

# Senate Calendar

WEDNESDAY, APRIL 07, 2010

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**ACTION CALENDAR**

**CONSIDERATION POSTPONED TO APRIL 7, 2010**

**Committee Bill for Second Reading**

**S. 294.**

An act relating to identification in electioneering communications and penalties for campaign finance violations.

**PENDING QUESTION:** Shall the bill be amended as recommended by Senator White on behalf of the Committee on Government Operations?

(For text, see Senate Journal of March 23, 2010, page 386)

**House Proposal of Amendment**

**S. 288**

An act relating to the Vermont recovery and reinvestment act of 2010.

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

\* \* \* VRRRA 2010 Legislative Intent \* \* \*

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to supplement and support the programs and policies established in No. 54 (H.313) of the Acts of 2009, the Vermont Recovery and Reinvestment Act of 2009, and to provide other economic incentives.

(b) The provisions of this act provide short-term economic stimulus to certain sectors of the Vermont economy, and invest in long-term strategies that are consistent with the four principal goals of economic development identified by the commission on the future of economic development and codified in 10 V.S.A. § 3(b) as follows:

(1) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support

business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The programs identified in this act shall strive to meet the challenge of improving their economic development results by taking steps to meet the two outcomes for economic development stated in Sec. 8(b) of an Act Relating to Challenges for Change, No. 68 (S.286) of the Acts of the 2009 Adj. Sess. (2010): (1) Vermont achieves a sustainable annual increase in nonpublic sector employment and in median household income; and (2) Vermont attains a statewide, state-of-the-art telecommunications infrastructure. As also identified in the Challenges for Change Act, Sec. 8(a)(3) in S.286, such steps shall include:

(1) identifying measurable results of improvement;

(2) designing evidence-based economic development strategies to achieve these improvements and the four goals of economic development identified in 10 V.S.A. § 3;

(3) directing available state funds to these strategies; and

(4) using objective, data-based indicators to measure performance of these strategies.

\* \* \* SFSF General Services Fund Appropriations \* \* \*

## Sec. 2. STATE FISCAL STABILIZATION FUND; GENERAL SERVICES FUND; APPROPRIATIONS

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, is hereby appropriated as prescribed in Secs. 3–10 of this act.

(b) For the specific purpose of ensuring SFSF funds are expended in a timely fashion and in accordance with the deadlines and restrictions established under ARRA, and also to ensure that the objectives of the appropriations contained herein are accomplished, the secretary of administration is authorized to substitute any authorized general fund appropriations for the SFSF appropriations in this section, and in such an event, the secretary is authorized to expend the SFSF funds on any other authorized general fund expenditure.

(c) It is the intent of the general assembly that, unless otherwise stated, the appropriations of SFSF funds made pursuant to this act are expended as quickly as possible so as to have an immediate stimulative impact on

Vermont's economy. However, to the extent it is not feasible or prudent for a program to expend all funds in fiscal year 2010, the funds may be carried forward to fiscal year 2011 and otherwise expended in accordance with the provisions of this act.

(d) It is the intent of the general assembly that any program receiving SFSF funds pursuant to this act make all reasonable and practicable efforts to ensure that such funds are evenly and equitably distributed throughout the entire state of Vermont.

#### Sec. 3. ENTREPRENEURS' SEED CAPITAL FUND

The amount of \$400,000.00 is appropriated to the entrepreneurs' seed capital fund established under chapter 14A of Title 10.

#### Sec. 4. RURAL BROADBAND; VTA

The amount of \$3,165,00.00 is appropriated to the Vermont telecommunications authority (VTA) for the purpose of making broadband services available to at least 12,000 households or businesses in locations where such services are not currently available, as provided in 30 V.S.A. § 8079, as established in Sec. 11 of this act.

#### Sec. 5. VERMONT EMPLOYMENT TRAINING PROGRAM

The amount of \$1,200,000.00 is appropriated to the department of economic, housing, and community development for grants for the Vermont employment training program established under 10 V.S.A. § 531.

#### Sec. 6. TOURISM AND MARKETING; MEDIA ADVERTISING

The amount of \$400,000.00 is appropriated to the department of tourism and marketing to increase the frequency of and expand the media buys in the state's key regional markets for Vermont's recreation and hospitality operations. These funds shall be expended in calendar year 2010 with the goal of increasing the number of visitors throughout all regions of the state this year.

#### Sec. 7. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$778,000.00 is appropriated to the Vermont economic development authority (VEDA) to be used by the Vermont agricultural credit corporation for the Vermont agricultural credit program established under 10 V.S.A. § 374a to assist Vermont farmers with capital to meet operating and related needs.

(b) The amount of \$100,000.00 is appropriated to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330, as provided in Sec. 13 of this act.

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

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

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

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

#### Sec. 8. CHAMPLAIN BRIDGE CLOSURE; GRANTS AND LOANS

(a) The amount of \$500,000.00 is appropriated to the agency of commerce and community development for a grant to the Addison County economic development corporation (ACEDC) for the purpose of providing grants and loans to businesses and organizations that have incurred economic losses as a direct result of the closure of the Lake Champlain bridge at Crown Point, with oversight and reporting provided by the Vermont office of economic stimulus and recovery.

(b) Grants for loss in revenue. The ACEDC shall award grants to any business or organization that, due to the bridge closure, suffered revenue losses of at least 20 percent during the fourth quarter of calendar year 2009 as compared with the same period in 2008. Awards under this subsection shall compensate up to 50 percent of uninsured losses.

(c) Grants for increased expenses. The ACEDC shall award grants to any business or organization for the purpose of compensating losses incurred during the fourth quarter of calendar year 2009 directly attributable to the closure of the bridge as follows:

(1) up to 75 percent of a documented, uninsured increase in transportation costs.

(2) up to 75 percent of documented, uninsured costs incurred in paying employee per diems to cover increased commuting time and expenses.

(3) up to 75 percent of documented, uninsured costs incurred for equipment rentals or the hiring of custom haulers necessary to continue business operations.

(d) Any grant made pursuant to subsections (b) and (c) of this section shall not exceed \$20,000.00. No business or organization shall be eligible for more than one grant. ACEDC shall not award more than \$150,000.00 in grants under this section.

(e) Loans. The ACEDC shall establish criteria for making low-or-no-interest loans to businesses and organizations negatively impacted by the closure of the Champlain Bridge. The loans shall be to assist such entities with maintaining payroll, ordering inventory, and covering operational

expenses. The ACEDC shall establish underwriting criteria, and any other terms and conditions deemed necessary to carry out the purposes of this subsection. The ACEDC shall issue up to \$350,000.00 in aggregated loans.

(f) Unless other funds for administrative costs become available, the Addison County economic development corporation may use 0.5 percent of the appropriation made under this section for administrative costs.

(g) On November 1, 2010, all unexpended funds shall be transferred to the Vermont economic development authority (VEDA). In addition, all loan repayments shall be transferred to VEDA. Any funds received by VEDA pursuant to this subsection shall be transferred to the entrepreneurs' seed capital fund established under chapter 14A of Title 10. ACEDC may retain any interest.

#### Sec. 9. VEDA; VERMONT JOBS FUND

The amount of \$1,700,000.00 is appropriated to the Vermont economic development authority to provide interest-rate subsidies on loans approved under the Vermont jobs fund established in 10 V.S.A. § 234.

#### Sec. 10. MICROBUSINESS DEVELOPMENT; INDIVIDUAL DEVELOPMENT ACCOUNTS

(a) The amount of \$100,000.00 is appropriated to community capital of Vermont for the job start loan fund to support low and moderate income business owners who do not have access to conventional bank loans.

(b) The amount of \$200,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families. These funds shall not be used to secure a federal match. Of this appropriation:

(1) \$100,000.00 shall be transferred to the individual development account (IDA) program; and

(2) \$100,000.00 shall be transferred to the micro-business development program.

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

Sec. 11. 30 V.S.A. § 8079 is added to read:

#### § 8079. BROADBAND ADOPTION PROGRAM

(a) There is established the Vermont broadband adoption program to be administered by the Vermont telecommunications authority for the purposes of accelerating the subscription to and use of broadband Internet access by the public and increasing the sustainability of broadband networks in Vermont, especially in rural and underserved communities. Through this program, the authority shall insure that broadband service is provided to at least 12,000

households and businesses left unserved by private entities.

(b) The authority shall expend monies appropriated to the Vermont broadband adoption program consistent with this section.

(c) For purposes of this section, a “community” shall be a local geographic area of the state defined by the authority and consisting of one or more geographic areas with a defined boundary, including municipalities, telephone exchanges, ZIP codes, or census blocks.

(d) For purposes of this section, “broadband” service shall mean Internet access services which provide download speeds not less than 1.5 megabits per second and upload speeds not less than 200 kilobits per second. Service provided by satellite shall not qualify as “broadband.” In addition, the authority shall give priority to broadband services which meet or exceed the minimum technical service characteristic objectives established pursuant to section 8077 of this title, and may adopt any new such objectives established pursuant to section 8077 of this title in place of the definition provided in this subsection.

(e) In each fiscal year in which funding is available for the program, the authority shall establish target communities in which it will offer incentives to broadband service providers. In selecting the target communities, the authority shall consider, to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband services by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband services to all regions of the state.

(f) For each target community, the authority shall seek proposals through a competitive process from broadband service providers who agree to improve, expand, or introduce broadband service in the community. The authority shall consider in its selection of broadband service providers the factors used in selecting the target communities, and also the quality of the proposed broadband services and the plans of applicants to market and promote the



adoption of its broadband services in the target communities. Based on the number and quality of proposals received, the authority may seek additional proposals, adjust the boundaries of the communities it has defined, or elect to not provide assistance in some target communities.

(g) Broadband service providers that agree to receive assistance under this program for a target community shall within 18 months make broadband service available to all occupied nonseasonal home and business locations within the community at upload and download speeds which shall be specified in a grant agreement with the authority, which shall not be less than speeds commonly offered by the broadband service provider in other areas it serves in the state.

(h) The authority shall provide a broadband service provider selected to receive assistance for a target community with a grant per new broadband subscriber in the target community. The amount of the grant shall be equal to a monthly refund level established by the authority. Prior to July 1, 2013, the authority shall establish a monthly refund level not exceeding \$20.00 per month. Grants shall be sufficient to provide the monthly refund level for a period of 12 months. The broadband service provider shall apply the amount of the monthly refund level as a credit to the amount owed by a subscriber for service. The authority may require new subscribers to claim the credit on line, which may include initiating one or more on-line transactions with state services offered on line. To the extent possible and consistent with the cost-effective administration of the program, the authority shall limit grants awarded such that they are awarded for subscribers who have not previously had broadband service available in the target community.

(i) Prior to distribution of grant funding, the authority shall seek and obtain a reasonable demonstration that a selected broadband service provider has adequate capital funding available to complete the expansion of service required by subsection (g) of this section.

