House Calendar

Thursday, April 08, 2010
94th DAY OF ADJOURNED SESSION
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ACTION CALENDAR

Third Reading

H. 776

An act relating to rental housing

Amendment to be offered by Rep. Clark of Vergennes to H. 776

Reps. Clark of Vergennes and Higley of Lowell move that the bill be amended by striking out Sec.2, Sec. 3, and Sec.4.

Amendment to be offered by Reps. Clark of Vergennes and Higley of Lowell to H. 776

Reps. Clark of Vergennes and Higley of Lowell move that the bill be amended by striking out Sec. 2 and inserting in lieu thereof a new Sec. 2 to read:

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 housing with more than a single dwelling unit.

* * *

(c) A municipality may request to be reimbursed by the state for the costs associated with implementing and administering the requirements of subdivision (a)(10) of this section.

S. 28

An act relating to the regulation of landscape architects

S. 150

An act relating to parking reserved for disabled persons

Favorable with amendment

S. 272

An act relating to human trafficking

Rep. Grad of Moretown, 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. FINDINGS

The general assembly finds that:

(1) According to his book, The Slave Next Door: Human Trafficking and Slavery in America Today, Dr. Kevin Bales states that the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history. Vermont and all of its bordering states have seen elements of human trafficking, yet Vermont is the only remaining state in the Northeast and one of the remaining five in the nation lacking legislation on this issue. Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity.

(2) Human trafficking is an interrelated, under-reported crime that is intentionally kept secret by the traffickers who profit by billions of dollars from these crimes. Human trafficking is the third most profitable illegal global enterprise after drug and weapon trafficking, all of which have been found to be closely related.

(3) Because Vermont has a limited level of awareness regarding the existence of human trafficking within its own borders, the collaborative efforts of a human trafficking task force are necessary to raise public awareness and to recommend measures that will assist victims of human trafficking.

Sec. 2. HUMAN TRAFFICKING TASK FORCE

(a) As used in this section, "human trafficking" shall have the same meaning as in 18 U.S.C. §§ 1589–1592.

(b) For purposes of the definition of "human trafficking," "forced labor" means providing or obtaining the labor or services of a person:

(1) by threats of serious harm to, or physical restraint against, that person or another person;

(2) by means of any scheme, plan, or pattern intended to cause the person to believe that if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) by means of the abuse or threatened abuse of law or the legal process.

(c) The human trafficking task force is established for the purpose of raising public awareness about human trafficking within the state and across state and international borders, identifying resources for the victims of human trafficking, recommending to the public ways to identify and report acts of human trafficking and reporting, and making findings and recommendations regarding those efforts to the general assembly.

(d) The human trafficking task force shall be composed of the following members:

(1) the attorney general or his or her designee, who shall serve as chair;

(2) a representative of the law enforcement community, appointed by the commissioner of public safety;

(3) a representative of Vermont's emergency housing or shelter community;

(4) representatives, appointed by the governor, from each of the following:

(A) the Vermont state housing authority;

(B) the department of labor;

(C) the department of education;

(D) the department for children and families;

(E) the business community; and

(F) the agency of agriculture, food and markets.

(5) a representative, appointed by the secretary, from the agency of human services who specializes in refugee matters;

(6) a representative of the coalition of Vermonters against slavery today;

(7) a representative of the Vermont farm bureau;

(8) a representative of the Vermont network against domestic and sexual violence;

(9) a representative of the Vermont coalition of runaway and homeless youth programs;

(10) a representative of the Vermont crime victim's services; and

(11) an immigration attorney, appointed by the Vermont bar association.

(e) The task force shall consult with representatives from the following:

(1) the human rights commission;

(2) the department of public safety;

(3) the polaris project;

(4) health care professionals;

(5) the United States' attorney for Vermont;

(6) migrant worker and other labor advocacy groups; and

(7) any other groups or individuals the committee deems appropriate.

(f) The task force shall perform the following duties:

(1) Identify ways to raise public awareness about human trafficking in Vermont communities.

(2) Recommend how the Vermont public, business community, local and state government, health, and education providers can best identify, report, and prevent acts of human trafficking in Vermont.

(3) Identify the services needed by victims of human trafficking and their families, and recommend ways to provide those services.

(g) The task force shall have the assistance and cooperation of all state and local agencies and departments.

(h) On or before November 15, 2010, the task force shall report to the members of the senate and house committees on judiciary and to the legislative council its recommendations and legislative proposals including criminal statutory provisions, if any, relating to its findings.

(i) On or before January 15, 2011, the task force shall report to the general assembly and to the governor its findings and any recommendations.

(j) The task force may meet no more than six times, and shall cease to exist on January 15, 2011.

Sec. 3. LAW ENFORCEMENT ADVISORY BOARD

(a) On or before November 15, 2010, the commissioner of public safety shall report to the law enforcement advisory board on the status of efforts by Vermont law enforcement to respond to issues regarding the crime of human trafficking and what recommendations, if any, should be made to the members of the senate and house committees on judiciary and to the legislative council in order to respond more effectively to those issues.

