

House Calendar

Tuesday, May 04, 2010
120th DAY OF ADJOURNED SESSION
House Convenes at 9:30 A.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Action Postponed Until May 4, 2010	
Third Reading	
S. 297 Miscellaneous changes to education law	2355
Rep. McAllister Amendment.....	2355
Rep. Wright et al Amendment	2355
Rep. Haas et al Amendment	2357
Rep. Scheuermann Amendment	2357
Senate Proposal of Amendment	
H. 767 The livestock care standards advisory council	2359
NEW BUSINESS	
Third Reading	
S. 64 Growth center designations and appeals of such designations	2363
Favorable with amendment	
H. 780 Approval of amendments to the charter of the city of St. Albans ...	2363
Rep. Hubert for Government Operations	
Senate Proposal of Amendment	
H. 213 Airness to tenants in cases of contested housing security deposit withholding.....	2363
NOTICE CALENDAR	
Favorable	
J.R.S. 57 Relating to authorizing the commissioner of forests, parks and recreation to proceed with an exchange of rights-of-way in Groton state forest	2364
Rep. Shaw for Corrections and Institutions	
Senate Proposal of Amendment	
H. 485 The use value appraisal program.....	2364
H. 763 Establishment of an agency of natural resources' river corridor management program	2370
Ordered to Lie	
H.R. 19 Urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont	2376

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until May 4, 2010

Third Reading

S. 297

An act relating to miscellaneous changes to education law

Pending Question: Shall the House proposal of amendment be amended as offered by Rep. McAllister of Highgate?

Amendment to be offered by Rep. McAllister of Highgate to S. 297

Rep. McAllister of Highgate moves to amend the House proposal of amendment by striking sec. 11 and inserting in lieu thereof:

Sec. 11. DRIVER EDUCATION: CONDITIONAL REPEAL

If the budget bill, H.789, as enacted, does not include appropriations for fiscal year 2011 sufficient to provide 100 percent funding to local school districts for driver education for fiscal year 2011, then 16 V.S.A. §§ 1045, 1046, 1047, 1047a and 1048 shall be repealed as of July 1, 2010.

Amendment to be offered by Reps. Wright of Burlington, Brennan of Colchester, Condon of Colchester and Scheuermann of Stowe to S. 297

Move that the House proposal of amendment be amended by adding an internal caption and three new sections to be Secs. 21a through 21c to read:

* * * Employment History * * *

Sec. 1. 16 V.S.A. chapter 5, subchapter 4 is redesignated to read:

Subchapter 4. Access to Criminal Records and to Employment History

* * *

Sec. 2. 16 V.S.A. § 255 is redesignated to read:

§ 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;
CONTRACTORS; CRIMINAL RECORDS

* * *

Sec. 3. 16 V.S.A. § 255a is added to read:

§ 255a. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;
EMPLOYMENT HISTORY

(a) For any person a superintendent or a headmaster of a recognized or approved independent school is prepared to recommend for any full-time, part-time, or temporary employment, the superintendent or headmaster shall:

(1) require the person to:

(A) provide a list of all employers, as defined in this section; and

(B) sign a written statement, to be developed by the commissioner, that acknowledges the immunity from liability conferred in this section; and

(2) request that the three most recent employers provide all written documentation prepared and maintained by the employer concerning the person's job performance and reasons for separation, including:

(A) evaluations conducted during the person's employment;

(B) notes concerning specific events or an aspect of the person's performance; and

(C) separation agreements and other documents concerning the termination of employment.

(b) An employer shall respond to a request made under this section by providing accurate and complete information about a current or former employee's job performance and reasons for separation.

(c) A prospective employer that, when making hiring or retention decisions, reasonably relies on the information provided to it under this section shall be immune from civil liability in connection with that reliance.

(d) An employer shall be immune from civil liability in connection with the disclosure required by this section, unless it has acted in bad faith. The employer shall be considered to have acted in bad faith only if it is shown by a preponderance of the evidence that the employer disclosed information that it knew was false or that was deliberately misleading.

