

# Senate Calendar

WEDNESDAY, APRIL 15, 2009

99th DAY OF BIENNIAL SESSION

## TABLE OF CONTENTS

Page No.

### UNFINISHED BUSINESS OF WEDNESDAY, MARCH 25, 2009

#### Third Reading

- S. 99** Act 250 relating to traffic/scattered development/rural growth areas. 943

### UNFINISHED BUSINESS OF FRIDAY, APRIL 3, 2009

#### Second Reading

##### Favorable with Recommendation of Amendment

- S. 117** Relating to the date of the primary election ..... 943  
Government Operations Committee Report ..... 943

### UNFINISHED BUSINESS OF TUESDAY, APRIL 14, 2009

#### Second Reading

##### Favorable

- H. 348** Relating to the interstate pest control compact ..... 943  
Agriculture Committee Report..... 944

### NEW BUSINESS

#### Third Reading

- S. 111** Relating to legislative apportionment board appointments ..... 944  
**S. 134** Reduction/consolidation of certain nonstanding leg. committees..... 944  
**H. 36** Repealing charter of the Enosburg Falls incorporated school dist.... 944  
**H. 131** Amendment to the Charter of Cold Brook Fire District No. 1 ..... 944

#### Second Reading

##### Favorable

- H. 135** Wireless communication facilities & project approvals for municipal  
and cooperative utilities ..... 944  
Finance Committee Report ..... 944  
**H. 160** Approval of the charter of the town of Hartford ..... 944  
Government Operations Committee Report ..... 944  
**H. 186** Authorizing fish/wildlife to administer polygraphs to job applicants 945  
Government Operations Committee Report ..... 945

**Favorable with Recommendation of Amendment**

**S. 89** Relating to a maximum retail price for milk ..... 945  
Agriculture Committee Report..... 945  
Finance Committee Report ..... 948

**Favorable with Proposal of Amendment**

**H. 34** Relating to automated external defibrillators ..... 948  
Judiciary Committee Report ..... 948  
**H. 287** Uniform prudent management of Institutional Funds Act ..... 948  
Finance Committee Report ..... 948

**NOTICE CALENDAR**

**ORDERED TO LIE**

**S. 54** Relating to clean energy assessment districts ..... 949

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ORDERS OF THE DAY

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF WEDNESDAY, MARCH 25, 2009**

**Third Reading**

**S. 99**

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

**UNFINISHED BUSINESS OF FRIDAY, APRIL 3, 2009**

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 117**

An act relating to the date of the primary election.

**Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Government Operations.**

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

Sec. 1. 17 V.S.A. § 2351 is amended to read:

§ 2351. PRIMARY ELECTION

A primary election shall be held on the ~~second~~ fourth Tuesday ~~of September~~ in August in each even numbered year for the nomination of candidates of major political parties for all offices to be voted for at the succeeding general election, except candidates for president and vice-president of the United States, their electors, and justices of the peace.

(Committee vote: 3-2-0)

**UNFINISHED BUSINESS OF TUESDAY, APRIL 14, 2009**

**Second Reading**

**Favorable**

**H. 348**

An act relating to the interstate pest control compact.

**Reported favorably by Senator Giard for the Committee on Agriculture.**

(Committee vote: 5-0-0)

(No House amendments)

## **NEW BUSINESS**

### **Third Reading**

#### **S. 111**

An act relating to legislative apportionment board appointments.

#### **S. 134**

An act relating to the reduction and consolidation of certain nonstanding legislative committees.

#### **H. 36**

An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

#### **H. 131**

An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

### **Second Reading**

#### **Favorable**

#### **H. 135**

An act relating to wireless communication facilities and project approvals for municipal and cooperative utilities.

**Reported favorably by Senator Carris for the Committee on Finance.**

(Committee vote: 5-0-2)

(For House amendments, see House Journal of March 18, 2009, page 415)

#### **H. 160**

An act relating to approval of the charter of the Town of Hartford.

**Reported favorably by Senator White for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 17;, 2009, page 402)

## H. 186

An act relating to authorizing the department of fish and wildlife to administer polygraph examinations to applicants for law enforcement positions.

**Reported favorably by Senator Brock for the Committee on Government Operations.**

(Committee vote: 4-0-1)

(No House amendments)

### **Favorable with Recommendation of Amendment**

## S. 89

An act relating to a maximum retail price for milk.