(b) Prior to making this report, the commissioner shall consult with the following groups:

(1) a representative of the Vermont association of chiefs of police;

(2) a representative of the Vermont sheriffs' association;

(3) the attorney general, or his or her designee from the criminal division;

(4) a state's attorney, appointed by the executive director of the department of state's attorneys and sheriffs;

(5) a representative from the Vermont center for crime victim services;

(6) a representative from the network against domestic and sexual violence;

(7) a representative from the coalition of Vermonters against slavery today;

(8) the executive director of the Vermont police academy or his or her designee;

(9) the United States' attorney for Vermont or his or her designee;

(10) representatives from federal law enforcement agencies in Vermont;

(11) the human trafficking task force; and

(12) any other groups or individuals the commissioner deems appropriate.

(c) The law enforcement advisory board shall include its findings and recommendations, based upon the commissioner's report, in its annual report to the general assembly and governor as required pursuant to 24 V.S.A. § 1939(d).

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 8-0-3)

Senate Proposal of Amendment

H. 695

An act relating to definition of premises for award of liquor license

The Senate proposes to the House to amend the bill in Sec. 1, 7 V.S.A. § 2(15), in the fourth sentence, by striking out the following: "includes any

licensed establishment that is" and inserting in lieu thereof the following: includes up to two licensed establishments that are

(For text see House Journal 3/10/10)

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

Favorable with Amendment

H. 589

An act relating to nuclear energy generation and the institution of trusts for greenfield restoration and spent fuel management

Rep. Krawczyk of Bennington, for the Committee on **Natural Resources and Energy,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) The general assembly finds that it is necessary to take action to ensure that once the state's sole nuclear generation plant ceases to produce electricity, sufficient funding exists for all postclosure activities to occur at the plant, including funding decommissioning, management of spent fuel, and restoration of the plant site to a greenfield condition.

(b) In this regard, the general assembly finds:

(1) The Vermont Yankee Nuclear Power Station and its owners.

(A) Vermont currently has one nuclear generation plant, the Vermont Yankee Nuclear Power Station (VYNPS or the station), located in the town of Vernon, Vermont.

(B) Entergy Nuclear Vermont Yankee, LLC (ENVY) is the owner of the station. ENVY is a limited liability corporation with three primary assets: the VYNPS, any associated power contracts, and the ability to access, for the purpose of decommissioning, a decommissioning trust fund established for the station.

(C) Entergy Nuclear Operations, Inc. (ENO) is the operator of the station. ENO operates five other nuclear plants, with one located in Massachusetts, three in New York, and one in Michigan, and provides operations and management services to other nuclear plants that it does not operate directly.

(D) ENVY and ENO are indirect, wholly owned subsidiaries of Entergy Corporation (Entergy Corp.), which has its principal offices in New Orleans, Louisiana. Entergy Corp., through various intermediaries and subsidiaries, owns and operates 11 nuclear plants in the United States with 10,125 MW of capacity. Entergy Corp.'s total generating capacity is approximately 27,000 MW. It is the second largest nuclear generating company in the United States. In 2009, Entergy Corp. had operating revenues of $10.7 billion and a net profit of $1.25 billion. During that year, Entergy Corp. received a net income of $631 million total from its nonutility nuclear plants, including the VYNPS.

(2) Scheduled closure of the VYNPS on March 21, 2012.

(A) In 2002, ENVY and ENO became the coholders of facility operating license DPR-28, a federal license to operate the VYNPS that expires at midnight on March 21, 2012. ENVY and ENO have applied to the Nuclear Regulatory Commission (NRC) for renewal of that license for a period of 20 years, extending the expiration date to midnight on March 21, 2032.

(B) The NRC recognizes that the decision on whether a nuclear generation plant should continue in operation past its initial license expiration ultimately is up to non-NRC decision-makers, including the state in which the plant is located. In its 2007 supplemental environmental impact statement (EIS) on relicensing the VYNPS, the NRC stated:

> Once an [NRC operating license] is renewed, State regulatory agencies and the owners of the plant will ultimately decide whether the plant will continue to operate based on factors such as the need for power or other matters within the State's jurisdiction or the purview of the owners. . . .
>
> NRC does not have a role in the energy-planning decisions of State regulators and utility officials as to whether a particular nuclear power plant should continue to operate.

NRC, Generic EIS for License Renewal of Nuclear Plant: Supplement 30, Vermont Yankee Nuclear Power Station at 1-8, 1-9 (Aug. 2007).

(C) These statements are based on the NRC's prior recognition of the decision-making role of other entities, including the states, in whether a

nuclear plant will continue to operate. In adopting its environmental impact statement process and decision standard in 1996 regarding reactor license renewal, the NRC stated:

> After the NRC makes its decision based on the safety and environmental considerations, the final decision on whether or not to continue operating the nuclear plant will be made by the utility, State, and Federal (non-NRC) decisionmakers. This final decision will be based on economics, energy reliability goals, and other objectives over which the other entities may have jurisdiction. The NRC has no authority or regulatory control over the ultimate selection of future energy alternatives . . .
>
> Because the objectives of the utility and State decisionmakers will ultimately be the determining factors in whether a nuclear power plant will continue to operate, NRC's proposed decision standard is appropriate.

NRC, Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 61 Fed. Reg. 28467, 28473 (June 5, 1996).

(D) In 2002, in docket number 6545, the Vermont public service board (PSB or the board) issued a certificate of public good (CPG) (the PSB Order) to ENVY and ENO, allowing them under state law to operate the station through March 21, 2012. In issuing the CPG, the PSB relied on an agreement by ENVY and ENO that the board has jurisdiction over whether the station can continue to operate beyond that date.

