

House Calendar

Thursday, April 15, 2010

101st DAY OF ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 15, 2010

Committee Bill for Second Reading

H. 792

An act relating to implementation of challenges for change.

(Rep. Heath of Westford will speak for the Committee on Appropriations.)

Amendment to be offered by Reps. Olsen of Jamaica, McDonald of Berlin, O'Donnell of Vernon, Adams of Hartland, Ainsworth of Royalton, Baker of West Rutland, Branagan of Georgia, Brennan of Colchester, Canfield of Fair Haven, Clark of Vergennes, Clerkin of Hartford, Crawford of Burke, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Higley of Lowell, Howard of Cambridge, Hubert of Milton, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Larocque of Barnet, Lawrence of Lyndon, Lewis of Derby, Marcotte of Coventry, McAllister of Highgate, McFaun of Barre Town, McNeil of Rutland Town, Morley of Barton, Myers of Essex, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburg, Reis of St. Johnsbury, Savage of Swanton, Scheuermann of Stowe, Shaw of Pittsford, Turner of Milton, Wheeler of Derby, and Wright of Burlington to H. 792

By renumbering Sec. 68 as Sec. 69 and inserting a new Sec. 68 to read:

Sec. 68. RECONVENING OF THE GENERAL ASSEMBLY

This act and the Challenges for Change Act both accomplish significant progress toward redesigning how government services will be provided to achieve required outcomes, through long-term strategic planning, while spending less money. However, the \$38 million savings assumed in the budget in H. 789 as passed by the House will not be achieved by implementation of the proposals offered to date. It is estimated that there may need to be an additional savings of approximately \$20 million. To ensure that the general assembly has the opportunity to analyze the cost-savings proposals in detail and is fully accountable for any decisions with respect to implementation of the proposals and to ensure that the committees of jurisdiction and the joint legislative government accountability committee have sufficient time to analyze, adjust, and finalize the proposals, the general assembly when it

initially adjourns from its 2010 session shall not adjourn sine die, but shall instead adjourn to June 15, 2010, to take any necessary legislative action to approve and implement further proposals in accordance with the Challenges for Change Act and this act to save the additional \$20 million in fiscal year 2011. Any committee of jurisdiction may meet at any time before June 15, 2010, for the purposes in this section, at the call of the chair.

Amendment to be offered by Rep. Larson of Burlington to H. 792

First: In Sec. 17, by striking out the last sentence.

Second: In Sec. 55, by striking out “§ 2809(d)” and inserting in lieu thereof “§ 2809”.

Third: In Sec. 64, in subsection (a), in the third sentence, by striking out “that the joint committee on government accountability (GAC) vote against acceptance of the administration’s current proposal and request”; and in that same sentence, by striking out “the secretary of administration revise and resubmit a proposal” and inserting in lieu thereof “the secretary of administration submit a revised proposal”;

and in subsection 64(a)(1), by striking out “and implement”, and before the period, by inserting “to be implemented as soon as practicable”

Fourth: By striking out Sec. 66 and inserting a new Sec. 66 to read:

Sec. 66. Sec. 10(a) of No. 206 of the Acts of 2008 is amended to read:

(a) Sec. 5 of this act shall be repealed on July 1, ~~2013~~ 2010.

Fifth: By adding subsections 68(1) and (2) to read:

(1) This Sec. 68 and Secs. 1 (legislative intent), 23 (creation of clinical utilization review board), 64 (economic development), and 67 (quarterly reporting) shall take effect upon passage.

(2) Sec. 63 (waterfowl stamp) shall take effect January 1, 2011.

and by renumbering the remaining subsections of Sec. 68 to be numerically correct.

Amendment to be offered by Rep. Ancel of Calais to H. 792

First: In Sec. 67, by striking out subsection (b) and inserting in lieu thereof “The governor, in carrying out the purposes of this act and No. 68 of the acts of 2009, adjourned session, may not reduce government benefits or limit benefit eligibility; and may not reduce personnel except to the extent necessary to achieve the required outcomes under the Challenges plan.”

Amendment to be offered by Rep. Emmons of Springfield to H. 792

Rep. Emmons of Springfield moves that the bill be amended as follows:

First: In Sec. 29, in the first sentence, following the words “It is the intent of the general assembly that” by inserting “a portion of the” and following “the provisions of this act” by inserting “and the provisions of S.292 as enacted”

Second: By striking Sec. 30 in its entirety and inserting in lieu thereof a new Sec. 30 to read:

Sec. 30. 13 V.S.A. § 7030 is amended to read:

§ 7030. SENTENCING ALTERNATIVES

(a) In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others and the community at large presented by the defendant:

(1) A deferred sentence pursuant to section 7041 of this title.

(2) Referral to a reparative board pursuant to chapter 58 of Title 24 and chapter 12 of Title 28 in the case of an offender who has pled guilty to a nonviolent felony, a nonviolent misdemeanor, or a misdemeanor that does not involve the subject areas prohibited in 24 V.S.A. § 1967. The offender shall return to court for further sentencing if the reparative board does not accept the case or if the offender fails to complete the reparative board program to the satisfaction of the board in a time deemed reasonable by the board.