(j) Broadband service providers that agree to receive assistance under this program shall offer a broadband service on at least one tier of service at a price that shall not exceed the amount of the monthly refund level for one year after the subscriber initiates service. Broadband providers may offer additional tiers of broadband service or bundles of broadband service and other services without limit on price due to participation in this program.

(k) For good cause, if no satisfactory proposals to provide service in a target community are received, the authority may provide partial or full refunds for reasonable nonrecurring charges associated with initiation of service and may either establish for a target community a monthly grant level higher than otherwise allowed by subsection (h) of this section, or modify the price limitations of subsection (j) of this section, or both. In no case shall the

monthly refund level exceed the price of the lowest tier of broadband service offered in a target community.

(l) During any quarter it receives assistance under this program, a broadband service provider shall provide information regarding broadband service availability, adoption, speed, and price to the entity selected by the National Telecommunications and Information Administration to receive funding for broadband data collection in Vermont under the state broadband data and development grant program established under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5 and the Broadband Data Improvement Act of 2008, P.L. No. 110-385.

(m) The authority may use up to 10 percent of the funds appropriated to the program to provide financial incentives for new subscribers in target communities to conduct transactions with state government on line instead of in person or in paper form, not to exceed \$50.00 per new subscriber. Notwithstanding any other provision of this section, the authority may use up to 50 percent of the funds appropriated to the program to provide any state match which may be required if Congress extends the federal telephone lifeline program to include broadband service, or if Congress enacts any other program to provide financial assistance for low income consumers of broadband service as it may be defined under federal law. If the authority acts pursuant to this subsection, it shall send notice to the commissioner of public service, the speaker of the house, and the president pro tempore of the senate. Upon receipt of such notice, the commissioner of public service shall make a recommendation to the general assembly within six months regarding changes to Vermont statutes or rules regarding the telephone lifeline program and changes which may be required to provide ongoing support for a similar program for broadband.

(n) Of the funds appropriated to the broadband adoption program, the authority may use up to five percent for administration of the funds received.

(o) On or before January 1, 2011, the authority shall submit a report to the house committee on commerce and community development and the senate committee on economic development, housing and general affairs that details the progress it has made in reaching the goals of the broadband adoption program established by this section, specifically in terms of reaching the 12,000 unserved Vermonters.

\* \* \* Agreements Pertaining to Telecommunications Facilities \* \* \*

Sec. 12. 30 V.S.A. § 8079 is added to read:

§ 8079. AGREEMENTS; TELECOMMUNICATIONS FACILITIES

In awarding loans or grants to entities as permitted under subdivision

§ 8062(a)(6) of this title, the authority shall develop terms and conditions applicable to agreements covering telecommunications infrastructure that ensure payments accrue in reasonable installments and at reasonable intervals, particularly with respect to the time period commencing after an agreement is entered into but before the telecommunications facility that is the subject of the agreement is ready for commercial use.

\* \* \* Farm-to-Plate Investment Program \* \* \*

#### Sec. 13. FARM-TO-PLATE INVESTMENT PROGRAM

The funds received pursuant to Sec. 7(b) of this act shall be used to further the initiatives of the farm-to-plate investment program established in 10 V.S.A. § 330 and support entities that will enhance the production, storage, processing, and distribution infrastructure of the Vermont food system. The funds shall be competitively awarded by the program director, in consultation with the secretary of agriculture, food and markets and the Vermont sustainable agriculture council, in the form of grants to nonprofit farmers' markets and like entities that are ready to implement their business plans or expand their existing operations to provide additional capacity and services within the food system. The funds also may be used for the coordination and implementation of the recommendations contained in the strategic plan of the farm-to-plate investment program.

Sec. 13a. 10 V.S.A. § 330(c)(4) is added to read:

(4) The farm-to-plate investment program strategic plan shall also include recommendations regarding measurable outcomes that shall be tracked over the ten-year life of the plan; methods for the ongoing collection of data necessary to track those outcomes; plans for updating the plan as needed; and appropriate methods to track the ongoing economic contribution of the farm and food sector to the Vermont economy.

\* \* \* Audit Strategy for Job Creation \* \* \*

#### Sec. 14. AUDIT STRATEGY; JOB CREATION

On or before January 1, 2011, the state auditor of accounts shall develop and recommend to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs an audit strategy designed to comprehensively validate job-creation programs in Vermont. The audit strategy shall seek to incorporate design elements that take into account possible "job inflation" caused by multiple economic development programs claiming creation of the same job.

\* \* \* Increased Moral Obligation for Vermont Jobs Fund \* \* \*

Sec. 15. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the authority, there may be appropriated annually and paid to the authority for deposit in each such fund, such sum as shall be certified by the chair of the authority, to the governor or the governor-elect, the president of the senate, and the speaker of the house, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor or the governor-elect, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$70,000,000.00~~ \$100,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

\* \* \* VEDA: Increased Flexibility for Inter-Fund Lending Transfers \* \* \*

Sec. 16. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

\* \* \*

(c) Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority ~~to establish a line of credit in an amount not to exceed \$30,000,000.00 to be advanced to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title.~~

(d) Monies in the fund may be loaned to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title at interest rates and on terms and conditions to be set by the authority ~~to establish a line of credit in an amount not to exceed \$3,000,000.00 to be advanced to the Vermont small business development corporation to support its lending operations as established pursuant to subdivision 216(14) of this title.~~

(e) Monies in the fund may be loaned to the Vermont 504 corporation to support its lending operations as established pursuant to subdivision 216(13) of this title at interest rates and on terms and conditions to be set by the authority.

\* \* \* VEDA: Extension of Time for Economic Recovery and Opportunity

Program \* \* \*

Sec. 17. Sec. 5.507 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) shall be amended to read:

Sec. 5.507. VEDA – ECONOMIC RECOVERY AND OPPORTUNITY PROGRAM

(a) The state treasurer in consultation with the secretary of administration shall negotiate an agreement to advance up to \$1,250,000 to the Vermont economic development authority (“VEDA”) in fiscal year 2009.

~~(b) In fiscal 2009, a write-down of the advance in the amount of \$257,000 shall be made as an estimate of subsidy costs to be incurred by VEDA in 2009. Any difference between the actual subsidy costs incurred by VEDA in any fiscal year 2009 through 2013 shall be adjusted in the following year’s write down amount.~~

~~(c)~~ VEDA shall submit the advance agreement to the state treasurer and secretary of administration; said agreement shall include the following:

~~(1) The agreement shall be structured to allow~~ a structure that allows VEDA flexibility to use the subsidy funds in the most effective way to generate new loan volume as quickly as possible to act as a stimulant to the Vermont economy; and

~~(2) Terms terms~~ of repayment or write-down of the advance ~~in years 2010 through 2013 shall be contingent on VEDA’s demonstrated use of the advance proceeds, and any interest earned thereon, to offset the revenue lost by VEDA over the same period as a result of subsidies made by VEDA to its borrowers.~~

~~(3) The subsidies to VEDA borrowers will be for a maximum of three years from the date of closing of each enrolled loan.~~

~~(4) A maximum of \$18 million in VEDA loans can be made under the program over a 24 month period commencing on the effective date of the legislation.~~

~~(5) The program will terminate when all VEDA borrowers enrolled in the program have completed their respective three year subsidy periods.~~

~~(d)~~(c) Upon termination of the program any amount of the advance, or the interest earned thereon, not used for the subsidy program shall be repaid by VEDA to the state.

\* \* \* Recovery Zone Facility Bond (RZFB) Program \* \* \*

Sec. 18. RZFB PROGRAM; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA).

Pub.L. No. 111-5, allocates authority for the issuance of \$135,000,000.00 of recovery zone facility (private activity) bonds to Vermont, which must be issued before the end of calendar year 2010.

(b) The federal government issued the bonding authorizations to 11 of Vermont's 14 counties; however, in the opinion of the Vermont attorney general, Vermont counties do not have the necessary authority to issue or authorize others to issue facility bonds. ARRA allows the counties to waive their allocations to state government, which they did. In October 2009, the emergency board approved a plan designating the Vermont economic development authority (VEDA) as the entity responsible for issuing the bonds.

(c) The recovery zone facility bond (RZFB) program is designed to aid certain businesses through the issuance of tax-exempt bonds. Tax-exempt bonds traditionally carry lower interest rates than conventional bank loans because income earned by purchasers of these bonds is exempt from federal and, in some cases, state tax. VEDA is encouraged to take any steps necessary to increase public awareness of the RZFB program.

(d) VEDA is authorized to increase the current \$25,000,000.00 cap per project to \$50,000,000.00.

\* \* \* Recovery Zone Economic Development Bond (RZEDB) Program \* \* \*

#### Sec. 19. RZEDB; PUBLIC OUTREACH

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, allocates authority for the issuance of \$90,000,000.00 of recovery economic development bonds to Vermont. The Vermont municipal bond bank is responsible for issuing the bonds, which must be issued before the end of calendar year 2010.

(b) The recovery zone economic development bonds (RZEDBs) are a category of Build America Bonds (BABs), and sometimes referred to as "super BABs." They reduce by 45 percent the cost of the kind of tax-exempt bonding normally done by towns, counties, school districts, and the state. They may be used to fund capital expenditures for real and personal property; public infrastructure and facilities; and expenditures for job training and education programs.

(c) The Vermont municipal bond bank, in consultation with the Vermont League of Cities and Towns, shall make all reasonable efforts to inform public entities in Vermont about the availability, terms, and conditions of REZDBs to Ensure that Vermont, as a whole, is able to maximize the use of these favorable instruments of economic development.

\* \* \* Legislative Priorities for ARRA Funds \* \* \*

#### Sec. 20. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

With respect to federal funds potentially available to the state of Vermont as competitive funds under the ARRA and in addition to any other legislatively identified priorities established with regard to ARRA funds, the general assembly establishes the following equal priorities as outlined in this section.

(1) Railroad projects determined by the Vermont office of economic stimulus and recovery as being consistent with Vermont's transportation plan.

(2) With respect to passenger rail funds requested by the state, funds for making upgrades to passenger rail service along the western corridor, such as the Ethan Allen Express improvements and extension corridor program. This corridor program consists of track and crossing improvements and a bridge project along the existing Ethan Allen Express Amtrak route as well as an extension of that service from Hoosick, NY to Bennington, from Bennington to Rutland and from Rutland to Burlington. The program will serve to support intercity passenger rail service through the most populous area of the state and further connect vital economic regions of the state to each other and to the state of New York.

(3) Telecommunications projects determined by Vermont's chief technology officer as being consistent with the goals and policies established under chapter 91 of Title 30.

Sec. 21. REPEAL; PRIORITIES FOR MUNICIPAL TELECOMMUNICATIONS

Sec. 17(d) of No. 54 of the Acts of 2009 (municipal priorities for municipal communications services) is repealed.