(e) As used in this section:

(1) "Employer" means all Vermont supervisory unions, school districts, and recognized and independent schools by which a person is or has been employed.

(2) "Job performance" includes a current or former employee's attendance, attitude, awards, demotions, duties, effort, evaluations, knowledge, skills, promotions, and disciplinary actions.

Amendment to be offered by Reps. Haas of Rochester and Davis of Washington to S. 297

First: By striking Secs. 3-4 (special education provided at the supervisory union level) in their entirety

Second: By striking Secs. 11-12 (driver education) in their entirety

Third: By striking Secs. 13-16 (food programs administered by supervisory unions) in their entirety

Fourth: By striking Sec. 17 (NEASC approval of technical education programs) in its entirety

Fifth: By striking Sec. 21 (Blue Ribbon Tax Commission) in its entirety

Sixth: In Sec. 22 (effective dates), by striking subsections (a) and (c) in their entirety and by re-designating subsections (b) and (d) to be subsection (a) and (b) respectively

Amendment to be offered by Rep. Scheuermann of Stowe to S. 297

First: By adding three new sections to be Secs. 21a through 21c to read:

Sec. 21a. 16 V.S.A. § 2028 is added to read:

§ 2028. MANDATORY DETERMINATION BY THE VERMONT LABOR RELATIONS BOARD

(a) If the parties' dispute remains unresolved as to any issue on the 15th day after delivery of the fact-finding commission's report under section 2007 of this title or if the parties otherwise agree that they have reached an impasse, each party shall submit to the state labor relations board its last best offer on all undisputed issues which shall be reviewed and decided upon as a single package. The labor relations board may hold hearings and may consider the recommendations of the fact-finding committee, if one has been activated.

(b) In reaching a decision, the labor relations board shall give weight to all relevant evidence presented by the parties, including:

(1) The lawful authority of the school board.

(2) Stipulations of the parties.

(3) The interest and welfare of the public and the financial ability of the school board to pay for increased costs of public services, including the cost of labor.

(4) Comparisons of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of other employees performing similar services in public schools

in comparable communities or in private employment in comparable communities.

(5) The average consumer prices for goods and services commonly known as the cost of living.

(6) The overall compensation currently received by the employees, including direct wages, fringe benefits, and continuity conditions and stability of employment, and all other benefits received.

(7) Prior negotiations and existing conditions of other school and municipal employees.

(c) Within 30 days of receiving the last best offers of the parties, the labor relations board shall select between these offers, considered in their entirety without amendment, and shall determine its cost. The labor relations board shall not issue an order under this subsection that is in conflict with any law or rule or that relates to an issue that is not negotiable. The labor relations board shall file one copy of the decision with each city or town clerk within the supervisory union or supervisory district. Except as provided in subsection (d) of this section, the decision of the labor relations board shall be final and binding on the parties.

(d) If the contract selected by the labor relations board in subsection (c) of this section includes a dollar amount, which represents the salary plus individual benefits for any step and column on the pay scale, that exceeds the dollar amount for the salary plus individual benefits for that step and column in the parties' most recently approved contract by more than the state of Vermont's most recent total rate of salary adjustment available to classified employees under the collective bargaining agreement plus two percent, then the selected contract shall be presented to the voters of each district within the supervisory union or supervisory district at a meeting warned and held in the same manner in which each district budget meeting is warned and held, and the selected contract may be rejected by a majority of the combined votes. If rejected by the voters, the other party's last best offer, as submitted to the labor relations board pursuant to subsection (a) of this section, shall be final and binding on the parties.

(e) The parties shall share equally all mutually incurred costs incidental to this section.

(f) Upon application of a party, a superior court shall vacate an award on the same grounds as set forth in 21 V.S.A. § 1733(d) and according to the same procedures as set forth in 21 V.S.A. § 1733(e).

Sec. 21b. 3 V.S.A. § 924(e) is amended to read:

(e) In addition to its responsibilities under this chapter, the board shall carry out the responsibilities given to it under chapter 57 of Title 16, chapters 19 and 22 of Title 21, and chapter 28 of this title and when so doing shall exercise the powers and follow the procedures set out in that chapter.