(3) Probation pursuant to ~~section 28 V.S.A. § 205 of Title 28.~~

~~(3)~~(4) Supervised community sentence pursuant to ~~section 28 V.S.A. § 352 of Title 28.~~

~~(4)~~(5) Sentence of imprisonment.

(b) When ordering a sentence of probation, the court may require participation in the restorative justice program established by chapter 12 of Title 28 as a condition of the sentence.

Third: By striking Sec. 31 in its entirety and inserting in lieu thereof a new Sec. 31 to read:

Sec. 31. RESTORATIVE JUSTICE; STATE’S ATTORNEYS; POLICE;
DEPARTMENT OF CORRECTIONS; COURT
ADMINISTRATOR’S OFFICE; DEPARTMENT OF PUBLIC
SAFETY; PLAN

(a) In 1999, in 28 V.S.A. § 2a, the general assembly clearly established as state policy that the principles of restorative justice shall be included in shaping how the criminal justice system responds to persons charged with or convicted of criminal offenses. The general assembly now finds that many communities have made effective use of restorative justice through community justice centers, diversion, and other innovative municipal programs but that much more could be done with a resultant decrease in recidivism and cost to Vermont taxpayers.

(b) On or before September 1, 2010, the department of corrections, the department of state's attorneys and sheriffs, the department of public safety, the court administrator's office, and the Vermont association of chiefs of police shall jointly report to the corrections oversight committee on what can be done in each county to reduce the need for correctional services through increased use of restorative justice programs, diversion, and other innovative municipal programs. The departments and association shall show how recommended strategies could lead to an increase in use of restorative justice programs, diversion, and innovative municipal programs and at least a ten-percent decrease in nonviolent offenders entering the corrections system.

Fourth: In Sec. 32, by striking the Sec. in its entirety and inserting in lieu thereof:

Sec. 32. DEPARTMENT OF CORRECTIONS; FACILITIES CLOSING

In fiscal year 2011, the department of corrections shall not close or substantially reduce services at a correctional facility or field office.

Amendment to be offered by Reps. Poirier of Barre City, and Zuckerman of Burlington to H. 792

Reps. Poirier of Barre City and Zuckerman of Burlington move that the bill be amended as follows:

First: By striking out Sec. 67 inserting in lieu thereof a new Sec. 67 to read:

Sec. 67. QUARTERLY REPORTING

(a) The government accountability committee shall summarize the measures developed in response to the Challenges for Change Act to be used in reporting and overseeing progress on each Challenge. As provided in that act, the measures will be simple, objective, consistent, and based on data that are currently collected or could easily be collected; and will include milestones for assessment of the effectiveness in implementing each Challenge.

(b) All redesign of how to provide government services under No. 68 of the Acts of 2009, Adj. Session (2010) or this act shall be implemented no earlier than July 1, 2011, and no later than July 1, 2012, in a way that continues to

carry out the policies adopted by the general assembly, and not by reductions in government benefits or limitation on benefit eligibility; and shall not include reductions in staff except to the extent necessary to achieve the required outcomes and financial goals of the Challenges plan. The redesign shall be achieved through innovative, outcome-driven changes in service delivery and performance which create better methods for providing government services, while spending less money and achieving the outcomes specified in the Challenges for Change Act.

(c) On a quarterly basis, beginning with July 1, 2010, the administration shall report to the house and senate committees of jurisdiction on its developing plans to implement the challenges for change. The quarterly reports shall include a statement of the measures and milestones to be used in accountability and oversight of implementation, any proposed changes to those measures and milestones, the administration's most recent version of its plan for implementation of the challenges, and an explanation of how the proposed plan is designed to achieve the outcomes for each challenge.

(d) The committees of jurisdiction may meet during the interim at the call of the chair to receive and discuss the reports required under this section, and may report each quarter to the government accountability committee as to whether satisfactory progress is being made on plans of implementation for each challenge, and whether the proposed plan of implementation appears designed to achieve the required outcomes.

Second: By renumbering Sec. 68 as Sec. 69, and inserting a new Sec. 68 to read:

Sec. 68. TWO-YEAR SURTAX ON PERSONAL INCOME TAXES

For tax years beginning after December 31, 2009, and before January 1, 2012, there is imposed a surtax on the tax imposed pursuant to 32 V.S.A. § 5822 equal to four percent of Vermont personal income tax liability.

Third: In Sec. 17, by striking out the last sentence and inserting in lieu thereof “The agency shall not take any action to implement new and revised proposals under this subsection (c) before March 1, 2011, unless the action is approved by the general assembly.”

Fourth: By striking out Sec. 69 and inserting a new Sec. 69 to read:

Sec. 69. EFFECTIVE DATES; APPLICATION; REPEALS

This act shall take effect July 1, 2010, except as follows:

(1) This Sec. 69 and Sec. 67 (quarterly reporting) shall take effect upon passage.

(2) Secs. 27, 28, and 44 through 47 shall take effect July 1, 2011.

(3) Sec. 2 of this act (charter units; no required independent expert review for information technology investments) shall be repealed on July 1, 2013.

(4) Secs. 34 through 37 of this act (notice of rulemaking) shall apply to all proposed rules filed on or after July 1, 2010.