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

For the purposes of avoiding duplication of administration and better coordinating resources, the Vermont farm-to-plate investment program, in consultation with the secretary of agriculture, shall include in its strategic plan for agricultural economic development required by 10 V.S.A. § 330(c)(1), a recommendation for the oversight and coordination of the farm-to-plate investment program established under 10 V.S.A. § 330, the farm-to-school program established under 6 V.S.A. § 4721, and any other farm-to-institutions partnerships designed to increase institutional purchases of fresh, locally grown food.

\* \* \* Public Service Board: Smart Grid; Notice \* \* \*

Sec. 23. 30 V.S.A. § 218(b)(3) is added to read:

(3) If the board approves or requires a utility to adopt a rate design that includes dynamic pricing, the board may alter or waive the notice and filing provisions that would otherwise apply under section 225 of this title for such

real-time pricing rate plan, provided the board insures that each customer receives notice of the price of electricity the customer will be charged in advance of the time at which the customer uses the electricity.

\* \* \* Study: Buy Local \* \* \*

Sec. 24. STUDY ON STATE PURCHASE OF LOCAL GOODS AND SERVICES

The secretary of administration shall conduct a study to evaluate the opportunities and feasibility of increasing the volume of state purchases of both goods and services from local suppliers. The secretary shall report his or her findings to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on or before January 15, 2011.

\* \* \* Digital Nonprofit Corporations \* \* \*

Sec. 25. 11B V.S.A. § 1.20 is amended to read:

§ 1.20 FILING REQUIREMENTS

\* \* \*

(c) The document must be typewritten or printed or, if electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form or in an electronic format prescribed by the secretary of state.

\* \* \*

(g) If the secretary of state has prescribed a mandatory form or electronic format for a document under section 1.21 of this title, the document must be in or on the prescribed form.

\* \* \*

Sec. 26. 11B V.S.A. § 1.21(a) is amended to read:

(a) The secretary of state may prescribe the form or electronic format of and furnish on request, forms or specifications for formats for:

- (1) an application for a certificate of existence;
  - (2) a foreign corporation's application for a certificate of authority to transact business in this state;
  - (3) a foreign corporation's application for a certificate of withdrawal;
- and
- (4) the biennial report.

Sec. 27. 11B V.S.A. § 1.23 is amended to read:



§ 1.23. EFFECTIVE DATE OF DOCUMENT

(a) Except as provided in subsection (b) of this section, ~~section~~ subsection 1.24(c) of this title, and section 2.03 of this title, a document is effective:

(1) ~~at the time of filing on the date it is filed, as evidenced by the secretary of state's endorsement on the original document~~ any means the secretary of state may use for the purpose of recording the date and time of filing; or

(2) at the time specified in the document as its effective time on the date it is filed.

\* \* \*

Sec. 28. 11B V.S.A. § 1.24(a) is amended to read:

(a) A domestic or foreign corporation may correct a document filed by the secretary of state if the document:

(1) contains an incorrect statement; or

(2) was defectively executed, attested, sealed, verified, or acknowledged; or

(3) was undeliverable because the electronic transmission was defective.

Sec. 29. 11B V.S.A. § 1.25(b) is amended to read:

(b) The secretary of state files a document by ~~stamping or otherwise endorsing recording it as "Filed,"~~ together with the secretary of state's name and official title ~~and on~~ on the date and the time of receipt, on both the ~~original and copy of the~~ document and on the record of the receipt for the filing fee. After filing a document, except as provided in sections 5.03 and 15.10 of this title, the secretary of state shall deliver a copy of the document ~~copy~~ to the domestic or foreign corporation or its representative.

Sec. 30. 11B V.S.A. § 1.27 is amended to read:

§ 1.27. EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT

~~(a) A certificate attached to a copy of a document bearing the secretary of state's signature (which may be in facsimile) and the seal of this state or a certificate as to the nonexistence of records relating to a corporation is conclusive evidence as to whether or not the original is on file with the secretary of state.~~

~~(b) A certificate by the secretary of state that a diligent search has failed to locate documents claimed to be filed with the secretary of state shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the records in the custody of the~~

~~secretary of state.~~

~~(c) The secretary of state's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.~~

A certificate from the secretary of state delivered with a copy of a document filed with the secretary of state is conclusive evidence that the document is on file with the secretary of state.

Sec. 31. 11B V.S.A. § 1.40 is amended to read:

§ 1.40. DEFINITIONS

\* \* \*

(4) "Bylaws" means the code or codes of rules (other than the articles) adopted pursuant to this title for the regulation or management of the affairs of the corporation, stored or depicted in any tangible or electronic medium, and irrespective of the name or names by which such rules are designated.

\* \* \*

(8) "Deliver" ~~includes mail~~ or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

\* \* \*

(35) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(36) "Meeting" means any structured communications conducted by participants in person or through the use of an electronic or telecommunications medium permitting simultaneous or sequentially structured communications.

(37) "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

Sec. 32. 11B V.S.A. § 1.41(b) and (c) are amended to read:

(b) Notice may be communicated in person; by telephone, voice mail, telegraph, teletype, facsimile, or other form of wire or wireless, or electronic communication; or by mail or private carrier, or other method of delivery. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

(c) Notice to members. Written notice by a domestic or foreign corporation to its members, if in a comprehensible form, is effective when:

(1) mailed first class postpaid and correctly addressed to the members address as shown in the corporation's current record of members; or

(2) electronically transmitted to the member in a manner authorized by the member.

Sec. 33. 11B V.S.A. § 7.01(f) is amended to read:

(f) An annual or regular meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 34. 11B V.S.A. § 7.02(f) is amended to read:

(f) A special meeting may be conducted by means of any electronic or telecommunications mechanism, including video-conferencing telecommunication.

Sec. 35. 11B V.S.A. § 7.04(e) is added to read:

(e) For purposes of this section, written consent may be evidenced by an electronic communication or an electronic record.

Sec. 36. 11B V.S.A. § 8.20(c) is amended to read:

(c) Unless the articles of incorporation or bylaws provide otherwise, a board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication, including an electronic, telecommunications, and video- or audio-conferencing conference telephone call, by which all directors participating may simultaneously ~~hear~~ communicate with each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 37. 11B V.S.A. § 16.01(d) and (e) are amended to read:

(d) A corporation shall maintain its records in written form or in another form, including electronic form, capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office (or, if none in this state, then the registered office):

\* \* \*

(5) all written or electronic communications to members generally within the past three years, including the financial statements furnished for the past three years under section 16.20 of this title;

\* \* \*

Sec. 38. 11A V.S.A. § 2.06(b) is amended to read:

(b) The bylaws of a corporation may contain any provisions for managing the business and regulating the affairs of the corporation that are not inconsistent with law or the articles of incorporation, and may be stored or depicted in any tangible or electronic medium.

\* \* \* Vermont Public Power Supply Authority \* \* \*

Sec. 39. 30 V.S.A. § 5012 is amended to read:

§ 5012. GENERAL POWERS AND DUTIES

The authority shall have all of the powers necessary and convenient to carry out this chapter, including without limitation those general powers provided a business corporation by section 1852 of Title 11, and including, without limiting the generality of the foregoing, the power:

\* \* \*

(12) ~~jointly or~~ jointly with utilities or on its own to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in projects or portions of projects, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state. It may also enter into and perform contracts with any person with respect to the foregoing. If the authority acquires or owns an interest as a tenant in common with others in any projects within the state, the surrender or waiver by the other property owner of its right to partition the property for a period not exceeding the period for which the property is used or useful for electric utility purposes shall not be invalid and unenforceable by reason of length of the period, or as unduly restricting the alienation of such property;

\* \* \*

(17) to make and execute all contracts and agreements and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter; ~~and~~

(18) to enter into contracts determined by the authority to be useful for the prudent management of its assets, purchases, funds, debts, or fuels, including interest rate or other swaps, option contracts, future contracts, forward purchase contracts, hedging contracts, and leases or other risk management instruments to the full extent that a business corporation is authorized to enter into such contracts;

(19) to acquire stock, shares, securities, membership units, or other

equity or participation interests in entities that directly or indirectly construct, own, or operate electric generation or transmission facilities within or outside the state to the full extent that a business corporation is authorized to acquire such interests; and

(18)(20) to do all things necessary, convenient or desirable to carry out the purposes of this chapter or the powers expressly granted or necessarily implied in this chapter.

Sec. 40. 30 V.S.A. § 5013 is amended to read:

§ 5013. SPECIAL POWERS

\* \* \*

(c) A municipality or cooperative shall be obligated to fix, revise and collect fees and charges for electric power and energy and other services, facilities and commodities furnished or supplied through its electric ~~department~~ ~~or~~ system at least sufficient to provide revenues adequate to meet its obligations under any such output and capacity contract and to pay all other amounts payable from or constituting a charge and lien upon those revenues.

\* \* \*

(e) The authority and any member municipality or cooperative or other utility (whether or not such utility is a member of the authority) that is acting pursuant to a contract with the authority may expend its funds, including without limitation the proceeds of its notes, bonds, or other obligations, for the purposes of modifying demand for electric capacity or energy through conservation or load management by participation in such facilities, projects, and programs as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, determines will effectively accomplish such purposes. Such facilities, projects, and programs may include, but shall not be limited to, providing or financing facilities or projects for conservation or load management, which may be: (i) owned or operated by the authority or any member municipality or cooperative or other utility or by others; (ii) leased or licensed by the authority or any member municipality or cooperative or other utility to others, or financed by ~~loans~~ loans by the authority or any member municipality or cooperative or other utility to others, in either case on such terms and conditions as the board of the authority or the legislative body or other governing body or the governing board of the member municipality or cooperative or other utility, as the case may be, may determine. Any member municipality or cooperative or other utility may issue its notes, bonds or other obligations pursuant to any statutory authority conferring such power for carrying out the purposes of this subsection.

Sec. 41. 30 V.S.A. § 5017 is amended to read:

§ 5017. POWERS OF MUNICIPALITIES

A municipality, ~~after an affirmative vote of the qualified voters at any duly warned annual or special meeting to be held for that purpose,~~ may by resolution of its legislative body enter into contracts with the authority for the purchase, sale, exchange, or transmission of electric energy and other services, on such terms and for such period of time as the resolution may provide. A municipality may by resolution of its legislative body enter into a contract with the authority related to the issuance of bonds and notes as authorized by section 5031 of this title only after an affirmative vote of the qualified voters at any duly warned annual or special meeting held for that purpose. The required vote may either approve a specific contract with the authority or it may approve generally the right for the municipality to enter into all such contracts with the authority by resolution of its legislative body. A municipality may appropriate electricity-derived revenues received in any year to make payments due during that year under any contract made by the municipality with the authority. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment of a municipal electric plant.