(E) Pursuant to 30 V.S.A. § 248(e)(2), in order to continue operation beyond March 21, 2012, the VYNPS must obtain the general assembly's approval and determination that continued operation of the station will promote the general welfare and subsequently must obtain a certificate of public good from the board. Pursuant to Sec. 1(a) of No. 160 of the Acts of the 2005 Adj. Sess. (2006), the general assembly's approval and determination must be "expressed in law." ENVY and ENO have filed a petition stating that they seek "such approvals from [the] Board and the Vermont General Assembly as may be required to operate the Vermont Yankee Nuclear Power Station ('VY Station') after March 21, 2012."

(F) Pursuant to Sec. 1(f) of No. 160 of the Acts of the 2005 Adj. Sess. (2006) and chapter 157 of Title 10, the general assembly is to consider, concurrently with the question of continued operation, whether to approve the storage of spent nuclear fuel derived from the operation of the VYNPS after March 21, 2012.

(G) On February 24, 2010, the Vermont senate voted on S.289, a bill that proposed to approve until March 21, 2032, the continued operation of the VYNPS and associated storage of spent fuel derived from that operation. The bill did not pass. Four senators voted yea and 26 voted nay.

(H) Therefore, under existing law, the VYNPS shall close on or before March 21, 2012. Yet there remain significant unresolved issues relating to funding postclosure activities at the station.

(3) Postclosure funding.

(A) Postclosure activities at the VYNPS will include decommissioning (radiological decontamination) in accordance with NRC requirements, management of spent fuel that has not been delivered to the U.S. Department of Energy (DOE), and restoration of the plant site to a greenfield condition.

(B) In a February 3, 2009, evaluation regarding the VYNPS, the NRC stated that ENVY and ENO had provided the following cost estimates for postclosure activities:

(i) $656.1 million for decommissioning (radiological decontamination), in 2007 dollars, assuming decommissioning commences in 2067 and is completed by 2072.

(ii) $219 million for spent fuel management, in 2007 dollars, assuming that the federal government begins picking up spent fuel in 2042.

(iii) $40 million for site restoration to a greenfield condition, in 2006 dollars.

(4) Funding decommissioning.

(A) The $656.1 million estimate of decommissioning costs by ENVY and ENO is not based on a detailed site characterization. Actual costs of decommissioning can vary significantly once site-specific conditions are included. Discovery of tritium and other radioactive material in the soil and groundwater at the Connecticut Yankee nuclear plant resulted in substantial increases in decommissioning costs at that facility, with estimates of that increase ranging from the tens of millions of dollars to $481 million.

(B) In January 2010, ENVY disclosed that underground pipes at the VYNPS were leaking tritium, despite its officials having testified previously, under oath, that no such pipes existed.

(C) In 2009, in response to NRC concerns about a potential shortfall between funding and decommissioning costs, Entergy agreed to establish a parent company guarantee of $40 million.

(D) As of February 28, 2010, the market value of the decommissioning trust fund accounts for the VYNPS was approximately $435 million.

(5) Funding spent fuel management.

(A) Currently there are no funds specifically set aside for long-term management of spent fuel at the VYNPS. Operating revenue will be unavailable for such funding once the plant closes. The decommissioning trust is an irrevocable trust that states it is to be used for the purpose of decommissioning.

(B) The $219 million estimate of spent fuel management costs by ENVY and ENO may understate the costs. ENVY and ENO have produced other estimates for such costs as high as $384 million in 2006 dollars, assuming that the federal government begins removing spent fuel in 2057 and completes removal in 2082.

(C) ENVY and ENO's spent fuel management plan relies on receiving money from the federal government for that portion of the spent fuel management costs related to storage of spent fuels since 1998, the year in which the DOE was contractually obligated to begin removing spent fuel from the VYNPS to a permanent storage facility. Although a federal court has held DOE liable, DOE has still not removed any spent fuel from the site, does not plan to remove any spent fuel in the foreseeable future, and will not pay any money to ENVY or ENO until after ENVY or ENO makes expenditures for managing spent fuel.

(D) ENVY and ENO also have proposed to fund spent fuel management from the decommissioning trust fund. The NRC has stated that ENVY must file for an exemption to use money from the decommissioning trust fund to pay for spent fuel management.

(E) The use of decommissioning trust fund moneys to manage spent fuel would mean that fewer funds are available to cover the costs of decommissioning, thus threatening to delay the time at which decommissioning will occur.

(6) Funding greenfield restoration.

(A) ENVY and ENO have committed and are required by the PSB order to decommission the plant to a "greenfield" condition once the VYNPS site is no longer used for nuclear purposes or nonnuclear commercial, industrial, or similar uses. In issuing a CPG to ENVY and ENO, the PSB stated that restoration to a greenfield condition means that once radioactive

decontamination is completed, "the site will be restored by removal of all structures and, if appropriate, regrading and reseeding the land."

(B) Currently there are no funds specifically set aside to restore the site of the station to a greenfield condition.

(C) ENVY and ENO's $40 million (2006 dollars) estimate for restoration of the site to greenfield status was not based on a detailed site characterization. Therefore, such costs could vary significantly from the estimate.

(7) Responsibility to fund decommissioning.

(A) Under the PSB order, ENVY is responsible for the cost of decommissioning and other postclosure activities and bears the risk of any shortfall in the funds available for those activities.