(5) Sec. 36 of this act (secretary of state; publication of proposed rules) shall be repealed on January 1, 2012.

(6) The amendments to 10 V.S.A. § 6605(b)(5) in Sec. 42 of this act (ANR monitoring in postclosure solid waste certifications) shall take effect July 1, 2011.

(7) Sec. 68 of this act (income tax surtax) shall take effect from January 1, 2010.

Amendment to be offered by Reps Poirier of Barre City, Taylor of Barre City, McDonald of Berlin, Andrews of Rutland City, Atkins of Winooski, Audette of South Burlington, Baker of West Rutland, Bissonnette of Winooski, Bohi of Hartford, Botzow of Pownal, Brennan of Colchester, Corcoran of Bennington, Courcelle of Rutland City, Dickinson of St. Albans Town, Fagan of Rutland City, Howard of Rutland City, Kilmartin of Newport City, Koch of Barre Town, Krawczyk of Bennington, Martin of Wolcott, McFaun of Barre Town, McNeil of Rutland Town, Mook of Bennington, Morrissey of Bennington, O'Donnell of Vernon, Perley of Enosburg, Pugh of South Burlington, Reis of St. Johnsbury, Savage of Swanton, South of St. Johnsbury, Wheeler of Derby and Wright of Burlington move that the bill be amended as follows:

First: In Sec. 29, "BUDGETARY SAVINGS; ALLOCATIONS IN FISCAL YEAR 2011", in the second sentence before the colon, by striking "as follows" and inserting in lieu thereof:

"as described in this section. For expenditures under subdivisions 1, 3, and 5 of this sec., the department shall give priority to projects located in communities in which the percentage of persons under custody of the commissioner of corrections exceeds two and one-half percent of the population"

Second: Following Sec. 29, by adding a new Sec. 29a to read:

Sec. 29a. 28 V.S.A. §102(b)(16) and (c)(22) are added to read:

(16) To release incarcerated offenders into a community on probation, parole or furlough pursuant to this title. However:

(A) At any time that the total number of persons reentering the community from incarceration on probation, parole or furlough, including both former residents and former nonresidents, who reside in a municipality exceeds two percent of the population according to the most recent census, the commissioner shall release from incarceration to the community only persons who resided there prior to arrest, or have family ties or other connections there. A decision as to whether the person resided in the community prior to arrest shall be made by the commissioner and his or her decision shall be final. The commissioner shall strive to ensure that no more than two percent of the population of any community shall be made up of persons reentering the community from incarceration on probation, furlough or parole.

(B) If the 12-month average unemployment rate for the preceding calendar year for a municipality in which the offender is to be released exceeds the 12-month statewide average unemployment rate for the preceding calendar year, the commissioner shall ensure, to the extent possible, that a work crew or other work opportunity is available for the offender.

(22) To notify local and state law enforcement officers of the following information regarding a person released from incarceration on probation, parole or furlough and residing in the community: name; address; conditions imposed by the court, parole board, or commissioner; and the reason for placing the person in that community.

Favorable with amendment

H. 781

An act relating to renewable energy.

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

Rep. Sharpe of Bristol, for the Committee on **Ways and Means**, recommends the bill be amended as follows::

By striking Secs. 8, 9, 10, and 11 in their entirety and inserting in lieu thereof the following:

Sec. 8. REPEALS; TRANSITION RULES

(1) Sec. 9c of No. 45 of the Acts of 2009 is amended to read:

Sec. 9c. 32 V.S.A. § 5930z (related to business solar energy investment tax credits for corporations) is repealed for investments made on or after January 1, ~~2011~~ 2012.

(2) Sec. 16(2) of No. 45 of the Acts of 2009 is amended to read:

(2) Sec. 9b (relating to the repeal of the 76-percent portion of the business solar energy tax credit) shall apply to credits related to investments made on or after January 1, ~~2011~~ 2012.

(3) Sec. 9d of No. 45 of the Acts of 2009 (transition rules) is repealed.

Sec. 9. 32 V.S.A. § 5822(d) is amended to read:

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

~~(2) A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.~~

(3) Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

(4) Solar energy tax credit. The solar energy tax credit provided for in this section shall be taken in accordance with the provisions of § 5930z of this title.

Sec. 10. 32 V.S.A. § 5930z is amended to read:

§ 5930Z. ~~PASS THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS~~ SOLAR ENERGY TAX CREDIT

(a) A taxpayer of this state shall be eligible for a the business solar energy tax credit against the tax imposed under ~~section~~ sections 5822 or 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided,

however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided further, that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

(b) Any taxpayer who has received a credit under subsection (a) of this section in any prior year shall increase its personal or corporate income tax under this chapter by the amount of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit recapture for the taxable year.