Sec. 42. 30 V.S.A. § 5031 is amended to read:

§ 5031. BONDS AND NOTES

(a)(1) The authority may issue its negotiable notes and bonds in such principal amount as the authority determines to be necessary to provide sufficient funds for achieving any of its corporate purposes, including the payment of interest on notes and bonds of the authority, establishment of reserves to secure the notes and bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Without limiting the generality of the foregoing, such bonds and notes may be issued for project costs, or the authority's share of costs of projects which may include:

\* \* \*

(5) The notes and bonds shall be authorized by resolution or resolutions of the authority, shall bear such date or dates and shall mature at such time or times as the resolution or resolutions may provide. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination of them. The resolution or resolutions may provide that the notes and bonds bear interest at a given rate or rates, be in certain denominations, be in temporary, coupon or registered form, carry certain registration privileges, be executed in a given manner, be payable in a given medium of payment, at a place or places within or without the state, and be subject to specified terms of

redemption. The authority may participate in any state or federally created or supported bond programs. The notes and bonds of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine.

\* \* \*

\* \* \* International Trade Agreements: Prior Approval \* \* \*

Sec. 43. 9 V.S.A. chapter 111A is added to read:

CHAPTER 111A. APPROVAL OF INTERNATIONAL TRADE  
AGREEMENTS

§ 4125. FINDINGS AND PURPOSE

The general assembly makes the following findings of fact:

(1) Today's international trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas. Restrictive government procurement rules, for example, may undermine state purchasing laws and preferences that are designed to promote good jobs and a healthy environment.

(2) Economic development and environmental policies that might be constrained by government procurement provisions in international trade agreements include buy-local laws, recycled-content laws, and renewable energy purchasing requirements. Measures that conflict with obligations in one or more international trade agreements could be challenged as potential barriers to trade.

(3) Currently, the Office of the United States Trade Representative asks state governors, without input from state legislatures, whether they will commit state purchasing to trade rules. States, through their governors, may opt into or out of trade rules dealing with government procurement.

(4) Historically, the general assembly and the governor have worked together to adopt and implement state procurement policies. The decision to consent to the coverage of Vermont under procurement provisions of international trade agreements should also include consultation with the legislative branch.

(5) If new trade rules permit states to opt into or out of trade rules dealing with investment and services, in addition to procurement, then the general assembly intends for the procedures in this chapter to apply to those provisions as well.

§ 4126. DEFINITIONS

As used in this chapter:

(1) “Commission” means the commission on international trade and state sovereignty established in 3 V.S.A. § 23.

(2) “International trade agreement” or “trade agreement” means a trade agreement between the federal government and a foreign country. It does not include a trade agreement between the state and a foreign country to which the federal government is not a party.

#### § 4127. APPROVAL OF TRADE AGREEMENTS

(a) If the United States government provides the state with the opportunity to consent to or reject binding the state to a trade agreement, or a provision within a trade agreement, then an official of the state, including the governor, may not bind the state or give consent to the United States government to bind the state in those circumstances, except as provided in this section.

(b) When a communication from the United States trade representative concerning a trade agreement provision is received by the state, the governor shall submit a copy of the communication and the proposed trade agreement, or relevant provisions of the trade agreement, to the chairs of the commission, the president pro tempore of the senate, the speaker of the house of representatives, and the relevant legislative standing committees of jurisdiction.

(c) The commission shall review and analyze the trade agreement and issue a recommendation on the potential impact of the trade agreement to the governor.

(d) Prior to binding the state to the trade agreement, the governor shall consider the commission’s recommendation and then shall report his or her intended action on the trade agreement to the members of the emergency board. A majority of the emergency board may request an opportunity to consider the issue at a meeting and make a recommendation to the governor prior to the governor binding the state.

(e) Upon completion of the consultation process provided for in this section, the governor may bind the state to the trade agreement.

Sec. 44. 3 V.S.A. § 23(b) is amended to read:

(b) Membership. There is created a commission on international trade and state sovereignty consisting of:

(1) ~~the chair of the house committee on commerce or his or her designee~~ two legislators appointed by the speaker of the house;

(2) ~~the chair of the senate committee on economic development, housing and general affairs or his or her designee~~ two legislators appointed by the committee on committees;



(3) a representative of a nonprofit environmental organization, appointed by the governor from a list provided by the Vermont Natural Resources Council;

(4) a representative of organized labor, appointed by the governor from a list provided by Vermont AFL-CIO, Vermont NEA, and the Vermont state employees' association;

(5) the secretary of commerce and community development or his or her designee;

(6) the attorney general or his or her designee;

(7) a representative of an exporting Vermont business, appointed by the governor; ~~and~~

(8) a representative of a Vermont business actively involved in international trade, appointed by the governor;

(9) the secretary of agriculture or his or her designee;

(10) a representative of a human rights organization, appointed by the governor; and

(11) a representative of a Vermont chamber of commerce, appointed by the governor.

\* \* \* Effective Date \* \* \*

#### Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

#### **AMENDMENT TO S. 288 TO BE OFFERED BY SENATOR ILLUZZI**

Senator Illuzzi, on behalf of the Committee on Economic Development, Housing and General Affairs, recommends that the Senate concur with the House proposal of amendment with further proposals of amendment as follows:

First: In Sec. 1, by striking out subsection (c) (relating to Challenges for Change steps and outcomes) in its entirety.

Second: In Sec. 2, by striking out subsection (a) in its entirety and by inserting in lieu thereof the following:

(a) In fiscal year 2010, \$8,665,000.00 from the state fiscal stabilization fund general services fund that remains available to Vermont under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, shall be appropriated to the secretary of administration, who is directed to transfer the funds to the department of public safety for the costs of the state police. The secretary of administration is further directed to reduce

the general fund appropriation for the state police by \$8,665,000.00. From the general fund, the amount of \$8,665,000.00 is hereby appropriated as prescribed in Secs. 3–10d of this act.

Third: In Sec. 2, by striking out subsection (b) (permitting the secretary of administration to swap general fund funds with SFSF funds) in its entirety and by relettering the remaining subsections accordingly.

Fourth: By striking out Sec. 3 in its entirety and by inserting in lieu thereof the following:

### Sec. 3. ENTREPRENEURS' SEED CAPITAL FUND

(a) The amount of \$850,000.00 is appropriated to the entrepreneurs' seed capital fund established under chapter 14A of Title 10.

(b) This appropriation will supplement the \$1,000,000.00 of ARRA funds in the clean energy development fund transferred to the seed capital fund pursuant to Sec. 10f of this act as well as the \$2,150,000.00 appropriated to the fund under No. 54 of the Acts of 2009 and the \$1,000,000.00 in federal funds received by the fund manager, Vermont Center for Emerging Technologies, Inc. (VCET), from the economic development initiative of the United States Department of Housing and Urban Development and pledged as a match to the seed fund. In addition, H.789 of the 2010 legislative session (the big bill) contains an appropriation to VCET; however, these big-bill funds are intended to cover the operational costs of VCET in lieu of funding which will no longer be provided by the University of Vermont.

(c) Equity capital is a major basis upon which lenders make loan decisions. Unfortunately, early stage equity capital remains a vital financing gap for Vermont entrepreneurs, preventing job creation and new tax revenue generation. To accelerate job growth by helping emerging firms get across this funding gap, the entrepreneurs' seed capital fund was initiated last year. The fund manager has already identified 38 firms across Vermont in sectors such as life sciences, agriculture, energy, software, and manufacturing who are now seeking over \$45,000,000.00 in early-stage equity capital with an estimated three-year job creation of nearly 700 jobs. In order to attract high-potential firms and maximize this revolving fund's ability and competitiveness to leverage dollars both from newly available federal and from private sources, the size of the fund must be at least \$5,000,000.00.

(d) The entrepreneurs' seed capital fund is now focused on high-opportunity, value-adding employers rather than more general retail and services sectors, which currently have ample access to financial resources and lenders. In fact, in contrast to events last year, this year Vermont banks have seen dramatic increases in the making of commercial loans, and liquidity and credit in debt form have returned significantly. On the other hand, venture

capital investment remains at dramatic lows, down nearly 33 percent in the last year alone.

(e) Vermont's capitalization of the entrepreneurs' seed capital fund represents a one-time investment in financial infrastructure that will revolve for at least 10 years. The seed fund does not require an annual state subsidy.

Fifth: By striking out Sec. 4 (relating to the broadband adoption program) in its entirety and by inserting in lieu thereof the following:

Sec. 4. RURAL BROADBAND; VTA

(a) The amount of \$2,850,000.00 is appropriated to the Vermont telecommunications authority (VTA) for the purpose of making broadband services available to at least 10,000 households or businesses in locations where such services are not currently available, as provided in 30 V.S.A. § 8079 as established in Sec. 11 of this act. Of the appropriation made in this subsection, up to \$500,000.00 may be used for upgrades in underserved business districts, as specified in 30 V.S.A. § 8079(e).

(b) No portion of the appropriation made in subsection (a) of this section shall be encumbered or disbursed until a detailed itemization of the specific manner in which the funds shall be spent is presented to and approved by the joint fiscal committee, after obtaining input from the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

(c) The appropriation provided in subsection (a) of this section is in addition to the proposed appropriation to the VTA in the fiscal year 2011 capital bill, intended to allow VTA to construct telecommunications infrastructure (towers and fiber-optic cable). Together, these funds will allow the VTA to leverage access to moral obligation bonding as authorized under No. 79 of the Acts of 2007.

(d) Access to telecommunications and broadband services is this era's equivalent to rural electrification in the 1930s. It was viewed at that time as uneconomical, and private electric companies were unwilling to operate lines and distribute electricity in rural areas. Under the authority of the Rural Electrification Act of 1936, the United States Department of Agriculture began making direct loans and loan guarantees to electric utilities to serve customers in rural areas. Rural electrification is now viewed as an achievement that has been a tremendous force for positive social change and social equality in rural areas.

Sixth: By striking out Sec. 5 (relating to the employment training program) in its entirety and by inserting in lieu thereof the following:

Sec. 5. VERMONT EMPLOYMENT TRAINING PROGRAM

(a) The amount of \$950,000.00 is appropriated to the department of economic, housing, and community development for grants for the Vermont employment training program established under 10 V.S.A. § 531.

(b) The appropriation provided in subsection (a) of this section, when combined with the proposed fiscal year 2011 \$1,700,000.00 appropriation, will add up to historic high funding for the training program. In fiscal year 2010, \$1,900,000.00 was appropriated to the training program.

(c) The Vermont training program works with businesses and educational institutions to develop programs targeting the manufacturing, health care, information technology, telecommunications, and environmental engineering sectors and can cover up to 50 percent of the cost of training.