Sec. 21c. REPEAL

The following sections of Title 16 are repealed:

- (1) § 2008 (finality of school board decisions).
- (2) § 2010 (injunctions granted only if action poses clear and present danger).
- (3) § 2021 (negotiated binding interest arbitration).
- (4) § 2022 (selection and decision of arbitrator).
- (5) § 2023 (jurisdiction of arbitrator).
- (6) § 2024 (judicial appeal).
- (7) § 2025 (factors to be considered by the arbitrator).
- (8) § 2026 (notice of award).
- (9) § 2027 (fees and expenses of arbitration).

Second: In Sec. 22, by adding a new subdivision to be subdivision (e) to read:

(e) Secs. 21a through 21c of this act shall take effect on passage and shall apply to negotiations beginning on or after July 1, 2010 for a new collective bargaining agreement.

Senate Proposal of Amendment

H. 767

An act relating to the livestock care standards advisory council

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. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS

ADVISORY COUNCIL

§ 791. DEFINITIONS

As used in this chapter:

- (1) “Agency” means the agency of agriculture, food and markets.

(2) "Council" means the livestock care standards advisory council.

(3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.

(4) "Secretary" means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets or his or her designee, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following four members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state who is a representative of an agricultural department of a Vermont college or university.

(B) A representative of the Vermont slaughter industry.

(C) A representative of the Vermont livestock dealer, hauler, or auction industry.

(D) A representative of a local humane society or organization registered with the agency and organized under state law.

(4) The following two members appointed by the committee on committees:

(A) A Vermont resident with experience or expertise in equine husbandry practices or equine management.

(B) A Vermont licensed livestock or poultry veterinarian.

(5) The following two members appointed by the speaker of the house:

(A) An enforcement officer, as defined in 23 V.S.A. § 4, or an animal control officer elected, appointed, or employed by a municipality, provided that the enforcement officer or animal control officer has experience or expertise in investigations regarding livestock care and well-being and provided that no animal control officer receiving compensation from a national

humane society or organization may be appointed under this subdivision.

(B) An operator of a Vermont dairy farm.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair and the state veterinarian, no member of the council may serve for more than six consecutive years.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) agricultural best management practices;

(B) biosecurity and disease prevention;

(C) animal morbidity and mortality data;

(D) food safety practices;

(E) the protection of local and affordable food supplies for consumers;

(F) the overall health and welfare of livestock species; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 1a. TRAINING OF SLAUGHTERHOUSE EMPLOYEES;
APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of agriculture, food and markets up to \$50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates this chapter shall be fined not more than \$100.00 ~~not less than \$50.00~~ \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$25,000.00 for the third violation, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

(b) The secretary shall permanently revoke the commercial operating license of any person who is found to be in violation of this chapter more than two times, and the secretary shall not relicense any business which includes as any director or owner of the business any director or owner of a business whose license has been permanently revoked.

(c) In addition to the penalties set forth in subsection (a) of this section, the secretary shall require a person who violates this chapter to install video monitoring equipment in all areas in which livestock is handled. The video equipment shall record continuously while live livestock are handled. As an alternative to video monitoring, a live video stream accessible by the secretary may be provided with prior approval of the secretary. The video tapes or recording files of the video monitoring required by this subsection shall be retained by the facility for 90 days and shall be readily retrievable and available for inspection by the secretary. After the retention period of 90 days has expired, the video tapes or recording files of the live video stream shall be submitted to the secretary by the 15th of the following month, on a monthly basis.

(d) The secretary shall refer a violation of this chapter to the attorney general or the state's attorney for prosecution.