(c) The clean energy development fund established pursuant to 10 V.S.A. § 6523 shall certify to the department no more than \$9,400,000.00 of eligible solar energy tax credits. Credits shall be certified only if one of the two following criteria is met:

(1) The investment for which the solar energy tax credit is claimed is made after January 1, 2010, and:

(A) The investment pertains to a solar energy plant that has a plant capacity, as defined in 30 V.S.A. § 8002(13), of 2.2 MW or less;

(B) On or before July 15, 2010, the solar energy plant owner filed a complete petition with the public service board for a certificate of public good under 30 V.S.A. § 248;

(C) On or before September 1, 2011, construction on the solar energy plant is complete and the plant is commissioned or is ready to be commissioned within the meaning of 30 V.S.A. § 8002(11); and

(D) By July 15, 2010, the taxpayer has provided to the clean energy development fund on a form prescribed by the fund information necessary for the fund to determine the taxpayer's eligibility for the credit; or

(2)(A) The investment is made after January 1, 2010, and before December 31, 2010, and pertains to a net metering system as defined in 30 V.S.A. § 219a(a)(3), provided that the system is of no more than 150 kilowatts (AC) capacity; and

(B) By July 15, 2010, the taxpayer has provided to the clean energy development fund on a form prescribed by the fund information necessary for the fund to determine the taxpayer's eligibility for the credit.

(d) The final award of any solar energy tax credit shall not exceed the amount awarded to the taxpayer under 26 U.S.C. § 48.

(e) Any unused solar energy tax credit may be carried forward for no more than five succeeding tax years following the first year in which the solar energy tax credit is claimed.

(f) On a regular basis, the department shall notify the treasurer and the clean energy development board of solar energy tax credits claimed pursuant to this section, and the board shall cause to be transferred from the clean energy development fund to the general fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.

(g) The clean energy development fund and the department shall collaborate in implementing the award of credits under this section.

Sec. 11. RENEWABLE ENERGY PROPERTY TAX STUDY COMMITTEE

(a) There is created the renewable energy property tax study committee to identify and examine issues regarding the taxation of real property that includes a renewable energy plant.

(b) The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before August 1, 2010;

(2) The commissioner of the department of public service or designee;

(3) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;

(4) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;

(5) A representative of Renewable Energy Vermont, appointed by its board of directors;

(6) The secretary of the agency of agriculture, food and markets or designee.

(c) No later than January 15, 2011, the committee shall report its findings and analysis to the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the senate committees on finance, on economic development, housing, and general affairs, and on natural resources and energy. The report shall include specific recommendations with respect to the following:

(1) Whether the current method of property taxation of renewable energy plants adequately apportions the tax burden and, if not, whether energy

plants using different renewable resources should be subject to different rates of tax and how those rates should be determined.

(2) Whether renewable energy plants that are on leased land should be taxed differently from renewable energy plants that are on land owned by the plant owner.

(3) Whether renewable energy plants installed on residential property should be exempt from taxation.

(4) If there are adverse impacts on neighboring municipalities that do not directly benefit by virtue of having the renewable energy plant on their grand list, whether those impacts are fairly addressed.

(5) Whether renewable energy plants installed on land enrolled in the use value appraisal program or affixed to exempt farm buildings should be subject to property taxation and, if so, how the rates should be determined.

(6) Any other criteria that the director and listers should consider when assessing the fair market value of land that includes a renewable energy plant.

(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.

(e) For the purpose of this section, the terms “plant” and “renewable energy” shall have the same meaning as under 30 V.S.A. § 8002.

(Committee Vote 10-1-0)

Rep. Jewett of Ripton, for the Committee on **Judiciary**, recommends the bill ought to pass when amended as recommended by the Committee on **Ways and Means** and when further amended as follows:

First: In Sec. 17, 10 V.S.A. § 8506, in subsection (e), by adding a second sentence to read:

In such an appeal, the board shall give the same weight and consideration to prior decisions of the environmental court and of the entities described in section 8504(m) (precedent) of this title as the board gives to its prior decisions.

Second: By striking Sec. 18 in its entirety

Third: By renumbering the remaining section to be numerically correct

(Committee Vote: 10-0-1)

Amendment to be offered by Rep. Cheney of Norwich to H. 781

First: In Sec. 3, 30 V.S.A. § 8005(b)(2)(F), in the first sentence, in the phrase “on and after July 1, 2010” by striking “July 1” and inserting in lieu

thereof “June 8” and, in subsection (iv), in the second sentence, in the phrase “June 30, 2010” by striking the number “30” and inserting in lieu thereof “7”

Second: After Sec. 3, by inserting a new Sec. 4 to read:

* * * Clarification, Standard Offer Cost Allocation to Utilities * * *

Sec. 4. 30 V.S.A. § 8005(b)(7) is amended to read:

(7) Create a mechanism by which a retail electricity provider may establish that it has a sufficient amount of renewable energy, or resources that would otherwise qualify under the provisions of subsection (d) of this section, in its portfolio so that equity requires that the retail electricity provider be relieved, in whole or in part, from requirements established under this subsection that would require a retail electricity provider to purchase SPEED power, provided, ~~however,~~ that this mechanism shall not apply to the requirement to purchase power under subdivision (5) of this subsection ~~unless the~~. However, a retail electricity provider seeking to use the mechanism that establishes that it receives at least 25 percent of its energy from qualifying SPEED resources that were in operation on or before September 30, 2009, shall be exempt and wholly relieved from the requirements of subdivisions (b)(5) (requirement to purchase standard offer power) and (g)(2) (allocation of standard offer electricity and costs) of this section.