Seventh: By striking out Sec. 6 in its entirety and by inserting in lieu thereof the following:

Sec. 6. TOURISM AND MARKETING; MEDIA ADVERTISING

(a) The amount of \$300,000.00 is appropriated to the department of tourism and marketing to supplement the fiscal year 2010 \$1,950,000.00 appropriation (later subject to a rescission of \$181,000.00) to increase the frequency of and expand the media buys in the state's key regional markets for Vermont's winter recreation and hospitality operations. The additional media advertising is aimed at increasing the number of visitors that will decide to visit Vermont. Should circumstances require, a portion of the appropriation will be spent to supplement the planned \$600,000.00 spring and summer media advertising campaigns. The \$300,000.00 appropriation made in this subsection also supplements the \$100,000.00 appropriated to the Vermont Convention Bureau, which is attached to the Lake Champlain Regional Chamber of Commerce, in No. 54 of the Acts of 2009.

(b) Particularly during the current recession and at a time when other states, such as Connecticut, are curtailing their travel advertising, Vermont should continue to invest in marketing and tourism and optimize the opportunities to have a positive impact on our hospitality businesses.

Eighth: By adding Sec. 6a to read as follows:

Sec. 6a. AGRICULTURE; VERMONT FARMERS

(a) The amount of \$1,000,000.00 is appropriated to the Vermont economic development authority (VEDA) to be used by the Vermont agricultural credit corporation for the Vermont agricultural credit program established under 10 V.S.A. § 374a to assist Vermont farmers with capital to meet operating and related needs. With this appropriation, the agricultural debt consolidation program is expected to leverage \$21,000,000.00 in loan activity.

(b) This appropriation is intended to supplement the \$1,000,000.00 general fund appropriation to VEDA contained in No. 4 of the Acts of 2009 (the budget adjustment act), which was aimed at helping farmers meet spring 2009 operating expenses.

(c) Vermont lost more than 100 farms in the last two years alone and thousands in previous years. From January to July, 2009, 33 farms ceased operations. With every working farm that shuts down, Vermont suffers economically, environmentally, and socially.

(d) Based on numbers provided in the Northeast Dairy Herd summary prepared by the Farm Credit System for New England, the cost of dairy production at present exceeds the price farmers are paid for milk. The national dairy crisis in 2009 was caused by a decline in demand for dairy products on the national and international markets due to the global economic crisis. The imbalance in supply and demand caused the price paid to dairy farmers to decline by over 40 percent from 2008. The decline in milk prices has caused Vermont dairy farmers to either go out of business or go severely into debt and has created a great deal of hardship for dairy farmers and related businesses.

Ninth: In Sec. 7, by striking out subsection (a) (relating to the Vermont agricultural credit corporation) in its entirety and, in subsection (b) (relating to the farm-to-plate investment program), by adding a second sentence to read as follows: “This appropriation supplements the \$100,000.00 appropriation made to the program pursuant to No. 54 of the Acts of 2009.”

and by relettering the remaining subsections accordingly

Tenth: By adding Sec. 7a to read as follows:

#### **Sec. 7a. FARM-TO-INSTITUTION PARTNERSHIPS**

(a) The amount of \$100,000.00 is appropriated to the secretary of agriculture, food and markets for the purpose of providing grants for capital upgrades or the development of programs to support farm-to-institution partnerships which can be used as models for similar partnerships throughout Vermont.

(b) The purpose of the farm-to-institution initiatives is to increase institutional purchases of fresh, locally grown food. The participation of institutional buyers such as hospitals, schools, and businesses will play an important role in stimulating greater local food production and keeping more money in the local economy and will further sustain the key role that agriculture plays in the vibrant past and future of Vermont’s economy.

(c) Another significant outcome of farm-to-institution programs is that as small farmers are able to secure contracts with large institutional purchasers, they are more likely to have access to financing. This is particularly true for

nondairy farmers who generally do not have as many assets as dairy farmers have, such as land, machinery, and equipment, which can be used as collateral.

Eleventh: By striking out Sec. 8 (relating to the Champlain Bridge closure) in its entirety and by inserting in lieu thereof the following:

Sec. 8. ADDISON COUNTY; CHAMPLAIN BRIDGE CLOSURE;  
VERMONT JOBS FUND

(a) The amount of \$800,000.00 is appropriated to the Vermont economic development authority (VEDA) to provide interest-rate subsidies through the Vermont jobs fund established under 10 V.S.A. § 234 and to provide loans to businesses negatively affected by the closure of the Lake Champlain bridge at Crown Point as provided in subsections (b) and (c) of this section.

(b) Addison County; Priority for Funds. For a period of 90 days after the enactment of this act, businesses and nonprofit health care organizations in Addison County that have incurred economic losses as a direct result of the closure of the Lake Champlain bridge at Crown Point may apply to VEDA for loans to assist with maintaining payroll, ordering inventory, and covering operational expenses, including increased expenses resulting from increased travel costs. VEDA shall make the loans from the Vermont jobs fund subject to the following requirements:

(1) The minimum loan issue shall be \$1,000.00; the maximum \$25,000.00.

(2) All applicants must have been in business and operational prior to October 16, 2009.

(3) Interest rates shall be established by the VEDA board of directors, but shall not exceed the current maximum interest rate applicable under the Vermont jobs fund and may be zero.

(c) With respect to loans made under subsection (b) of this section, VEDA shall establish underwriting criteria and standards to ensure that eligible businesses are credit-worthy but for the three-month closure of the Lake Champlain bridge at Crown Point; term limits are based upon individual business circumstances; criteria are established for determining which economic losses qualify as the direct result of the bridge closure; and any other terms and conditions it deems appropriate and necessary to accomplish the purposes of this section.

(d) Any appropriation not used to make loans to eligible Addison County businesses under subsection (b) of this section may be used by VEDA to make loans through the Vermont jobs fund to provide interest-rate subsidies to applicants unless there is a demonstrated financial need.

Twelfth: By striking out Sec. 9 (relating to the Vermont jobs fund) in its entirety and by inserting in lieu thereof the following:

Sec. 9. VEDA; VERMONT JOBS FUND

(a) The amount of \$1,000,000.00 is appropriated to the Vermont economic development authority to provide interest-rate subsidies on loans approved under the Vermont jobs fund established in 10 V.S.A. § 234.

(b) The appropriation made in subsection (a) of this section supplements the \$1,000,000.00 appropriation made to the Vermont jobs fund pursuant to No. 54 of the Acts of 2009. To date, with \$1,400,000.00 in subsidy funding (both state and ARRA funds), VEDA has been able to buy down the interest rate on commercial loans in the aggregate amount of approximately \$17,600,000.00. The proceeds of those loans have generated approximately \$58,000,000.00 of economic activity and from that amount have had a stimulative economic effect of \$28,000,000.00.

Thirteenth: By striking out Sec. 10 (relating to microbusiness programs) in its entirety and by inserting in lieu thereof the following:

Sec. 10. COMMUNITY CAPITAL OF VERMONT; JOB START LOAN FUND; INDIVIDUAL DEVELOPMENT ACCOUNTS

(a) The amount of \$100,000.00 is appropriated to community capital of Vermont for the job start loan fund to support low- and moderate-income business owners who do not have access to conventional bank loans. Community Capital of Vermont, Inc. is a community-based 501(c)(3) nonprofit serving the entire state of Vermont. Administration of the Vermont job start loan program was transferred from the Vermont economic development authority to Community Capital of Vermont as of May 1, 2008. In addition to financing, Community Capital of Vermont provides postloan technical assistance grants for specialized consulting services in the areas of marketing, financial management, inventory management, and human resources.

(b) The amount of \$73,000.00 is appropriated to the office of economic opportunity within the Vermont department for children and families to be transferred to the individual development account (IDA) program established in 33 V.S.A. § 1123.

Fourteenth: By adding Sec. 10a to read as follows:

Sec. 10a. DOWNTOWN TAX CREDIT PROGRAM

(a) The amount of \$100,000.00 shall be transferred to the general fund in fiscal year 2011 to cover the costs of allocating \$100,000.00 worth of tax credits in calendar year 2010 under the downtown and village center program

pursuant to 32 V.S.A. § 5930ee, which amount is in addition to the statutory cap of \$1,700,000.00.

(b) Based on the past performance of the downtown tax credit program, the additional \$100,000.00 in tax credits authorized by this act will leverage an estimated \$1,500,000.00 in downtown rehabilitation, as well as enhance Vermont's downtowns and villages.

(c) In the Vermont Statutes Annotated, the annotations under 32 V.S.A. § 5930ee shall reflect the additional \$100,000.00 worth of tax credits authorized in calendar year 2010 pursuant to this section.

Fifteenth: By adding Sec. 10b to read as follows:

Sec. 10b. BTV; AVIATION TECHNICAL TRAINING CENTER

(a) The amount of \$150,000.00 is appropriated to the Burlington International Airport (BTV) to continue the process of planning and designing a new aviation technical training center.

(b) This appropriation supplements the \$1,000,000.00 grant in 2009 to BTV from the National Aeronautics and Space Administration (NASA) for the aviation technology training program, and a contemplated \$1,500,000.00 grant, also from NASA. NASA grants cannot be used for facility construction or planning.

(c) Tenants of the new building will include the technical training center, the Vermont Flight Academy, and the Vermont Technical College, which will support training and education leading to FAA certificates for up to 100 students annually. The current training program can only accommodate about six graduates per year.

(d) BTV shall consult with career centers and adult education directors from all regions of Vermont to develop a plan that ensures the aviation training program is available to students from all geographic regions in Vermont.

Sixteenth: By adding Sec. 10c to read as follows:

Sec. 10c. VERMONT FILM CORPORATION

(a) The amount of \$100,000.00 is appropriated to the Vermont film corporation to continue its work of creating jobs and growing the state's new media and film economy, as described in chapter 26 of Title 10. It is anticipated that the corporation will solicit funds from private sources pursuant to its authority under 10 V.S.A. § 645(3) to cover the remaining balance of its operational and other business expenses.

(b) On or before January 15, 2011, the secretary of commerce and community development and the board of directors of the Vermont film corporation shall submit a recommendation to the senate committee on



economic development, housing and general affairs and the house committee on commerce and economic development as to whether the work now done by the film corporation should be assumed by the department of tourism and marketing within the agency of commerce and community development or should remain with the film corporation.

(c) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(d) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multimedia and film production, graphic and digital design, and the performing arts.

(e) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equal or surpass other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(f) Vermont is home to at least five institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual, and performing arts; the Johnson State College program which has produced five films to date exploring the history of various Vermont counties; and Castleton State College's concentrations in communication, mass media, and digital media.

(g) Considering these substantial resources, it is the goal of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy, but no longer to support with general fund dollars the operation of a stand-alone film corporation in and after fiscal year 2012.

Seventeenth: By adding Sec. 10d to read as follows:

**Sec. 10d. VTC; PARAMEDIC-LEVEL TRAINING PROGRAM**

(a) The amount of \$70,000.00 is appropriated to the Vermont Technical College for the purpose of contributing to the development of a statewide paramedic-level training program.

(b) This appropriation will supplement the \$25,840.00 already committed to the program by Essex Rescue, and the combined amounts will enable the

grant recipients to leverage an additional \$503,360.00 of federal funds from the Federal Emergency Management Agency.