Sec. 3. SUNSET

Sec. 1 of this act shall sunset on January 15, 2013, by which date any final recommendations to the general assembly and the secretary of agriculture, food and markets shall be submitted by the advisory council.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 2/24-2/26/10)

NEW BUSINESS

Third Reading

S. 64

An act relating to growth center designations and appeals of such designations

Favorable with amendment

H. 780

An act relating to approval of amendments to the charter of the city of St. Albans

Rep. Hubert of Milton, for the Committee on **Government Operations**, recommends the bill be amended as follows:

In Sec. 19, 24 V.S.A. App. chapter 11, § 18, by striking subdivisions (16) and (21) in their entirety and renumbering the remaining subdivisions to be numerically correct

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

Senate Proposal of Amendment

H. 213

An act to provide fairness to tenants in cases of contested housing security deposit withholding

The Senate proposes to the House to amend the bill by adding a new section to be Sec. 2 to read as follows:

Sec. 2. 9 V.S.A. § 4467 is amended to read:

§ 4467. TERMINATION OF TENANCY; NOTICE

(a) Termination for nonpayment of rent. The landlord may terminate a tenancy for nonpayment of rent by providing actual notice to the tenant of the date on which the tenancy will terminate which shall be at least 14 days after the date of the actual notice. The rental agreement shall not terminate if the tenant pays or tenders rent due through the end of the rental period in which

payment is made or tendered. Acceptance of partial payment of rent shall not constitute a waiver of the landlord's remedies for nonpayment of rent or an accord and satisfaction for nonpayment of rent.

* * *

(For text see House Journal 3/26 - 4/1/10)

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

J.R.S. 57

Joint resolution relating to authorizing the commissioner of forests, parks and recreation to proceed with an exchange of rights-of-way in Groton state forest

Rep. Shaw of Pittsford, for the Committee on **Corrections and Institutions**, recommends that the resolution ought to be adopted in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal 3/31/10)

Senate Proposal of Amendment

H. 485

An act relating to the use value appraisal program

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. USE VALUE APPRAISAL PROGRAM ASSESSMENT

For property tax bills prepared in 2010 only, there is imposed on each owner of land enrolled in the use value appraisal program pursuant to chapter 124 of Title 32 a one-time assessment of \$128.00. The assessment shall be collected as part of property tax bills prepared for the 2010 tax year, and the assessment shall show as a separate amount on all towns' bills. For the purpose of assessment and collection, the one-time assessment shall be a lien upon the real estate in the same manner and to the same effect as taxes are a

lien upon real estate under 32 V.S.A. § 5061, and collection of the assessment shall be subject to all other provisions of chapter 133 of Title 32. The director of property valuation and review shall provide all towns with electronic notice of the parcels within each town that shall be subject to the one-time assessment. Using a form provided by the director, towns shall remit to the state treasurer for deposit in the general fund on May 1, 2011, the full amount collected as of that date. At the time of the May 1 payment, towns also will indicate the full amount that should have been collected and any amount that remains delinquent. Payment of any amount outstanding due to delinquencies shall be payable in full to the state treasurer on December 1, 2011.

* * * Method and Calculation of Land Use Change Tax * * *

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing officials. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall petition the director for a determination of the fair market value of the land at the time of the withdrawal. Thereafter land which has been withdrawn shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.

(c) ~~The determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal, shall be made by the director~~ local assessing officials in accordance with the land schedule and the appraisal model used to list property of similar size to the withdrawn parcel in their municipality divided by the municipality's most recent common level of appraisal as determined by the director; provided, however, that if the land use change tax becomes payable as a result of a transfer of title pursuant to a bona fide arms' length transaction, the purchase price shall be deemed the fair market value of the property for the purpose of calculating the land use change tax. The determination shall be made within 30 days after the date that the owner ~~or assessing officials petition~~ petitions for the determination and shall be effective on the date of ~~dispatch~~ the notice is sent to the owner. The director may initiate a determination on his or her own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond. The director shall also send a copy of the notice to the local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ municipality in which the land is located. The ~~commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land ~~developed for which the tax is due, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal used to calculate the tax.~~ The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, ~~shall retain one copy and shall, forward one copy to the local assessing officials and commissioner along with one-half of the tax collected, forward one copy to the register of deeds of the municipality in which the land is located, forward one copy to the secretary of the agency of agriculture, food and markets if the land is agricultural land, and forward one copy to the commissioner of forests, parks and recreation if the land is managed forestland.~~ Thereafter, the land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of the agency of agriculture, food and markets if the land is

agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland of:

* * *

Sec. 3. 32 V.S.A. § 3758(a) is amended to read:

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision ~~of the director~~ to the director within 30 days of the decision. The aggrieved owner may appeal the director's final decision to the commissioner within 30 days, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation.