(B) ENO has stated in a filing to the PSB that, as a colicensee with ENVY, it likely would be jointly and severally liable should the resources of ENVY be inadequate to fulfill its financial responsibilities.

(C) Entergy Corp. has acknowledged in its SEC filings that "the liability to decommission the plant, as well as related decommissioning trust funds" was "transferred" to Entergy Corp. when the station was purchased in 2002.

(8) Entergy Corp., ENVY, and ENO have proposed a corporate restructuring under which ENVY would no longer be a subsidiary of Entergy Corp. and instead would be owned by ENEXUS Energy Corp., a highly debt-leveraged company. Other restructuring scenarios are possible and may be proposed, especially since the New York public service commission recently ruled against the proposed corporate restructuring. A corporate restructuring in which the chain of plant ownership relies heavily on debt increases the risk of insufficient funds for postclosure activities.

(9) The VYNPS is located near the Connecticut River, with ready access to high voltage transmission lines, a railroad, and highways. Its location is well suited for an energy generation plant or other commercial or industrial use. A lack of funding for postclosure activities at the station raises economic, energy planning, and land use issues for the state, including:

(A) Delay in the return of the plant site to productive use, including particularly use for electric generation.

(B) Lost opportunities for economic benefits from such productive use, including jobs, taxes, and economic multiplier effects.

(C) A risk of adverse claims against taxpayers, ratepayers, or retail electric utilities for costs associated with postclosure activities.

Sec. 2. 30 V.S.A. chapter 5, subchapter 2 is added to read:

Subchapter 2. Postclosure Funding; Nuclear Generation Plants

§ 270. PURPOSE

The purposes of this subchapter include each of the following:

(1) To encourage the productive use of a site once a nuclear plant on the site ceases to generate electricity.

(2) To diminish any negative impacts to the economy of the state, to government revenues, and to electric consumers from having unavailable for long periods a site that is well-suited and -situated for electric generation and transmission.

(3) To reduce the risk that taxpayers, ratepayers, or retail electric utilities will experience adverse claims or costs resulting from a shortage of available funds for postclosure activities at a nuclear generation plant.

§ 271. DEFINITIONS

When used in this subchapter:

(1)(A) "Affiliated entity" means any person or business organization that, on or after January 1, 2010:

(i) owned or controlled or owns or controls an interest, directly or indirectly, in the owner or operator of a nuclear generation plant; or

(ii) was or is a corporation that, directly or indirectly, was or is a parent of the owner or operator of a nuclear generation plant.

(B) For the purpose of this subdivision (1):

(i) "Business organization" includes a parent or subsidiary corporation, a jointly owned or jointly controlled corporation, a limited liability corporation, a joint venture, a partnership, or any other legal or commercial entity.

(ii) "Interest" excludes a right or obligation of a Vermont company, utility, or electric department that arises because the company, utility, or electric department is only a purchaser, user, transmitter, distributor, or reseller of power produced by the nuclear generation plant.

(2) "Board" means the public service board under section 3 of this title.

(3) “Decommission” or “decommissioning” means removal of a nuclear generation plant safely from service and radiological decontamination in accordance with the regulations of the Nuclear Regulatory Commission (NRC). The term includes reduction of residual radioactivity to a level that permits release of the property for unrestricted use.

(4) “Department” means the department of public service under section 1 of this title.

(5) “Existing nuclear generation plant” means a nuclear generation plant in existence as of January 1, 2010.

(6) “Greenfield condition” means removal of all above- and below-ground structures, equipment, and foundations from a site and, if appropriate, regrading and reseeding the land. The term excludes radiological decontamination and refers instead to activities that occur following permanent cessation of a site’s use for generating electricity from nuclear energy and decommissioning of the site’s nuclear generation plant. The board may authorize that some or all of the activities needed to achieve a greenfield condition may occur once a site is no longer utilized for nonnuclear commercial, industrial, or other uses consistent with the orderly development of a property.

(7) “Managing spent fuel,” “management of spent fuel,” or “spent fuel management” means the control and supervision of uranium fuel that has been used in and removed from the reactor of a nuclear generation plant until such time as the fuel is removed from Vermont and placed in a federally certified long-term storage facility. The term includes the storage of such fuel at the site of a nuclear energy generation plant and all associated operations, security, and maintenance. The term excludes decommissioning of a nuclear generation plant and restoration of the site of such a plant to a greenfield condition.

(8) “Nuclear generation plant” means a facility located in Vermont that produces or has produced electricity using an atomic reaction as an energy source for heat to provide steam to a turbine generator. The term includes a nuclear generation plant that has ceased producing electricity.

(9) “Operator” means a person or entity that, on or after January 1, 2010, operated or operates a nuclear generation plant or held or holds a certificate under this title allowing the person or entity to operate a nuclear generation plant.

(10) “Owner” means a person or entity that, on or after January 1, 2010, owned or owns a nuclear generation plant or held or holds a certificate under this title consenting to the purchase of such a plant by the person or entity.

(11) "Postclosure activities" means all activities and monitoring that occur or are required to occur once a nuclear generation plant permanently ceases generating electricity, including decommissioning, spent fuel management, and restoration to greenfield condition.

