, rodent proof, and in good repair.

#### § 5025. LEAD PAINT

(a) Owners of rental housing built before 1978 shall ensure that essential maintenance practices (EMP) are performed by a person certified to do so, shall file an EMP compliance statement annually with the department of health, the owner's insurance carrier, and an adult tenant in each rented unit of the property, and shall comply with the provisions of chapter 38 of Title 18.

(b) No person shall disturb more than one square foot of lead paint using unsafe work practices in any rental housing unit, unless authorized to do so by the department of health.

#### § 5026. LIFE SAFETY

(a) Every dwelling unit shall have smoke alarms which shall be directly wired to the unit's electrical system, and the smoke alarms shall have battery backup. Smoke alarms installed after June 15, 2009, shall be the photoelectric type.

(b) Every dwelling unit shall have carbon monoxide (CO) alarms which shall be directly wired to the unit's electrical system, and the carbon monoxide alarms shall have battery backup.

(c) The exits and means of escape from a dwelling unit or building shall be of sufficient size to allow escape and shall be kept clear and unobstructed.

(d) All fuel-burning heating appliances shall be inspected and vented to the outside of the building.

#### § 5027. MOBILE HOMES ON A RENTED LOT

Every mobile home lot shall provide a connection to electrical services, water supply, and sewage disposal.

#### § 5028. MUNICIPAL ORDINANCES; ENFORCEMENT

(a) Nothing in this chapter shall prevent a municipality from adopting habitability standards for rental housing that are more stringent than the

requirements of this subchapter.

(b) The provisions of this chapter may be enforced by local health officers as described in chapter 11 of Title 18, and by municipal enforcing officers as described in chapter 123 of this Title.

Sec. 2. 32 V.S.A. § 4152 is amended to read:

§ 4152. —CONTENTS

(a) When completed, the grand list of a town shall be in such form as the director prescribes and shall contain such information as the director prescribes, including:

\* \* \*

(9) Separate columns which will show the listed valuations of homesteads as defined in subdivision 5401(7) of this title and housesites as defined under subdivision 6061(11) of this title;

(10) A notation whether a taxpayer's real property includes residential rental housing with more than a single dwelling unit.

\* \* \*

Sec. 3. DEPARTMENT OF TAXES; RENTAL HOUSING; GRAND LIST

The department of taxes shall consult with the Vermont assessors & listers association and other interested parties to develop and implement by July 1, 2011, an effective method for soliciting taxpayer information regarding residential housing with more than a single dwelling unit for inclusion on the grand list or other suitable record.

#### **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.)**

**Amendment to be offered by Rep. Helm of Castleton to H. 779**

Rep. Helm of Castleton moves to amend the bill by adding Sec. 1a. to read:

Sec. 1a. 10 V.S.A. § 1973(k) is added to read:

(k) A retail business may place up to three picnic tables outdoors within the bounds of its property without being required to obtain any state or local permit or permit amendment otherwise required under this chapter.

**Amendment to be offered by Rep. Fagan of Rutland City to H. 779**

Rep. Fagan of Rutland City moves that the bill be amended in Sec. 2, 24 V.S.A. § 4414(13)(B) by striking “bylaw” where it appears after “a final zoning or subdivision” and by inserting in lieu thereof “permit”

**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 that the House propose to the Senate that 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.

\* \* \* VTA Broadband Infrastructure \* \* \*

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 establish a monthly refund level not 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 RZEDBs 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~~ 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 )**

**(For text see Senate Journal 2/25/2010 )**

**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)**

**Amendment to be offered by Reps. Johnson of South Hero, Lorber of Burlington, and Partridge of Windham to the recommendation of amendment of the Committee on Commerce and Economic Development to S. 288**

Representatives Johnson of South Hero, Lorber of Burlington, and Partridge of Windham move that the proposal of amendment of the committee on Commerce and Economic Development as amended be further amended in Sec. 7, by striking out subsection (c) in its entirety and by inserting in lieu thereof the following:

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

(1) \$75,000.00 to the farm-to-school program established under 6 V.S.A. § 4721.

(2) \$22,000.00 to Vermont agricultural fairs.

(3) \$25,000.00 to the Vermont Association of Conservation Districts.

**Amendment to be offered by Rep. Bray of New Haven to S. 288**

Rep. Bray of New Haven moves that the House propose to the Senate that the bill be further amended by striking out Sec. 22 in its entirety and by inserting in lieu thereof the following:

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

(a) 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.

(b) In addition, and also as part of its strategic plan, the farm-to-plate investment program shall make recommendations regarding the following: the ongoing statewide leadership, coordination, and communication infrastructure needed to support the implementation of its strategic plan; definitions of measurable outcomes; methods for the ongoing collection of data necessary to track those outcomes; establishment of a farm-to-plate economic REMI model, or its equivalent, that includes the identified outcomes; and annual reporting requirements that would assess the impact of the farm-to-plate program.

(c) The strategic plan, including the recommendations required by this section, shall be submitted to the governor and the general assembly not later than June 30, 2010.

#### **Action Under Rule 52**

##### **J.R.H. 45**

Joint resolution urging Google Incorporated to give all due consideration to Vermont applicants for selection to participate in the Google Fiber for Communities project

(For text see House Journal 3/17/2010 )

#### **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. 781**

An act relating to renewable energy.

**(Rep. Cheney of Norwich will speak for the Committee on Natural Resources and Energy.)**

**H. 782**

An act relating to a voluntary school district merger incentive program, supervisory union duties, and other education issues.

**(Rep. Peltz of Woodbury will speak for the Committee on Education.)**

**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.