* * * Remove Preferential Property Transfer Tax Rate for Enrolled Land * * *

Sec. 4. REPEAL

32 V.S.A. § 9602(2) (providing preferential property transfer tax for land enrolled in the use value appraisal program) is repealed effective July 1, 2010.

* * * Electronic Administration of Use Value Appraisal Program * * *

Sec. 5. APPROPRIATION

(a) For fiscal year 2011, there is appropriated \$300,000.00 from the general fund to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) for the purpose of administering the program electronically.

(b) It is the intent of the general assembly to appropriate \$300,000.00 from the general fund to the use value appraisal program special fund to continue administering the program electronically in each of fiscal years 2012 and 2013.

Sec. 6. NOTICE

(a) The director of property valuation and review shall timely provide written notice to each owner of land enrolled in the use value appraisal program of the changes provided for in this act and the options the owner has with respect to any enrolled land.

(b) The director shall timely provide written notice to all applicants to the use value appraisal program who applied to enroll land for the September 1,

2009, deadline of the changes provided for in this act and the options the applicant has with respect to the enrollment of land. Each applicant shall have the opportunity to do one of the following:

(1) Enroll all of the land as provided for in the original application; or

(2) Withdraw the application in its entirety by filing a notice of withdrawal with the director on or before July 1, 2010.

(c) Any applicant who does not provide notice to the director by July 1, 2010, pursuant to subsection (b) of this section shall be deemed to have elected to enroll all of the land as provided for in the original application pursuant to subdivision (b)(1) of this section. The director shall refund the application fee of any applicant who elects to withdraw the application in its entirety pursuant to subdivision (b)(2) of this section.

Sec. 7. WAIVER OF ERRORS AND OMISSIONS

For April 1, 2010, grand list only, the provisions of 32 V.S.A. § 4261, requiring selectboard approval before listers may correct errors on the grand list, are waived with respect to making changes to the grand list that are the result of withdrawal of applications for enrollment pursuant to subdivisions (b)(1) and (2) of Sec. 6 of this act.

Sec. 8. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly should consider multiple strategies to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and seek ways to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use committee to study issues relating to the use value appraisal program and to report to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance. The committee shall provide an interim report no later than January 15, 2011, and a final report no later than January 15, 2012. 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 July 1, 2010;

(2) The secretary of the agency of agriculture, food and markets or designee;

- (3) The commissioner of forests, parks and recreation or designee;
- (4) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;
- (5) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;
- (6) A member of the public appointed by the speaker of the house;
- (7) A member of the public appointed by the committee on committees;
- (8) A member of the public appointed by the governor;
- (9) A member of the current use advisory board established pursuant to 32 V.S.A. § 3753, appointed by the chair.

(c) The committee report shall address the following issues in detail:

- (1) The state's formula for municipal reimbursement payments ("hold harmless payments").
- (2) The extent and degree of over-assessment of enrolled land;
- (3) Whether there is a need to create incentives for landowners who keep enrolled land open for public recreation, and if so, what incentives.
- (4) The feasibility of allowing enrollees to omit on an initial application or withdraw from the program an undesignated two-acre housesite that would be assessed at the highest value.
- (5) Deferral of the land use change tax payment for development of on-farm housing.
- (6) Eligibility requirements for agricultural parcels smaller than 25 acres.