(c) Vermont is currently the only state without a statewide paramedic training program. These funds appropriated in this section will initially provide training to 15 students in the northwest region of the state and will contribute to the development of Vermont's first statewide continuing education program for paramedics in Vermont.

Eighteenth: By adding Sec. 10e to read as follows:

Sec. 10e. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;  
RESPONSIBILITIES

To implement the policy of section 901, the department of health shall be responsible for:

\* \* \*

(8) Establishing, by rule, levels of individual certification and application forms for advanced emergency medical care. The commissioner may use the guidelines established by the American College of Surgeons' Board of Regents as a standard or other similar standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

(A) An individual may apply for and obtain one or more additional certifications as an emergency medical technician intermediate, paramedic, registered nurse emergency medical technician, or physician assistant emergency medical technician.

(B) An individual licensed or certified by the commissioner as an emergency medical technician or who holds one or more additional certifications shall be able to practice fully within his or her scope of training.

(C) An applicant seeking certification under this section other than an apprentice certification shall be 18 years of age or older. An individual under 18 years of age may enroll in any course necessary for certification and may obtain apprentice certification.

(D) An individual seeking any level of certification shall be required to pass an examination approved by the commissioner for that level of certification.

(E) If there is a hardship imposed on any applicant for a certification under this section because of unusual circumstances, the applicant may apply to the commissioner for a temporary waiver of the certification provisions of this section. The commissioner may for good cause waive one or more of the

certification provisions of this section. An applicant who has served as an advanced emergency medical care provider as a member of the United States Armed Forces may be granted a temporary or permanent waiver of the certification provisions to practice in the same area of training and practice as long as the applicant complies with any continuing education and other certification maintenance requirements.

(F) No advanced certification shall be required for a student in established advanced training programs leading to certification as an advanced emergency medical care provider, provided that the student is supervised by an individual holding a level of certification for which the student is training and the student is enrolled in an approved training program.

(G) An advanced emergency medical care provider certified under this chapter may render advanced emergency medical care, rescue, and lifesaving services in those areas of training for which the person is certified without limitation on the individual's ability to practice.

Nineteenth: By adding Sec. 10f to read as follows:

Sec. 10f. CEDF; ARRA FUNDS; VERMONT SMALL-SCALE RENEWABLE ENERGY INCENTIVE PROGRAM; ENTREPRENEURS' SEED CAPITAL FUND

The general assembly finds that the Vermont small-scale renewable energy program, 10 V.S.A. § 6523(d)(1)(E)(ii), currently administered by the renewable energy resource center, is expected to receive \$5,275,000.00 in funding in 2010. These funds come from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No-111-5, and the clean energy development fund established under 10 V.S.A. § 6523. Notwithstanding any other provision of law, the general assembly directs that \$1,000,000.00 of this amount be reallocated from the small-scale renewable energy program to the entrepreneurs' seed capital fund created under 10 V.S.A. § 291 to conduct ARRA-eligible activities related to "clean energy resources" or "emerging energy-efficient technologies" as those terms are defined under 10 V.S.A. § 6523(b)(1) and (4), respectively.

Twentieth: By striking out Sec. 11 (relating to the broadband adoption program) in its entirety and by inserting in lieu thereof the following:

Sec. 11. 30 V.S.A. § 8079 is added to read:

§ 8079. BROADBAND INFRASTRUCTURE; INVESTMENT

(a) To achieve the goals established in subsection 8060(b) of this title, the authority is authorized to invest in broadband infrastructure or contract with retail providers for the purpose of making services available to at least 10,000 households or businesses in target communities where such services are

currently unavailable or to upgrade services in underserved business districts, as determined by the authority. For the purposes of this section, target communities shall not be considered unserved if a broadband provider has a legally binding commitment to provide service to those locations or a provider has received a broadband stimulus grant to provide service to those locations.

(b) To accomplish the purpose of this section, the authority shall publish a request for proposals for any or all of the following options for the purpose of providing broadband coverage to 100 percent of Vermont households and businesses within target communities: (1) the construction of physical broadband infrastructure, to be owned by the authority; (2) initiatives by public-private partnerships or retail vendors; or (3) programs that provide financial incentives to consumers, in the form of rebates for up to 18 months, for example, to ensure that providers have a sufficient number of subscribers.

(c) The authority shall review proposals and award contracts based upon the price, quality of services offered, positive experience with infrastructure maintenance, retail service delivery, and other factors determined to be in the public interest by the authority. In selecting target communities, the authority shall consider to the extent possible:

(1) the proportion of homes and businesses in those communities without access to broadband service and without access to broadband service meeting the minimum technical service characteristic objectives established under section 8077 of this title;

(2) the level of adoption of broadband service by residential and business users within the community;

(3) opportunities to leverage or support other sources of federal, state, or local funding for the expansion or adoption of broadband service;

(4) the number of potential new subscribers in each community and the total level of funding available for the program; and

(5) the geographic location of selected communities and whether new target communities would further the goal of bringing broadband service to all regions of the state.

(d) To the extent any funds appropriated by the general assembly are rendered unnecessary for the purpose of reaching unserved Vermonters due to a successful application to the broadband initiatives program under the Rural Utilities Service of the U.S. Department of Agriculture, such funds shall be placed in reserve by the authority to be used first to achieve 100-percent coverage pursuant to chapter 91 of Title 30 and, once that is achieved, to then deliver fiber-quality service to Vermont's public facilities, regional business hubs, and anchor businesses and institutions.

(e) Beginning July 1, 2010, the authority may invest up to \$500,000.00 for upgrades in broadband services in underserved business districts, as defined by the authority.

Twenty-first: In Sec. 13 (relating to the farm-to-plate investment program), in the first sentence, by striking out the reference to “Sec. 7(b)” and by inserting in lieu thereof “Sec. 7(a)”

Twenty-second: By adding Sec. 14a to read as follows:

Sec. 14a. 10 V.S.A. § 531(i) is added to read:

(i)(1) Program Outcomes. The joint fiscal office shall prepare a training program performance report based on the following information submitted to it by the Vermont training program, which is to be collected from each participating employer and then aggregated:

(A) The number of full-time employees six months prior to the training and six months after its completion.

(B) For all existing employees, the median hourly wages prior to and after the training.

(C) The number of “new hires,” “upgrades,” and “crossovers” deemed eligible for the waivers authorized by statute and the median wages paid to employees in each category upon completion.

(D) A list and description of the benefits required under subdivision (c)(3) of this section for all affected employees, including the number of employees that receive each type of benefit.

(E) The number of employers allowed to pay reduced wages in high unemployment areas of the state, along with the number of affected workers and their median wage.

(2) Upon request by the secretary of commerce and community development, participating employers shall provide the information necessary to conduct the performance report required by this subsection. The secretary, in turn, shall provide such information to the joint fiscal office in a manner agreed upon by the secretary and the joint fiscal office. The secretary and the joint fiscal office shall take measures to ensure that company-specific data and information remain confidential and are not publicly disclosed except in aggregate form. The secretary shall submit to the joint fiscal office any program outcomes, measurement standards, or other evaluative approaches in use by the training program.

(3) The joint fiscal office shall review the information collected pursuant to subdivisions (1) and (2) of this subsection and prepare a training program performance report with recommendations relative to the program.

The joint fiscal office shall submit its first training program performance report on or before January 15, 2011, to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development. A second performance report shall be submitted on or before January 15, 2016. In addition to the information evaluated pursuant to subdivision (1) of this subsection, the second report shall include recommendations as to the following:

(A) whether the outcomes achieved by the program are sufficient to warrant its continued existence.

(B) whether training program outcomes can be improved by legislative or administrative changes.

(C) whether continued program performance reports are warranted and, if so, at what frequency and at what level of review.

(4) The joint fiscal office may contract with a consultant to conduct the performance reports required by this subsection. Costs incurred in preparing each report shall be reimbursed from the training program fund up to \$15,000.00.

Twenty-third: By adding Sec. 14b to read as follows:

Sec. 14b. 10 V.S.A. § 531(b)(4) is added to read:

(4) the employer agrees to contribute 50 percent of the overall cost of any training program offered pursuant to this section. For purposes of this subdivision, the overall cost of a training program shall not include a trainee's salary or benefits, but may include the cost of training materials, tuition, and lost production time due to scheduled training.

Twenty-fourth: In Sec. 16 (relating to VEDA's inter-funding lending), by striking out subsection (c) in its entirety and by inserting in lieu thereof the following:

(c) Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority to establish a line of credit in an amount not to exceed ~~\$30,000,000.00~~ \$60,000.00 to be advanced to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title.

Twenty-fifth: By striking out Sec. 23 in its entirety and by inserting in lieu thereof the following:

Sec. 23. 30 V.S.A. § 218(b)(3) is added to read:

(3) Smart Grid. Notwithstanding any provision of law to the contrary, an applicant may propose and the board may approve or require an applicant to

adopt a rate design that includes dynamic pricing, such as real-time pricing rates. Under such circumstances, the board may alter or waive the notice and filing provisions that would apply otherwise under section 225 of this title, provided the applicant ensures that each customer receives sufficient advance notice of the time-of-day usage rates.

Twenty-sixth: By striking out Sec. 24 in its entirety and by inserting in lieu thereof the following:

Sec. 24. STUDY ON STATE PURCHASE OF LOCAL GOODS AND SERVICES

The commissioner of buildings and general services, in consultation with interested parties including Vermont business groups, shall conduct a study to evaluate the opportunities and feasibility of increasing the volume of state purchases of both goods and services from local suppliers. The study shall include a presentation of the contracting obstacles to securing state contracts by locally owned businesses and may include recommendations for creating tools that would quantify the tangible and intangible benefits to the state for purchasing from Vermont-owned businesses. The commissioner shall report his or her findings to the house committee on commerce and economic development and the senate committee on economic development, housing and general affairs on or before January 15, 2011.

Twenty-seventh: By striking out Sec. 43 (relating to the process for international trade agreement recommendations) in its entirety and by inserting in lieu thereof the following:

Sec. 43. 9 V.S.A. chapter 111A is added to read:

CHAPTER 111A. APPROVAL OF INTERNATIONAL TRADE AGREEMENTS

§ 4125. FINDINGS AND PURPOSE

The general assembly makes the following findings of fact:

(1) Today's international trade agreements have impacts which extend significantly beyond the bounds of traditional trade matters such as tariffs and quotas. Restrictive government procurement rules, for example, may undermine state purchasing laws and preferences that are designed to promote good jobs and a healthy environment.

(2) As the subject matters contained within trade agreements expand, these agreements may impact on areas traditionally governed by the states, including economic development, financial investment, environmental policies, pharmaceutical policy, recreational services, utilities and energy distribution, and agricultural subsidies. The subject matter addressed by trade

agreements is constantly evolving into new areas and becomes more likely over time to infringe on state law or policy.