Third: By renumbering Secs. 4 through 16 of the bill as amended by the Committees on Ways and Means and on Judiciary to be numerically correct

Fourth: By renumbering Sec. 17 of the bill as amended by the Committees on Ways and Means and on Judiciary to be numerically correct and, in that section, 10 V.S.A. § 8506, in subsection (a), by inserting a second sentence to read: “This section shall not apply to a facility that is subject to section 1004 (dams before the Federal Energy Regulatory Commission) or 1006 (certification of hydroelectric projects) or chapter 43 (dams) of this title.”

Fifth: By renumbering Sec. 18 (effective date) of the bill as amended by the Committees on Ways and Means and on Judiciary to be numerically correct and, in that section, in the phrase “except that Sec. 12 shall take effect on July 1, 2012” by striking “Sec. 12” and inserting in lieu thereof “Sec. 13”

Amendment to be offered by Rep. Johnson of Canaan to H. 781

In Sec. 17, 10 V.S.A. § 8506, by striking subsection (e) and inserting in lieu thereof a new (e) to read:

(e) In an appeal under this section, the public service board shall review the secretary’s determination and the evidence supporting that determination and shall affirm the secretary unless the appellant demonstrates clear error or abuse of discretion or that the secretary’s decision was arbitrary and capricious.

Favorable

H. 770

An act relating to approval of amendments to the charter of the city of Barre

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

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

Senate Proposal of Amendment

H. 765

An act relating to establishing the Vermont agricultural innovation authority

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. 6 V.S.A. §§ 2961 and 2962 are amended and §§ 2962a and 2962b are added to read:

§ 2961. ~~CREATION OF AGRICULTURAL DEVELOPMENT COMMISSION~~ DEFINITIONS

~~(a) There is established within the agency of agriculture, food and markets the agricultural development commission, which shall be composed of the secretary of agriculture, food and markets, commissioner of forests, parks and recreation or his designee, the director of extension service, and director of research at the University of Vermont or their designees and four members appointed by the governor from a list of ten names, five to be submitted to him by the committee on agriculture of the house and five to be submitted to him by the committee on agriculture of the senate. The public members shall be appointed for terms of two years. The secretary of agriculture, food and markets shall be chairman.~~

~~(b) The commission shall be attached to the agency of agriculture, food and markets for administrative support. In addition, the commission may use the services and staff of any department to assist it in the performance of its duties. The secretary of agriculture, food and markets may appoint a person from within the agency of agriculture, food and markets to serve as executive director to the commission.~~

~~(c) Public members of the commission shall receive \$30.00 per diem and necessary expenses incurred while in the performance of their duties. As used in this subchapter:~~

~~(1) "Center" means the Vermont agricultural innovation center.~~

(2) “Value-added agricultural product” means any agricultural commodity or product that has been changed, produced, or segregated such that the market for the product has expanded and where the greater portion of the revenue derived from the value-added activity accrues to the producer of the commodity or product.

§ 2962. COMMISSION; POWERS AND DUTIES ESTABLISHMENT OF VERMONT AGRICULTURAL INNOVATION CENTER

~~The commission may develop policies and recommend procedures for the implementation of coordinated educational, regulatory, research and promotional programs in agriculture. In addition, the commission may:~~

~~(1) Develop a five-year continuing agriculture development program for the state which shall be updated biennially;~~

~~(2) Encourage lending institutions to expand their agricultural lending activities;~~

~~(3) Identify those institutional forces which impede agricultural expansion and make recommendations for the removal of those impediments;~~

~~(4) Assist individuals and organizations in their agricultural efforts;~~

~~(5) Make recommendations to the agency of agriculture, food and markets and the agricultural experiment station on areas where research might prove most beneficial to agriculture in Vermont;~~

~~(6) [Repealed.] (a) The Vermont agricultural innovation center is hereby established.~~

(b) The Vermont agricultural innovation center shall be administered by a board consisting of 13 members with no more than four members representing in a primary capacity any one agricultural sector. The board shall comprise the following:

(1) The secretary of agriculture, food and markets, who shall serve as chair; and

(2) The following four members appointed by the governor: One member from each of the four highest grossing commodities produced in Vermont as determined on the basis of annual gross cash sales. These four commodity groups presently include the dairy industry, the maple industry, the livestock, and the produce industry;

(3) The following eight members appointed by the speaker of the house and the president pro tempore of the senate:

(A) One representative from each of the two largest membership-based agricultural organizations in Vermont;

(C) Six members with knowledge of or experience in the production or marketing of value-added agricultural products.

(c) The Vermont agricultural innovation center's powers are vested in the board, and a quorum shall consist of seven members. No action of the board shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least seven members vote in favor of the action.

(d) Members of the board shall be appointed for staggered terms of three years. Any vacancy occurring among the members of the board shall be filled by the governor for the unexpired portion of the term. A board member may be reappointed, but no member, except the secretary of agriculture, food and markets, may serve for more than six consecutive years.

(e) Board members whose membership is not supported by their employer or association may receive per diem and reimbursement for travel as provided in 32 V.S.A. § 1010 to the extent that funds are available.