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Agriculture.**

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

Sec. 1. VERMONT MILK COMMISSION; MILK PREMIUM; PRODUCER PRICE STABILIZATION

(a) The general assembly finds that the recent precipitous drop in producer prices is causing a tremendous burden on Vermont dairy producers and the industry at large, and that this burden must be alleviated as quickly as possible by regulatory action. Accordingly, the general assembly directs the Vermont milk commission to conduct without delay the proceedings necessary to determine whether a “retail fluid milk premium,” including its distribution to producers, should be enacted in accordance with 6 V.S.A. § 2924(e) and the regulations adopted under chapter 161 of Title 6.

(b) To facilitate these expedited proceedings, not later than five days after the enactment of this act, the chair of the commission shall direct the issuance of a further notice of hearing on the latest version of the commission’s “proposed order to establish a retail fluid milk premium” first issued on September 9, 2008. The commission is further directed to conduct this hearing as quickly as procedurally allowable, and to so proceed as expeditiously as possible with all subsequent regulatory actions required by law for its determination of whether to establish a retail fluid milk premium.

Sec. 2. 6 V.S.A. § 2924 is amended to read:

§ 2924. POWERS AND DUTIES; PRICING AUTHORITY; PUBLIC HEARINGS

(a) Authority over milk prices. The commission may establish an equitable minimum or maximum price, or both, and the manner of payments, which shall be paid producers or associations of producers by handlers, and the prices charged consumers and others for milk used in dairy products by distributors or handlers. The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of monies collected under this section shall not exceed \$100,000.00 annually, and shall be collected independently from any assessment imposed under this section. The commission may impose a one-time assessment to cover the initial costs of establishing a pricing order as authorized by this section.

(b) Equitable minimum producer prices. The commission may establish by order after notice and hearing an equitable minimum price to be paid to dairy producers for milk produced in Vermont on the basis of the use thereof in the various classes, grades, and forms. Prices so established which exceed federal order prices shall be collected by the commission from the handlers for distribution to dairy producers as a blend price. ~~The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of these moneys shall be covered by such moneys, not to exceed \$100,000.00.~~

\* \* \*

### Sec. 3. PREMIUM START-UP FUNDING

(a) The commission shall impose a one-time assessment to cover the administrative costs of its regulatory activities required by Sec. 1 of this act. The assessment required by this section shall not exceed \$35,000.00.

(b) The agency of agriculture, food and markets may borrow from its own general fund to cover these administrative expenses and the milk commission shall reimburse the agency of agriculture, food and markets' general fund upon receipt of the proceeds of the assessment authorized by subsection (a) of this section.

### Sec. 4. PRODUCER REFERENDUM

(a) If adopted pursuant to this act, a final order by the Vermont milk commission to establish a retail fluid milk premium shall be submitted by Vermont dairy producers to a producer referendum in accordance with part II, section 7 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order." Notwithstanding the provisions of part III, section 8 of this commission procedure, however, the referendum shall not be conducted as a "qualified cooperative representative vote," but shall instead provide for individual ballot and vote by each Vermont producer.

(b) The referendum shall be carried out and certified not more than 30 days after the adoption of a final order.

(c) The commission shall file with the secretary of state and the legislative committee on administrative rules a letter explaining that a qualified cooperative representative vote pursuant to part III, section 8 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order" will not apply to an order adopted under this act. The commission shall also submit a copy of this act to the secretary of state and the legislative committee on administrative rules.

#### Sec. 5. ANTI-TRUST INQUIRY; REPORT BY THE ATTORNEY GENERAL

(a) Findings. The general assembly is concerned that the highly concentrated market structure of the New England dairy industry, throughout all sectors, is operating to the disservice of Vermont dairy farmers and milk consumers alike. The raw milk sector of the industry is increasingly dominated by one large, nationally based dairy farm cooperative, and Vermont dairy farmers now have very few options for the initial marketing of their milk. The downstream processing sector is dominated by just two fluid milk processing concerns, which control both the procurement of raw milk from dairy farms and the sale of packaged milk to retail outlets. Finally, the dominant supermarket segment of the Vermont retail market is controlled by a few large firms, many of whom are nationally based or multinational companies.

(b) Therefore, the attorney general shall undertake a study of the Northeast fluid milk market, and the Vermont segment of that market, and further work with the United States Congress and the United States attorney general to investigate possible anticompetitive practices of dairy cooperatives, processors, and retail firms operating in the Vermont marketplace.

(c) As part of the study, the attorney general shall determine whether operation of the Capper-Volstead Act of 1922 continues to serve its intended purpose and function in the public interest.

(d) By January 15, 2010, the attorney general shall report back to the house and senate committees on agriculture with the findings and recommendations of the study required by this section.