§ 272. OBLIGATION; POLICY; DEPARTMENT OF PUBLIC SERVICE TO ENFORCE

(a) Each owner and operator of a nuclear generation plant is and shall be independently liable for the full cost of postclosure activities at the plant.

(b) It is the law and policy of the state that, in the event that the combined assets of an owner and operator of a nuclear generation plant are insufficient to fund the full cost of all postclosure activities at the plant, the assets of an affiliated entity that benefited from the generation of electricity at the plant shall be available to fund such full cost.

(c) The department of public service shall enforce this subchapter, including subsections (a) and (b) of this section, through all available legal means.

§ 273. DECOMMISSIONING; WHEN IT OCCURS

(a) To achieve the purposes stated in section 270 of this title, it is the law and policy of this state that, to the extent consistent with federal law, the owner and operator of a nuclear generation plant shall complete decommissioning as soon as technically possible after either of the following, whichever is earlier: permanent cessation of the plant's use for generating electricity or a date set by the board in a certificate under this title applicable to the owner or operator for cessation of authority to operate the plant.

(b) In the event that the combined assets of the owner and operator are insufficient to fund the full cost of decommissioning a nuclear generation plant in accordance with subsection (a) of this section, decommissioning of the plant may be delayed provided that decommissioning commences as soon as possible following the availability of sufficient funds, including funds made available by or obtained from an affiliated entity pursuant to subsection 272(b) or (c) of this title.

§ 274. EXISTING NUCLEAR GENERATION PLANT; ACQUISITION; DECOMMISSIONING TRUST

To achieve the purposes stated in section 270 of this title, it is the law and policy of this state that a person or entity that, on or after April 1, 2010, acquires an existing nuclear generation plant or a controlling interest as defined in section 107 of this title in the owner or operator of such a plant shall have in place, upon acquisition of such plant or interest, a trust for the purpose of

decommissioning the plant that is adequate at the time of acquisition to fund the full projected cost of decommissioning without reliance on long-term storage of the plant for later decommissioning and shall be obligated to ensure at least on an annual basis that this trust is adequate for such purpose at all times during the future operation of the plant. For the purpose of this section, the full projected cost of decommissioning shall, at a minimum, be the amount determined in accordance with the regulations of the NRC at 10 C.F.R. § 50.75(c) (table of minimum amounts), as amended.

§ 275. SPENT FUEL MANAGEMENT FUNDING TRUST

(a) To achieve the purposes set out in section 270 of this title, it is the law and policy of this state that, on and after March 22, 2012, the owner and operator of a nuclear generation plant shall have in place a trust for the purpose of funding the management of spent fuel associated with the plant that the board has determined to be adequate to fund the full projected cost of such spent fuel management.

(b) In determining whether a trust is adequate under this section, the board:

(1) May allow periodic additions of funds to the trust rather than requiring that the full projected amount be in place on March 22, 2012, provided that the trust is fully funded by March 22, 2032.

(2) Shall not:

(A) Assume or account for any payment by the federal government for managing spent fuel associated with the plant unless and until such payment is made and placed into the trust.

(B) Assume that moneys from a decommissioning trust fund required by the NRC for the plant are available for managing spent fuel unless and until the NRC has affirmatively approved a request by the plant owner for such use.

(c) The owner and operator of an existing nuclear generation plant shall petition the board no later than January 31, 2011, for a determination that its proposed trust under this section meets the requirements of this subchapter, and the board shall render its decision on such petition on or before December 31, 2011.

§ 276. GREENFIELD RESTORATION TRUST

(a) On and after March 22, 2011, the owner and operator of a nuclear generation plant shall have in place a trust in accordance with this section for the purpose of restoring the site of the plant to a greenfield condition.

(1) If the trust pertains to a nuclear generation plant that is not an existing nuclear generation plant, the trust shall be one that the board has

determined to be adequate to fund the full projected cost of restoring the site of the plant to a greenfield condition.

(2) If the trust pertains to an existing nuclear generation plant:

(A) No later than March 22, 2011, the owner and operator of the plant shall place into the trust at least $10 million.

(B) No later than March 22, 2017, the owner and operator of the plant shall place into the trust at least $10 million. This amount shall be in addition to the amount required under subdivision (A) of this subdivision (2).

(C) No later than March 22, 2032, the owner and operator shall place into the trust the additional amount, if any, that is necessary to fund the full projected cost of restoring the site of the plant to a greenfield condition. For the purpose of this subdivision (C), “additional amount” means an amount of funding that is in addition to the amounts required under subdivisions (A) and (B) of this subdivision (2).

(b) The owner and operator of an existing nuclear generation plant shall petition the board no later than March 22, 2031, for a determination that its proposed additional amount meets the requirements of subdivision (a)(2)(C) of this section. The board shall render its decision on such petition on or before December 31, 2031.

§ 277. TRUSTS; COMMON PROVISIONS

(a) In determining that a trust is adequate under this subchapter, the board shall find that the trust conforms to the requirements of this subchapter and may include such conditions and requirements as it deems necessary to protect the public good.

(b) Section 275 (spent fuel management funding trust) or 276 (greenfield restoration trust) of this title does not require the inclusion in a trust of funds necessary for decommissioning. A trust under section 275 or 276 of this title shall be separate from any decommissioning trust required for a plant.

(c) A trust under this subchapter and any included funds and financial instruments shall be subject to the laws of Vermont, shall be usable by the beneficiary only for the purpose of the trust, and shall include a spendthrift provision sufficient under Vermont law to restrain both voluntary and involuntary transfers of the beneficiary’s interest.