§ 2962a. PURPOSE; POWERS AND DUTIES

(a) To achieve the purposes of this subchapter, the Vermont agricultural innovation center shall:

(1) Promote agriculture and the business of agriculture in Vermont, including the production or marketing of value-added agricultural products.

(2) Coordinate with federal and state agencies and private sources to make financial resources available to the center for distribution of financial assistance for the promotion of agriculture, including the production or marketing of value-added agricultural products.

(3) Administer federal grant monies for the production or marketing of value-added agricultural products. Grant monies shall be administered in accordance with their terms which may include:

(A) Technical assistance, including technical, engineering, and product research services;

(B) Assistance in marketing, market development, and business planning, including advisory services with respect to leveraging capital assets;

(C) Organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses engaged in the production or marketing of value-added agricultural products;

(D) Studies that analyze the feasibility of facilities, including processing facilities, for use by potential producers or marketers of value-added products in order to determine the size that optimizes construction and other cost efficiencies.

(b) The agricultural innovation center may:

(1) consult, contract, or coordinate with the Vermont economic development authority or other agricultural funders to provide financial assistance for purposes authorized by this subchapter;

(2) support the establishment of partnerships for the promotion and development of agriculture in the state, including the production or marketing of value-added agricultural products;

(3) support local initiatives to produce or market value-added agricultural products;

(4) pursue and coordinate access to regional and local revolving loan funding and all state, federal, and private funding that is available for the development of agriculture and value-added agricultural products;

(5) receive and accept grants, gifts, loans, or contributions from any source subject to the provisions of 32 V.S.A. § 5;

(6) use the services and staff of the agency of agriculture, food and markets to assist in the performance of the center's duties with the concurrence of the secretary of agriculture, food and markets;

(7) contract for support, technical, or other professional services necessary to complete the work of the center.

§ 2962b. INTERAGENCY COOPERATION AND ASSISTANCE

Other departments and agencies of state government shall assist and cooperate with the center and shall make available to it information and data as needed to assist the center in carrying out its duties. Nothing in this section shall be construed to waive any privilege or protection otherwise afforded to the data and information under exemptions to the public records act or under other laws due solely to the fact that the information or data are shared with the center pursuant to this section.

Sec. 2. RECODIFICATION

6 V.S.A. chapter 162 is recodified as follows:

(1) §§ 2961–2962b shall be subchapter 1 which is added to read:

Subchapter 1. Vermont Agricultural Innovation Center

(2) §§ 2963–2965 shall be subchapter 2 which is added to read:

Subchapter 2. Generally

Sec. 3. EFFECTIVE DATE

This act shall take effect January 15, 2011.

And that after passage of the bill the title of the bill be amended to read as follows:

An act relating to establishing the Vermont agricultural innovation center.

(For text see House Journal 2/23/10)

Amendment to be offered by Rep. Malcolm of Pawlet to H. 765

Rep. Malcolm of Pawlet moves that the House concur in the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 1, 6 V.S.A. § 2962, in subdivision (b)(2), by inserting “industry” after “livestock”

Second: In Sec. 1, 6 V.S.A. § 2962, in subdivision (b)(3), by striking “president pro tempore” and inserting in lieu thereof “committee on committees”

Third: In Sec. 1, 6 V.S.A. § 2962, in subdivision (b)(3), by relettering “(C)” to “(B)”

Fourth: In Sec. 1, 6 V.S.A. § 2962, by striking subsection (d) in its entirety and inserting a new subsection (d) to read:

(d) Any vacancy occurring among the members of the board shall be filled by the respective appointing authority pursuant to this section. A board member may be reappointed, provided that no board member, except the secretary of agriculture, food and markets, may serve more than two consecutive three-year terms. Each member of the board shall serve a three-year term, except:

(1) the governor shall appoint initially one member to a one-year term, one member to a two-year term, and two members to a three-year term;

(2) the speaker of the house shall appoint initially two members to a one-year term, one member to a two-year term, and one member to a three-year term; and

(3) the committee on committees shall appoint initially one member to a one-year term, two members to a two-year term, and one member to a three-year term.

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

S. 239

An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter

Rep. Weston of Burlington, for the Committee on Natural Resources and Energy, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 10 V.S.A. § 584, in subdivision (e)(1), after “another” by striking “type of”

Second: In Sec. 2, 10 V.S.A. § 584, in subsection (g), after “health” by adding “care” and in the phrase “and has resulted or results” by striking “and” and inserting in lieu thereof “or”

Third: In Sec. 2, 10 V.S.A. § 584, in subsection (i), in the first sentence, in the phrase “closer than 100 feet” by striking “100 feet” and inserting in lieu thereof “the setback distance”

(Committee vote: 11-0-0)

(For text see Senate Journal 3/24/10)

Rep. Winters of Williamstown, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Natural Resources and Energy** and when further amended as follows:

By adding a new Sec. 3 to read:

Sec. 3. USE OF FUNDS

The agency of natural resources is authorized to use funds from the American Electric Power Service Corporation Settlement Funds described in 10 V.S.A. § 584(b), for the purposes of this act, as follows:

(1) In fiscal year 2011, the agency is authorized to use \$360,000.00 of these funds, which amount is included in the sum appropriated in Sec. B.710 of H. 789 of the 2009 adjourned session, as enacted; and

(2) In fiscal year 2012, it is the intent of the general assembly that the agency be authorized to use \$140,000.00 from that same Settlement Fund source.

and by renumbering the existing Sec. 3 as Sec. 4

(Committee Vote: 11-0-0)

S. 268

An act relating to the building bright futures council

Rep. Frank of Underhill, for the Committee on Human Services, 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. FINDINGS

The general assembly finds that:

(1) While Vermont has a wide range of high-quality programs for families and young children, a report issued by the Smart Start National Technical Assistance Center states, “Vermont’s early childhood system might be best described as many diverse patches, or pieces, ready to be linked and sewn together into a New England patchwork quilt.”

(2) In order to address issues of overlap and fragmentation, program accountability, and equitable access to services across the state, engaged community members, policy-makers, early childhood service providers, and advocates agree that there is a need for a comprehensive and integrated system for all children below the age of six and their families in Vermont who are in need of and desiring such services.

(3) Research shows that a child’s “environment of relationships” has a critical impact on developing brain architecture during the first months and years of life.

(4) There are approximately 39,000 children under the age of six in Vermont, including over 5,500 in poverty, 11,000 living in single-parent households, 20,489 living in two-parent households with both parents in the labor force, and approximately 1,300 young children with developmental delays.

(5) An estimated 23,000 children under the age of six are enrolled full- or part-time in over 1,900 registered or licensed child care programs

funded by a combination of parent fees and public dollars such as the Child Care Financial Assistance Program and the Education Fund. Programs that receive no public funds generally have little to no formal connection to an overall early childhood system with established goals and policies for addressing the needs of young children.

(6) In addition to the care by their parents and families, thousands of Vermont children from a range of socioeconomic backgrounds receive services, support, or both from state, federal, and private programs. Many children are served by multiple programs with no mechanism in place to ensure a holistic, family-centered approach to service delivery. Early childhood services are important to the economic well-being of families throughout the state. They have a positive impact on the state's labor supply and influence the overall economic competitiveness of the state.

(7) Section 642B of the federal Improving Head Start for School Readiness Act of 2007 mandates that the governor "designate or establish a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry, and the Governor may designate an existing entity in the State to serve as the State Advisory Council." The governor has designated the building bright futures state council as Vermont's entity.

(8) In November 2009, the building bright futures state council adopted a conceptual framework based on the work of Dr. Jack Shonkoff, a Harvard University professor and one of the nation's foremost experts on early childhood learning.

Sec. 2. 33 V.S.A. chapter 46 is added to read:

CHAPTER 46. BUILDING BRIGHT FUTURES COUNCIL

§ 4601. DEFINITIONS

As used in this chapter:

(1) "Early care, health, and education" means all services provided to families expecting a child and to children up to the age of six, including child care, family support, early education, mental and physical health services, nutrition services, and disability services.

(2) "Regional council" means a regional entity linked to the state building bright futures council to support the creation of an integrated system of early care, health, and education at the local level.

§ 4602. BUILDING BRIGHT FUTURES COUNCIL

(a) The building bright futures program shall be governed by a statewide council comprising no more than 23 members. The building bright futures council's membership shall be as follows:

(1) the secretary of human services or designee;

(2) the secretary of commerce and community development or designee;

(3) the commissioner of education;

(4) the commissioner for children and families;

(5) the commissioner of health;

(6) the commissioner of mental health;

(7) two members of the house of representatives, appointed by the speaker of the house;

(8) at least one but no more than two members of the senate, appointed by the senate committee on committees;

(9) the Head Start collaboration office director; and

(10) 12 at-large members selected on the basis of their commitment to early childhood well-being and representing a range of perspectives and geographic diversity. One of the at-large members shall be a representative of a local Head Start program and one shall be a member of a school board, to be chosen by the Vermont school boards association.

(b) In the event of a vacancy in one of the at-large member positions on the council, the remaining members shall endeavor to fill the vacancy with an individual representing a perspective or geographic area not currently represented on the council.

(c) Technical assistance to the council shall be provided by staff within the departments of health, of education, and for children and families.

(d) For council meetings held when the general assembly is not in session, the legislative members of the council shall be entitled to per diem compensation and reimbursement of expenses in accordance with section 406 of Title 2. Members of the council who are not state employees or whose participation is not supported through their employment or association may be entitled to compensation and reimbursement for expenses for attending meetings of the council under section 1010 of Title 32 to the extent funds are available.

(e) The council shall function as a public-private partnership with the ability to raise and disburse funds.

(f) The council shall support the establishment of, and maintenance of relationships with, regional councils providing regional capacity to further the council's goals.

§ 4603. POWERS AND DUTIES

The council established by section 4602 of this title shall have the following powers and duties necessary and appropriate to effectuating the purposes of this chapter:

(1) Advise the administration and general assembly on the status and needs of the early care, health, and education system by conducting a review of the status of young children in Vermont and the care, health, and education services and systems that support them.

(2) Monitor overall system performance by regularly tracking and reporting system data on the well-being of young children and the performance of the system of care related to the council's commitments to children and selected indicators.