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

Sec. 9. EFFECTIVE DATES AND TRANSITION RULES

(a) Any withdrawal of an application for use value appraisal pursuant to subdivision (b)(2) of Sec. 6 of this act after the date of passage of this act and before July 1, 2010 shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) Property withdrawn from the use value appraisal program before the effective date of Secs. 2 and 3 of this act, but not developed before that date, shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 that were in effect at the time of withdrawal; and revenues from land

use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(c) This section and Secs. 1, 5, 6, 7, and 8 of this act shall take effect upon passage.

(d) Secs. 2 and 3 of this act shall take effect on November 1, 2010.

(e) Sec. 4 of this act shall apply to all property transfers on or after July 1, 2010.

(For text see House Journal 1/26 - 1/27/10)

H. 763

An act relating to establishment of an agency of natural resources' river corridor management program

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

By striking out Sec. 9 in its entirety and inserting in lieu thereof the following:

Sec. 9. 6 V.S.A. § 4821(a) is amended to read:

(a) Program created. A program is created to provide state financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the state of Vermont, consistent with goals of the federal Water Pollution Control Act and with state water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the state shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the agency of agriculture, food and markets.

Sec. 10. 6 V.S.A. § 4900 is amended to read:

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

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

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

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

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

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

Sec. 11. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

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

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;
- (4) cross-slope tillage;
- (5) zone or no-tillage;
- (6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$1,000.00 per year; ~~and~~

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

- (A) the impact on Vermont waters of agricultural waste discharges;
- (B) the federal and state requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 12. 10 V.S.A. § 321(d) is amended to read:

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

Sec. 13. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

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

* * *

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

Sec. 14. 10 V.S.A. § 1021(a) is amended to read:

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

Sec. 15. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

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

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

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

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

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

Sec. 16. ANR REPORT ON GENERAL PERMIT PROGRAM FOR STREAM ALTERATION

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

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

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

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

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

Sec. 17. 19 V.S.A. § 996 is added to read:

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

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

(b) Beginning January 15, 2013, and every four years thereafter, the secretary in consultation with municipal representatives and with approval from the agency of natural resources shall review and revise, as appropriate, town road and bridge standards in order to ensure the standards are protective of water quality.

Sec. 18. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

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

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

* * *

Sec. 19. REPEAL OF SUNSET OF VERMONT AGRICULTURAL BUFFER PROGRAM

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

Sec. 20. Sec. 14 of No. 31 of the Acts of 2009 is amended to read:

Sec. 14. EFFECTIVE DATE

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

(b) Secs. 2 (retitling 10 V.S.A. chapter 37), 3 (wetlands definitions), 4 (ANR wetlands authority), 5 (wetlands permitting), 6 (recodification of aquatic nuisance control authority), 7 (water resources panel rulemaking authority), 8 (ANR enforcement authority), 9 (appeals), and 10 (marketability of title), ~~and 11 (transition)~~ of this act shall take effect 45 days after such time as the water resources panel has issued both a rule updating the Vermont significant wetlands inventory maps and a rule updating the Vermont wetland rules.

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

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 9 (livestock fencing; best management practices), 10 (Vermont agricultural buffer program), 11 (farm agronomic practices program), 12 (VHCB; agricultural land preservation), 16 (ANR report on general permit program), 17 (agency of transportation best management practices), 19 (repeal of sunset on Vermont agricultural buffer program), and 20 (effective date of wetlands transition) of this act shall take effect upon passage.

(b) Secs. 1 (river corridor findings), 2 (navigable waters and shorelands policy), 3 (navigable waters and shorelands definitions), 4 (shoreland protection bylaws), 5 (river corridor buffers), 6 (zoning bylaws), 7 (zoning permissible types of regulations), and 8 (ANR report on river corridor, shoreland, and buffer zoning) shall take effect July 1, 2010, except that 10 V.S.A. § 1427 shall take effect February 1, 2011.

(c) Secs. 13 (definition of watercourse) and 14 (stream alteration permits) of this act shall take effect March 31, 2011.

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

(d) Sec. 18 (local match town highway programs) of this act shall take effect July 1, 2011.

(For text see House Journal 2/19/10)

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?