(d) A trust under this subchapter shall be funded by cash, letter of credit held by and payable to the trustee, or surety bond held by and payable to the trustee that is executed by a surety company authorized to do business in this state. Any such letter of credit or surety bond shall be subject to the board’s approval.

(e) The trustee of a trust under this subchapter shall be independent of the owner, operator, and any affiliated entity.

(f) With respect to a trust established under this subchapter, the board shall provide for periodic monitoring of the trust, the timely addition to the trust of additional funds if needed to achieve the purpose of the trust, and the return of any excess funds once the purpose of the trust is achieved.

Sec. 3. 30 V.S.A. § 109 is amended to read:

§ 109. SALES AND LEASES; HEARINGS

* * *

(b) ~~No company owning or operating~~ With respect to an electric generating plant in this state with a capacity of 80 megawatts, or greater~~,~~:

(1) No company owning or operating such a plant in this state may sell or lease any real property or transmission facilities located at that plant that are required or may be required to generate electricity, interconnect generation facilities with electric transmission facilities, or transmit electricity from the plant, without first obtaining a certificate of consent from the public service board.

(2) Any company owning or operating such a plant that has, in the course of obtaining a certificate from the board under this title, provided evidence that the assets, cash flow, financial resources, skill, experience, or other resources of an affiliated entity may be available or called or relied upon, in any circumstance, to satisfy, support, or mitigate its liabilities or responsibilities, shall provide no less than 180 days' prior notice to the board of any sale or lease within any 12-month period of 25 percent or more of the assets of such affiliated entity and shall provide all further information concerning such sale or lease as the board may require, within the period specified by the board. The board shall have authority to open an investigation into any such sale or lease and issue any order that it finds necessary or appropriate to promote or protect the general good of the state. For the purpose of this subsection, "affiliated entity" means any person or business organization that, on or after January 1, 2010:

(A) owned or controlled or owns or controls an interest, directly or indirectly, in a company that owns or operates a plant that is subject to this subsection; or

(B) was or is a corporation that, directly or indirectly, was or is a parent of the owner or operator of a plant subject to this subsection.

(3) For the purpose of subdivision (2) of this subsection:

(A) “Business organization” includes a parent or subsidiary corporation, a jointly owned or jointly controlled corporation, a limited liability corporation, a joint venture, a partnership, or any other legal or commercial entity.

(B) “Interest” excludes a right or obligation of a Vermont company, utility, or electric department that arises because the company, utility, or electric department is only a purchaser, user, transmitter, distributor, or reseller of power produced by a plant subject to this subsection.

* * *

Sec. 4. SEVERABILITY

The provisions of this act are severable. If any provision of this act is invalid or if any application thereof to any person or circumstance is invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

S. 264

An act relating to stop and hauling charges

Rep. McNeil of Rutland Town, for the Committee on Agriculture**,** recommends that the House propose to the Senate that the bill be amended as follows:

By striking Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. EFFECTIVE DATE

This bill shall take effect upon passage, except that Sec. 2. (amendment to 6 V.S.A. § 2676, mandating that cost of hauling to be paid by buyer) shall take effect when New York and Pennsylvania require, by legislative or administrative enactment of statewide applicability and enforcement, that dairy hauling costs be paid by the purchaser of cows’ milk rather than the producer of the milk.

(Committee vote: 11-0-0)

(For text see Senate Journal 3/19/10)

S. 282

An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles

Rep. Aswad of Burlington, for the Committee on Transportation**,** 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:

Sec. 1. 23 V.S.A. § 4103(4)(B)(iii) is amended to read:

(iii) ~~military~~ equipment owned or operated by the United States Department of Defense, including the National Guard, and operated by noncivilian personnel or by National Guard military technicians (civilians who are required to wear military uniforms) and active duty U.S. Coast Guard personnel;

Sec. 2. 23 V.S.A. § 4110(a)(6)(C) is amended to read:

(C) the applicant is not subject to any disqualification under 49 C.F.R. ~~part 385.51~~ section 383.51, or any license suspension, revocation, or cancellation under state law; and

Sec. 3. 23 V.S.A. § 4111(a) and (f) are amended to read:

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include, but not be limited to, the following information:

* * *

(2) The person's color photograph or imaged likeness. A person issued a license under this subsection ~~that contains an imaged likeness may renew his or her license by mail. Except that a renewal must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years~~ may renew the license not earlier than six months prior to its expiration date. In such case, the prior license document shall be surrendered. The renewed license shall be effective from the date of issuance to the end of the period for which it is renewed.

* * *

(f) When applying for renewal of a commercial driver license, the applicant shall complete the application form required by section 4110 of this title, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. In addition, the applicant must successfully complete the security threat assessment required

by 49 C.F.R. part 1572. Within 15 days of an adverse initial or final determination of threat assessment being served by the United States Transportation Security Administration, the applicant's hazardous materials endorsement shall be revoked or denied.

Sec. 4. 23 V.S.A. § 4112 is amended to read:

§ 4112. RECORDS; NOTIFICATION

(a) After suspending, revoking, or disqualifying a person from holding a commercial driver license, the commissioner shall update his or her records to reflect that action within 10 days. After suspending, revoking, or disqualifying a nonresident commercial driver's privileges, the commissioner shall notify the licensing authority of the state which issued the commercial driver license or commercial driver certificate within 10 days.