(3) Develop an early care, health, and education system plan for Vermont to serve as the basis for policy and funding recommendations.

(4) Review and formulate recommendations for amendments or revisions to policies, rules, or regulations that may impede the ability to address state and local priorities and the ability to ensure system effectiveness.

(5) Work with the secretaries of human services and of commerce and community development and the commissioner of education to ensure the coordination of existing budgets and policies that affect the care, health, and education of young children.

(6) Identify and reduce duplication of services and of administrative approval processes and improve coordination across agencies.

(7) Work with the agencies of human services and of commerce and community development, the department of education, and the regional councils to coordinate and integrate the development of an early childhood budget that reflects alignment of funding with priorities identified in the system plan.

(8) Support the regional councils in their efforts to coordinate and implement services in accordance with identified priorities in system and regional plans.

(9) Contract with state agencies and departments to deliver services as agreed upon.

(10) Pursue and accept funding from diverse sources outside of state

government to sustain, expand, and enhance the early care, health, and education system according to the early care, health, and education system plan.

(11) Disburse funds raised through fund development activities in accordance with priorities defined in the system plan.

(12) Convene members of the child care community, medical community, education community, and other organizations, as well as state agencies serving young children, to ensure that families receive quality services in the most efficient and cost-effective manner.

(13) Select the key indicators to be tracked in early childhood and identify priority strategies to improve outcomes.

(14) Ensure children from birth to six years of age are included in statistical data systems developed by the department of education and other state agencies and that all such systems are interoperable.

(15) Analyze data to assess progress in achieving outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010) and make recommendations for any necessary adjustments.

(16) Report to the governor and the legislative committees of jurisdiction during the first month of each legislative biennium on the council's findings and recommendations, progress toward outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010), and recommendations for priorities for the biennium.

§ 4604. LIMITATION OF SCOPE

Nothing in this chapter shall be construed to supersede or usurp the statutory powers or authority of any state agency or department or any school district.

Sec. 2. COMPOSITION OF COUNCIL

The members of the building bright futures council serving as of the effective date of this act shall continue to serve on the council after that date and shall adopt bylaws detailing the council's governance and procedures.

Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 9-0-2)

(For text see Senate Journal 2/25/10)

Senate Proposal of Amendment

H. 540

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

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. 23 V.S.A. § 4(81) is added to read:

(81) “Vulnerable user” means a pedestrian; an operator of highway building, repair, or maintenance equipment or of agricultural equipment; a person operating a wheelchair or other personal mobility device, whether motorized or not; a person operating a bicycle or other nonmotorized means of transportation (such as, but not limited to, roller skates, rollerblades, or roller skis); or a person riding, driving, or herding an animal.

Sec. 2. 23 V.S.A. § 1033 is amended to read:

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

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

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

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

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes increasing clearance, to pass safely the vulnerable user.

Sec. 3. 23 V.S.A. § 1039 is amended to read:

§ 1039. FOLLOWING TOO CLOSELY, CROWDING, AND HARASSMENT

(a) The driver of a vehicle shall not follow another vehicle more closely

than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon, and the conditions of, the highway. The operator of a vehicle shall not, in a careless or imprudent manner, approach, pass, or maintain speed unnecessarily close to a vulnerable user as defined in subdivision 4(81) of this title, and an occupant of a vehicle shall not throw any object or substance at a vulnerable user.

* * *

Sec. 4. 23 V.S.A. § 1065 is amended to read:

§ 1065. HAND SIGNALS

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

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

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

Sec. 5. 23 V.S.A. § 1127 is amended to read:

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

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

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

Sec. 6. 23 V.S.A. § 1139(a) is amended to read:

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction and

generally shall ride as near to the right side of the roadway as practicable exercising due care when passing a standing vehicle or one proceeding in the same direction, but shall ride to the left or in a left lane when:

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

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

(3) overtaking another highway user; or

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

Sec. 7. 23 V.S.A. § 1141(a) is amended to read:

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

Sec. 8. REPEAL

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

(For text see House Journal 3/18/10)

H. 648

An act relating to harassment and hazing policies at independent colleges

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read:

Sec. 2. REPEAL

The following sections in Title 16 are repealed:

(1) 16 V.S.A. § 2182 (harassment and hazing prevention policies; Vermont state colleges).

(2) 16 V.S.A. § 2284 (harassment and hazing prevention policies; University of Vermont).

Second: In Sec. 4, by striking the words “Independent postsecondary” and inserting in lieu thereof the word “Postsecondary”

and that after passage the title of the bill be amended to read: "An act relating to harassment and hazing policies at postsecondary schools"

(For text see House Journal 3/16/10)

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?

Information Notice

**House Appropriations Committee
Members' amendments to H. 792
Challenges for Change**

The House Appropriations Committee invites all members of the House who intend to introduce amendments to H. 792 (Challenges for Change) to meet with the committee on Wednesday, April 14, at 9:00 a.m., OR for third reading, Thursday, April 15, 2010, at 8:30 a.m., in Room 42. If possible, please talk to Theresa Utton-Jerman in Room 40 (ext. 5767) to schedule a time.