(3) Specific examples in one area important to Vermont—state economic development and environmental policies—that might be constrained by government procurement provisions in international trade agreements include buy-local laws, electronic waste recycling laws, and renewable energy purchasing requirements. Measures that conflict with obligations in one or more international trade agreements could be challenged as potential barriers to trade.

(4) Input from states has been essential to the Office of the United States Trade Representative’s understanding of state practices that may be impacted by policies in trade agreements. For example, after states protested that language in the Australia-United States trade agreement was ambiguous and created uncertainty as to whether it applied to Medicaid preferred drug lists, the United States specifically clarified in the Korea-United States trade agreement that similar pharmaceutical policies did not apply to Medicaid.

(5) Currently, the Office of the United States Trade Representative asks state governors, without input from state legislatures, whether they will commit state purchasing to trade rules. States, through their governors, may opt into or out of trade rules dealing with government procurement.

(6) Historically, the general assembly and the governor have worked together to adopt and implement state procurement policies. The decision to consent to the coverage of Vermont under procurement provisions of international trade agreements should also include consultation with and agreement by with the legislative branch.

(7) If future trade rules permit states to opt into or out of trade rules dealing with investment and services, in addition to procurement, then the general assembly intends for the procedures in this chapter to apply to those provisions as well.

(8) It is important for the state to provide information and recommendations to Congress and the United States trade representative about the possible impacts of proposed trade agreements on state law and policy.

#### § 4126. DEFINITIONS

As used in this chapter:

(1) “Commission” means the commission on international trade and state sovereignty established in 3 V.S.A. § 23.

(2) “International trade agreement” or “trade agreement” means a trade agreement between the federal government and a foreign country. It does not



include a trade agreement between the state and a foreign country to which the federal government is not a party.

§ 4127. APPROVAL OF TRADE AGREEMENTS

(a) Options for binding the state. If the United States government provides the state of Vermont with the opportunity to consent to or reject binding the state to a trade agreement or to a provision within a trade agreement, then the governor may bind the state or give consent to the United States government to bind the state only after consultation with the commission as provided for in subsection (c) of this section.

(b) Recommendations to Congress and the United States Trade Representative. In all other circumstances in which the United States government provides the state with information about a proposed trade agreement, the commission shall make a recommendation to Vermont's delegation to Congress and to the Office of the United States Trade Representative within the time frame requested by the Office of the United States Trade Representative.

(c)(1) Consultation process. When a communication from the United States trade representative regarding a proposed trade agreement is received by the state, the person who receives the communication shall submit a copy of the communication and any proposed trade agreement or relevant provisions of the trade agreement to the chairs of the commission. The chairs may disseminate the information to the chairs of the relevant legislative standing committees of jurisdiction.

(2) The commission shall review and analyze the trade agreement and issue a recommendation on the potential impact of the trade agreement to the appropriate party as described in subsections (a) and (b) of this section within a time frame that will afford Vermont's recommendations due consideration.

Twenty-eighth: By striking out Sec. 44 (relating to membership on the international trade commission) in its entirety and by inserting in lieu thereof the following:

Sec. 44. 3 V.S.A. § 23 is amended to read:

§ 23. THE COMMISSION ON INTERNATIONAL TRADE

\* \* \*

(b) Membership. There is created a commission on international trade and state sovereignty consisting of:

\* \* \*

(7) a representative of an exporting Vermont business, appointed by the governor; and

(8) a representative of a Vermont business actively involved in international trade, appointed by the governor;

(9) the secretary of agriculture or his or her designee; and

(10) a representative of a Vermont chamber of commerce, appointed by the governor.

(c) Powers and duties.

\* \* \*

~~(4) In response to a request from the governor or the general assembly, or on its own initiative As provided for in 9 V.S.A. chapter 111A, the committee commission shall consider and develop formal recommendations with respect to how the state should best respond to challenges and opportunities posed by a particular international agreement. Formal recommendations on the specific international agreement shall be submitted to the governor and the house and senate committees on judiciary, on government operations, and on natural resources and energy, and to the house committee on commerce and the senate committees on finance and on economic development, housing and general affairs.~~

\* \* \*

Twenty-ninth: By adding Sec. 44a to read as follows:

Sec. 44a. VERMONT REDEVELOPMENT AUTHORITY; STUDY

(a) The Brattleboro Development Credit Corporation, in consultation with the other regional development corporations in Vermont, may develop a proposal for enabling legislation that permits a municipality to form an economic development authority.

(b) The proposal, if developed, shall include recommendations regarding the following:

(1) the powers that an economic development authority may exercise with respect to: eminent domain; permitting; access to bonding; access to lending through state authorities such as VEDA; property acquisition; and infrastructure investment; and

(2) the goals of an economic development authority, such as increasing the grand list; increasing occupancy and rent levels; increasing employment opportunities; as well as benchmarks and indicators for measuring an authority's success with meeting those goals.

(c) The Brattleboro Development Credit Corporation is invited to submit its proposal to the house committee on commerce and economic development and

the senate committee on economic development, housing and general affairs by January 15, 2011.

Thirtieth: By adding Sec. 44b to read as follows:

Sec. 44b. 11 V.S.A. § 3022(d) is added to read:

(d) The secretary of state shall maintain a separate record of the number of limited liability companies that deliver articles of organization to the secretary for filing by electronic transmission.

Thirty-first: By adding Sec. 44c to read as follows:

Sec. 44c. 11A V.S.A. § 2.03(c) is added to read:

(c) The secretary of state shall maintain a separate record of the number of corporations that deliver articles of incorporation to the secretary for filing by electronic transmission.

Thirty-second: By adding Sec. 44d to read as follows:

Sec. 44d. 11B V.S.A. § 2.03(c) is added to read:

(c) The secretary of state shall maintain a separate record of the number of corporations that deliver articles of incorporation to the secretary for filing by electronic transmission.

**PROPOSAL OF AMENDMENT TO S. 288 TO BE OFFERED BY  
SENATOR CUMMINGS**

Senator Cummings moves that the Senate concur in the House Proposal of Amendment with the following amendments thereto:

First: By striking out Secs. 25-38

Second: By striking out Secs. 39-42

Third: In Sec. 16 by striking out subsection (c) in its entirety and by inserting in lieu thereof the following:

(c) Monies in the fund may be loaned to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the authority to establish a line of credit in an amount not to exceed ~~\$30,000,000.00~~ \$60,000,000.00 to be advanced to the Vermont agricultural credit program to support its lending operations as established in chapter 16A of this title.

Fourth: By striking out Sec. 10e.

and by renumbering the remaining sections to be numerically correct.

**UNFINISHED BUSINESS OF TUESDAY, APRIL 6, 2010**

**Second Reading**

**Favorable**

**J.R.S. 47.**

Joint resolution strongly urging the Republic of Turkey to recognize the right to religious freedom for all its residents and to end all discriminatory policies directed against the Ecumenical Patriarchate of the Orthodox Church.

**Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.**

(Committee vote: 3-2-0)

**Favorable with Recommendation of Amendment**

**S.R. 17.**

Senate resolution urging Congress to authorize alternative waivers to the 21-year-old minimum drinking age that do not entail federal highway funding penalties for states.

**Reported favorably with recommendation of amendment by Senator Miller for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the resolution be amended by striking out the resolution in its entirety and inserting in lieu thereof the following:

Senate resolution relating to underage drinking.

*Whereas*, in 1984, Congress enacted Public Law 97-364, which in Sec. 101(a) added 23 U.S.C. § 408(f)(6) to the United States Code that established the statutory basis for the federal penalty that withholds ten percent of a state's federal highway funding if the state's drinking age is lower than 21, and

*Whereas*, the current ten percent highway funding penalty prevents an open public debate about the effects of the 21-year-old drinking age as it impacts unlawful, unsupervised consumption of alcohol, and

*Whereas*, given the constitutional authority of states to regulate alcohol within their borders, Congress should work with the states to find solutions to address the growing problem of unsupervised, underage consumption and overconsumption of alcohol, and

*Whereas*, each state has unique qualities and residents that make a one-size-fits-all solution difficult, and each state should have the opportunity to

develop a comprehensive program that addresses its unique situation, and *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont urges Congress to authorize the states to address the problems associated with underage consumption of alcohol by obtaining waivers from federal law to avoid triggering federal highway funding penalties, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional delegation.

(Committee vote: 4-1-0)

**NEW BUSINESS**

**Third Reading**

**H. 539.**

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

**H. 639.**

An act relating to motor vehicle insurance for volunteer drivers.

**H. 658.**

An act relating to the issuance of certificates of need for home health agencies and addressing patient transportation services in certificate of need applications.

**H. 765.**

An act relating to establishing the Vermont agricultural innovation authority.

**H. 766.**

An act relating to preventing duplication in certain public health records.

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 88.**

An act relating to health care financing and universal access to health care in Vermont.

**Reported favorably with recommendation of amendment by Senator Racine for the Committee on Health and Welfare.**

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. FINDINGS

The general assembly finds that:

(1) The escalating costs of health care in the United States and in Vermont are not sustainable.

(2) Health care costs are hurting Vermont's families, employers, local governments, nonprofit organizations and the state budget, with serious economic problems as the consequence.

(3) The cost of health care in Vermont is estimated to increase by \$1 billion, from \$4.9 billion to \$5.9 billion, by 2012.

(4) Vermont's per-capita health care expenditures are estimated to be \$9,463.00 in 2012, compared to \$7,414.00 per capita in 2008.

(5) The average annual increase in Vermont per-capita health care expenditures from 2009 to 2012 is expected to be 6.3 percent. National per-capita health care spending is projected to grow at an average annual rate of 4.8 percent during the same period.

(6) From 2004 to 2008, Vermont's per-capita health care expenditures grew at an average annual rate of eight percent compared to five percent for the United States.

(7) At the national level, health care expenses are estimated at 18 percent of GDP and are estimated to rise to 34 percent by 2040.

(8) Vermont's health care system covers a larger percentage of the population than that of most other states, but still about seven percent of Vermonters lack health insurance coverage.

(9) In 2008, 15.4 percent of Vermonters with private insurance were underinsured, meaning that the out-of-pocket health insurance expenses exceeded five to 10 percent of a family's annual income depending on income level or that the annual deductible for the health insurance plan exceeded five percent of a family's annual income. Out-of-pocket expenses do not include the cost of insurance premiums. Most Vermonters are a job loss away from being uninsured.

(10) Vermont's health care reform efforts to date, including Dr. Dynasaur, VHAP, Catamount, the Blueprint for Health, health information technology, and the department of health's wellness and prevention initiatives have been beneficial to thousands of Vermonters, and hold promise for helping to provide access and to control costs in the future.

(11) Testimony received by the senate committee on health and welfare and the house committee on health care makes it clear that the current best efforts described in subdivision (10) of this section will neither provide

insurance coverage for all Vermonters nor significantly reduce the escalation of health care costs.