(b) When the commissioner receives a request for an operating record of a person currently or previously licensed in Vermont, the commissioner shall provide the information within 30 days.

Sec. 5. 23 V.S.A. § 4113 is amended to read:

§ 4113. Notification of traffic convictions

When a person who holds a commercial driver license issued by another state is convicted in this state of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any type of vehicle, the commissioner shall notify the driver licensing authority in the licensing state of the conviction within ~~30~~ 10 days.

Sec. 6. 23 V.S.A. § 4116(d) and (k) are amended to read:

(d) A person shall be disqualified from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period. A disqualification for 120 days shall be issued to be consecutive with any previous disqualification.

(k) A person shall be disqualified for a term concurrent with any disqualification or suspension issued by the administrator of the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. ~~part~~ section 383.52.

Sec. 7. 23 V.S.A. § 4119 is amended to read:

§ 4119. COMPLIANCE WITH OUT-OF-SERVICE ORDER; DISQUALIFICATION FROM OPERATION OF VEHICLE

(a) No person shall operate a commercial motor vehicle in violation of an out-of-service order.

(b) Any person convicted for violating an out-of-service order shall be disqualified as follows except as provided in subsection ~~(b)~~(c) of this section:

(1) A person shall be disqualified from driving a commercial motor vehicle for a period of ~~90~~ 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of ~~one year~~ two years if convicted of a second violation of an out-of-service order during any ten-year period, arising from separate incidents.

(3) A person shall be disqualified for a period of three years if convicted of a third or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

~~(b)~~(c) Any person convicted for violating an out-of-service order while transporting hazardous materials or while operating a commercial motor vehicle designed or used to transport ~~15~~ 16 or more passengers, including the driver, shall be disqualified as follows:

(1) A person shall be disqualified for a period of 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of three years if convicted of a second or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

Sec. 8. 23 V.S.A. § 4120(a) and (b) are amended to read:

(a) Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order is subject to a penalty ~~of $1,500.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(1), in addition to disqualification under this chapter.

(b) Any employer who violates an out-of-service order, or who knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, is subject to a penalty ~~of $4,000.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(2).

Sec. 9. 23 V.S.A. § 102(a) is amended to read:

(a) The commissioner shall:

* * *

(9) Issue nondriver identification cards; and

(10) Maintain commercial driver records and driver identification data in accordance with the provisions of 49 C.F.R section 384.231(d).

Sec. 10. 5 V.S.A. § 2001(d) and (f) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules promulgated pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(f) The regulations promulgated by the ~~Materials Transportation Bureau of the~~ Pipeline and Hazardous Materials Safety Administration, United States Department of Transportation contained in Parts ~~170-189~~ 100–199 of Title 49 of the Code of Federal Regulations revised as of ~~December 31, 1976~~ October 1, 2007, and any amendment or addition to these regulations, and the regulations promulgated by the ~~Bureau of~~ Federal Motor Carrier Safety~~, Federal Highway~~ Administration, United States Department of Transportation contained in Parts 390–397 of Title 49 of the Code of Federal Regulations, revised as of October 1, ~~1976~~ 2008, and any amendment or addition to these regulations and any provisions of any other regulations regarding the transportation of hazardous materials adopted by a federal agency may be adopted by the secretary of transportation.

Sec. 11. 5 V.S.A. § 2101(d) and (e) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules adopted pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(e) The regulations promulgated by the Federal Motor Carrier Safety Administration, United States Department of Transportation contained in parts 40, 350, 360, 365, 372, 381–383, ~~386–388~~ 385–388, 390–397, and 399 of Title 49 of the Code of Federal Regulations, revised as of October 1, ~~2002~~ 2008, and any amendment or addition to these regulations may be adopted by the secretary of transportation.

Sec. 12. 23 V.S.A. § 114(a)(21) is amended to read:

(21) Records not otherwise specified ~~4.00~~ 6.00 per page

Sec. 13. 23 V.S.A. §§ 453 and 459 are amended to read:

§ 453. FEES AND NUMBER PLATES

* * *

(g) The commissioner of motor vehicles shall not issue a dealer's certificate of registration to a new or used car dealer~~,~~ unless the dealer has provided the commissioner with a surety bond, letter of credit, or certificate of deposit issued by an entity authorized to transact business in the same state. The amount of such surety bond, letter of credit, or certificate of deposit shall be between ~~$5,000.00~~ $20,000.00 and ~~$15,000.00,~~ $35,000.00 based on the number of new or used units sold in the previous year; such schedule is to be determined by the commissioner of motor vehicles. In the case of a certificate of deposit, it shall be issued in the name of the dealer and assigned to the commissioner or his or her designee. The bond, letter of credit, or certificate of deposit shall serve as indemnification for any monetary loss suffered by the state or by a purchaser of a motor vehicle by reason of the dealer's failure to remit to the commissioner any fees collected by the dealer under the provisions of chapters 7 and 21 of this title or by a dealer's failure to remit to the commissioner any tax collected by the dealer under chapter 219 of Title 32. This state or the motor vehicle owner who suffers such loss or damage shall have the right to claim against the surety upon the bond or against the letter of credit or certificate of deposit. The bond, letter of credit, or certificate of deposit shall remain in effect for the pending registration year and one year thereafter. The liability of any such surety or claim against the letter of credit or certificate of deposit shall be limited to the amount of the fees or tax collected by the dealer under chapters 7 and 21 of this title or chapter 219 of Title 32 and not remitted to the commissioner.