#### Sec. 6. EFFECTIVE DATE

This act shall take effect upon passage.

and that the title of the bill be amended to read:

“An act relating to stabilization of prices paid to Vermont dairy farmers”

(Committee vote: 5-0-0)

**Reported without recommendation by Senator Maynard for the Committee on Finance.**

(Committee vote: 5-0-2)

### **Favorable with Proposal of Amendment**

#### **H. 34**

An act relating to automated external defibrillators.

**Reported favorably with recommendation of proposal of amendment by Senator Mullin for the Committee on Judiciary.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, 18 V.S.A. § 907(d)(1), after the words “person’s acts or omissions” by adding the following: with respect to such use, ownership, or training in the operation of an AED

(Committee Vote: 5-0-0)

(For House amendments, see House Journal for March 24, 2009, page 440.)

#### **H. 287**

An act relating to uniform prudent management of Institutional Funds Act.

**Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Finance.**

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 2, by striking out 14 V.S.A. § 3419 in its entirety and inserting in lieu thereof the following:

§ 3419. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 of that act, 15 U.S.C. Section 7003.

(Committee Vote: 6-0-1)

(For House amendments, see House Journal for March 24, 2009, page 442.)

## ORDERED TO LIE

### S. 54

An act relating to clean energy assessment districts.

**Pending Question:** Shall the bill pass?

## CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Susan D. Plaustainer of Brownsville – Member of the Vermont Economic Development Authority – By Sen. Maynard for the Committee on Finance. (1/21)

Rachel Schumacher of North Bennington – Member of the Vermont Economic Development Authority – By Sen. Hartwell for the Committee on Finance. (1/21)

Steven J. Bourgeois of Swanton – Member of the Vermont Economic Development Authority – By Sen. Carris for the Committee on Finance. (1/28)

Thomas Pelletier of Montpelier – Member of the Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (1/28)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Michael Welch of St. Johnsbury – Member of the Valuation Appeals Board – By Sen. McCormack for the Committee on Finance. (2/18/09)

David R. Coates of Colchester – Member of the Vermont Municipal Bond Bank – By Sen. Carris for the Committee on Finance. (2/18/09)

Sonia D. Alexander of Wilmington – Member of the Valuation Appeals Board – By Sen. Hartwell for the Committee on Finance. (2/25/09)

Paulette Thabault of South Burlington – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (3/3/09)

Kathryn T. Boardman of Shelburne – Member of the Vermont Municipal Bond Bank – By Sen. Maynard for the Committee on Finance. (3/4/09)

John D. Burke of Castleton – Member of the Public Service Board – By Sen. Maynard for the Committee on Finance. (3/24/09)

Kenneth Linsley of Danville – Member of the Vermont Educational and Health Buildings Financing Agency – By Sen. Maynard for the Committee on Finance. (3/26/09)

Gary Moore of Bradford – Member of the Vermont State Colleges Board of Trustees – By Sen. Starr for the Committee on Education. (3/31/09)

Linda R. Milne of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Doyle for the Committee on Education. (3/31/09)

Mark Young of Orwell – Member of the University of Vermont Board of Trustees – By Sen. Giard for the Committee on Education. (3/31/09)

Donald Collins of Swanton – Member of the State Board of Education – By Sen. Brock for the Committee on Education. (3/31/09)

Matthew F. Valerio of Proctor – Defender General – By Sen. Mullin for the Committee on Judiciary. (4/3/09)

Joseph C. Benning of Lyndonville – Chair, Human Rights Commission - By Sen. Sears for the Committee on Judiciary. (4/3/09)

Shelley J. Gartner of Rutland – Magistrate, Vermont Family Court - By Sen. Nitka for the Committee on Judiciary. (4/3/09)

Mary Gleason Harlow of Clarendon – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Christine A. Hoyt of Tunbridge – Magistrate, Vermont Family Court – By Sen. Campbell for the Committee on Judiciary. (4/3/09)

Michelle Fairbrother of Rutland – Member of the Vermont State Colleges Board of Trustees – By Sen. Nitka for the Committee on Education. (4/14/09)

John Hall of West Danville – Member of the State Board of Education – By Sen. Doyle for the Committee on Education. (4/14/09)

Judith Livingston of Manchester – Member of the State Board of Education  
– By Sen. Brock for the Committee on Education. (4/14/09)

Carol Bokan of Shelburne – Member of the Community High School of  
Vermont Board – By Sen. Nitka for the Committee on Education. (4/14/09)