§ 459. NOTICE TO COMMISSIONER

(a) Upon issuing a number plate with temporary validation stickers, temporary number plate, or decal to a purchaser for attachment to a motor vehicle, a dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee, deposited with him or her by the purchaser, together with notice of such issue and such other information as the commissioner may require.

(b) If a number plate with temporary validation stickers, temporary registration plate, or decal is not issued by a dealer in connection with the sale or exchange of a motor vehicle, the dealer may accept, from the purchaser, a properly executed registration, tax and title application, and the required fees for transmission to the commissioner. The dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee together with such other information as the commissioner may require.

Sec. 14. 23 V.S.A. § 1129(a) is amended to read:

(a) The operator of a motor vehicle involved in an accident whereby a person is injured or whereby there is total damage to all property to the extent

of ~~$1,000.00~~ $3,000.00 or more shall make a written report concerning the accident to the commissioner of motor vehicles on forms furnished by the commissioner. The written report shall be mailed to the commissioner within 72 hours after the accident. The commissioner may require further facts concerning the accident to be provided upon forms furnished by him or her.

Sec. 15. 23 V.S.A. § 1222(c) is amended to read:

(c) Notwithstanding the provisions of subsection (a) of this section, an exhibition vehicle of model year 1940 or before~~,~~ registered as prescribed in section 373 of this title or a trailer registered as prescribed in subdivision 371(a)(1)(A) of this title shall be exempt from inspection; provided, however, the vehicle must be equipped as originally manufactured, must be in good mechanical condition, and must meet the applicable standards of the inspection manual.

Sec. 16. 23 V.S.A. § 2017(b) is amended to read:

(b) The commissioner shall maintain at his or her central office a record of all certificates of title issued by him or her~~:~~

~~(1) Under~~ for vehicles 15 years old and newer under a distinctive title number assigned to the vehicle;

~~(2) Under~~ under the identification number of the vehicle;

~~(3) Alphabetically~~ alphabetically, under the name of the owner; and, in the discretion of the commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging. ~~and, in the discretion of the commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging.~~

Sec. 17. REPEAL

23 V.S.A. § 735 (motorcycle rider training program advisory committee) and chapter 20 of Title 23 (interstate compact for motor vehicle safety equipment) are repealed.

Sec. 18. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

* * *

(c) The commissioner may issue number plates to be used for a period of two or more years. One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. ~~No~~ Except as otherwise provided in

subsection (d) of this section, no plate is valid for the second and succeeding years unless the sticker is affixed to the rear plate in the manner prescribed by the commissioner.

(d) When a registration is renewed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

Sec. 19. 23 V.S.A. § 1251 is amended to read:

§ 1251. SIRENS AND COLORED SIGNAL LAMPS

~~No~~ A motor vehicle shall not be operated upon a highway of this state equipped with a siren or signal lamp colored other than amber unless a permit authorizing ~~such~~ this equipment, issued by the commissioner of motor vehicles, is carried in the vehicle. A permit may be transferred following the same procedure and subject to the same time limits as set forth in section 321 of this title. The commissioner may adopt additional rules as may be required to govern the acquisition of permits and the use pertaining to sirens and colored signal lamps.

Sec. 20. EFFECTIVE DATES

(a) Sec. 3 (renewal) shall take effect on July 1, 2011.

(b) This section and Sec. 19 (siren and signal lamp permit transfer) shall take effect on passage.

(c) Secs. 1–2 and Secs. 4–18 shall take effect on July 1, 2010.

and that after passage the title of the bill be amended to read: “An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles and amending miscellaneous motor vehicle laws”

(Committee vote: 10-0-1)

(For text see Senate Journal 2/12/10)

Favorable

H. 532

An act relating to the domestic violence fatality review commission

Rep. Devereux of Mount Holly, for the Committee on **Government Operations,** recommends the bill ought to pass.

(Committee Vote: 10-0-1)

H. 788

An act relating to approval of amendments to the charter of the town of Berlin

Rep. Martin of Wolcott, for the Committee on **Government Operations,** recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 539

An act relating to amending the charter of the town of Hartford

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. CHARTER APPROVAL

Notwithstanding the provisions of section 2645 of Title 17, the general assembly approves the amendment to the charter of the town of Hartford as provided in this act.

Sec. 2. 24 V.S.A. App. chapter 123A § 401(e) is amended to read:

(e) Charter review.

(1) The selectboard and school board ~~shall~~ may appoint a charter review committee of registered voters of the town to review its charter and recommend changes as the committee finds necessary or advisable for the purpose of improving the operation of the town and school district.

(2) ~~The charter shall be reviewed not less than three years after its initial adoption and subsequently every five years unless amended by a town meeting vote.~~

~~(3)~~ The committee shall submit a written report of recommendations to the selectboard and school board not later than one year after the appointment of the committee.

~~(4)~~(3) Recommendations shall be warned for a vote at the next Australian ballot town meeting.

~~(5)~~(4) The selectboard and school board shall provide funds for the committee in their budgets for any year when a charter review committee is appointed.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 2-25-10)

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?