(12) It is clear that only structural reform will provide all Vermonters with access to affordable, high quality health care as a human right.

(13) As this state has done before in so many areas of public policy, Vermont must show leadership on health care reform.

\* \* \* HEALTH CARE SYSTEM DESIGN \* \* \*

## Sec. 2. PRINCIPLES FOR HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming health care in Vermont:

(1) It is the policy of the state of Vermont to ensure universal access to and coverage for health services for all Vermonters. All Vermonters must have access to comprehensive, quality health care. Systemic barriers must not prevent people from accessing necessary health care.

(2) The health care system must be transparent in design, efficient in operation, and accountable to the people it serves. The state must ensure public participation in the design, implementation, evaluation, and accountability mechanisms in the health care system.

(3) Primary care must be preserved and enhanced so that Vermonters have care available to them; preferably, within their own communities. Other aspects of Vermont's health care infrastructure must be supported in such a way that all Vermonters have access to necessary health services and that these health services are sustainable.

(4) Vermont's health delivery system must model continuous improvement of health care quality and safety and, therefore, the system must be accountable in access, cost, quality, and reliability.

(5) A system for eliminating unnecessary expenditures; reducing administrative costs; reducing costs that do not contribute to efficient, quality health services; and containing all system costs must be implemented so that health care spending does not bankrupt the Vermont economy.

(6) The financing of health care in Vermont must be sufficient, fair, sustainable, and shared equitably.

(7) State government must ensure that the health care system satisfies the principles in this section.

## Sec. 3. GOALS OF HEALTH CARE REFORM

Consistent with the adopted principles for reforming health care in Vermont, the general assembly adopts the following goals:

(1) The purpose of the health care system design proposals created by this act is to ensure that individual programs and initiatives can be placed into a larger, more rational design for access to, the delivery of, and the financing of health care in Vermont.

(2) Vermont's primary care providers will be adequately compensated through a payment system that reduces administrative burdens on providers.

(3) Health care in Vermont will be organized and delivered in a patient-centered manner through community-based systems that:

(A) are coordinated;

(B) focus on meeting community health needs;

(C) match service capacity to community needs;

(D) provide information on costs, quality, outcomes, and patient satisfaction;

(E) use financial incentives and organizational structure to achieve specific objectives;

(F) improve continuously the quality of care provided; and

(G) contain costs.

(4) To ensure financial sustainability of Vermont's health care system, the state is committed to slowing the rate of growth of total health care costs and preferably to reducing health care costs below today's amounts.

(5) Health care costs will be controlled or reduced using a combination of options, including:

(A) increasing the availability of primary care services throughout the state;

(B) simplifying reimbursement mechanisms throughout the health care system;

(C) reducing of administrative costs associated with private and public insurance and bill collection;

(D) reducing the cost of pharmaceuticals, medical devices, and other supplies through a variety of mechanisms;

(E) aligning health care professional reimbursement with best practices and outcomes rather than utilization;

(F) efficient health facility planning, particularly with respect to technology; and

(G) increasing price and quality transparency.



(6) All Vermont residents, subject to reasonable residency requirements, will have universal access to and coverage for health services that meet defined benefits standards, regardless of their age, employment, economic status, or their town of residency, even if they require health care while outside Vermont.

(7) A system of health care will provide access to health services needed by individuals from birth to death and be responsive and seamless through employment and other life changes.

(8) A process will be developed to define packages of health services, taking into consideration scientific and research evidence, available funds, the values and priorities of Vermonters, and federal health care reform if enacted.

(9) Health care reform will ensure that Vermonters' health outcomes and key indicators of public health will show continuous improvement across all segments of the population.

(10) Health care reform will reduce the number of adverse events from medical errors.

(11) Disease and injury prevention, health promotion, and health protection will be key elements in the health care system.

#### Sec. 4. VERMONT HEALTH CARE BOARD

(a) Definitions. As used in this act:

(1) "Health care professional" means an individual, partnership, corporation, facility, or institution licensed or certified or authorized by law to provide professional health care services.

(2) "Health service" means any medically necessary treatment or procedure to maintain, diagnose, or treat an individual's physical or mental condition, including services provided pursuant to a health care professional's order, services to assist in activities of daily living, services for mental health conditions, drug and alcohol abuse treatment, and prescription drugs.

(3) "Hospital" shall have the same meaning as in 18 V.S.A. § 1902 and may include a hospital located outside Vermont.

(4) "Hospital service" means any health service received in a hospital and any associated costs for professional services.

(5) "Preventive care" means screening, counseling, treatment, or medication determined by scientific evidence to be effective in preventing or detecting disease.

(6) "Primary care" means health services provided by health care professionals specifically trained for and skilled in first-contact and continuing

care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis. Primary care services include health promotion, preventive care, health maintenance, counseling, patient education, case management, and the diagnosis and treatment of acute and chronic illnesses in a variety of health care settings.

(7) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. The health care board shall establish specific criteria to demonstrate residency.

(b) Vermont health care board.

(1) Within 30 days of enactment, the Vermont health care board is created and shall have the powers and duties established by this section. The board shall consist of five members who have demonstrated expertise in health care systems or health care system design. The governor shall appoint two members of the board. The speaker of the house, and the president pro tempore of the senate shall each appoint one member. The fifth member shall be chosen by a majority of the appointed members. All appointments shall be completed no later than 30 days after enactment.

(2) A person in the employ of or holding any official relation to any health care provider or insurer, or engaged in the management of a health care provider or insurer, or owning stock, bonds, or other securities thereof, or who is, in any manner, connected with the operation of a health care provider or insurer shall not be a member of the board. In addition, no board member shall render professional health care services or make or perform any business contract with any health care provider or insurer if such service or contract relates to the business of the health care provider or insurer, except contracts made as an individual or family in the regular course of obtaining health care services.

(3) The office of legislative council shall provide the board with administrative support, including technical support for budget management, payroll and fiscal matters, clerical staff, and office space. The board shall contract with outside consultants to provide expertise necessary to do the analysis and design required by this act. The legislative council and joint fiscal office shall provide the board with legal and fiscal support.

(4) The board shall be considered a public body pursuant to 1 V.S.A. § 310 and shall be subject to the access to public records requirements in 1 V.S.A. §§ 315–320. After the public oversight panel publicly reports its proposals to the general assembly as required in Sec. 5 of this act, the board may be subject to public access requests for material relied upon in making its

proposals with redactions of proprietary or confidential information as needed.

(5) The board shall cease to exist on June 30, 2011.

(c) The Vermont health care board is authorized to seek matching funds to assist with carrying out the purposes of this act. In addition, it may accept any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof and from any person, firm, or corporation for any of its purposes and functions under this act and may receive and use the same subject to the terms, conditions, and regulations governing such donations, gifts, and grants.

#### Sec. 5. HEALTH CARE SYSTEM DESIGN AND IMPLEMENTATION PLAN

(a)(1) By January 1, 2011, the Vermont health care board shall propose to the general assembly and the governor at least three design options and an implementation plan for creating and integrating a health care system that meets the principles and goals outlined in Secs. 2 and 3 of this act. One option shall include the design of a government-administered and -financed health benefits system decoupled from employment, which prohibits insurance coverage for the health services provided by this system and allows for private insurance coverage of supplemental health services only. Each design option shall include sufficient detail to allow the governor and the general assembly to consider the adoption of one design during the 2011 legislative session and to achieve implementation of the new system no later than July 1, 2012.

(2) The board shall review and consider the findings and reports from previous studies of health care reform in Vermont, including the Universal Access Plan Report from the health care authority, November 1, 1993; reports from the Hogan Commission; relevant studies provided to the state of Vermont by the Lewin Group; and studies and reports provided to the joint legislative commission on health care reform. In addition, the board shall consider existing health care systems in other states or countries as models.

(3) The board, the agency of human services, and the department of banking, insurance, securities, and health care administration shall collaborate to ensure the board and its employees or consultants have the information necessary to create the design options. The board shall engage with interested parties, such as health care providers and professionals, patient advocacy groups, and insurers, as necessary in order to have a full understanding of health care in Vermont.

(4) By December 1, 2010, the board shall release a draft of the design options to the public and provide 15 days for public review and the submission of comments on the design options. The board shall review and consider the public comments and revise the draft design options as necessary prior to the

final submission to the general assembly and governor.

(b) Each of the design options shall include the following components as further described in Sec. 6 of this act:

- (1) general administration of services;
- (2) packages of health services, including cost-sharing;
- (3) coordinated local delivery system;
- (4) health system planning and public health;
- (5) budgets;
- (6) payment methods;
- (7) process for payment amounts;
- (8) financing;
- (9) Medicaid and Medicare waiver proposals;

(10) a method to address compliance of the proposed design options with the Employee Retirement Income Security Act (ERISA), if necessary; and

(11) redesign of state agencies administering or regulating health care, health care professionals and providers, and other health-related services, if necessary to implement the efficient administration or oversight of the health care system.

(c) The Vermont health care board shall include in the proposal an analysis of each design option as compared to the current state of health care in Vermont, including the costs of providing health care to the uninsured and underinsured in Vermont, any potential savings from creating an integrated system of health care, the impacts on the current private and public insurance system, potential fiscal impacts to individuals and businesses, impacts on the state's economy, and the pros and cons of each design option and of no changes.

#### Sec. 6. HEALTH CARE SYSTEM DESIGN COMPONENTS

In creating the design options, the Vermont health care board shall consider the following components for each option:

(1) General administration of services. The board shall make a recommendation, where appropriate to the design option, on:

(A) the overall administrative design to insure all Vermonters have access to and coverage for affordable, quality health services through a public or private, single-payer, or multi-payer system;

(B) methods for administering payment for health services, which

may include administration by a government agency, under an open bidding process soliciting bids from insurance carriers or third-party administrators, through private insurers, or a combination.

(C) enrollment processes.

(D) the application of the standards and procedures in the pharmacy best practices and cost control program established by 33 V.S.A. §§ 1996 and 1998, and other mechanisms to promote evidence-based prescribing, clinical efficacy, and cost-containment, such as a single statewide preferred drug list, prescriber education, or utilization reviews.

(E) appeals processes for decisions made by entities or agencies administering coverage for health services.

(2) Packages of Health services.

(A) Covered services. Each of the design options shall include access to and coverage for primary care, preventive care, chronic care, acute episodic care, and hospital services. A design option may include more than one package of health services with the associated cost of each package and may include coverage for additional health services, such as home- and community-based services, services in nursing homes, or dental or vision services.

(B) Cost-sharing. Each of the design options shall consider options to provide for affordable, income-sensitive cost-sharing.

(3) Coordinated, local delivery systems.

(A) The design options shall ensure that the delivery of health care in Vermont is coordinated in order to provide health services to the citizens of Vermont, to improve health outcomes, and to improve the efficiency of the health care system by ensuring that health care professionals, hospitals, health care facilities and home- and community-based providers offer patient care in an integrated manner designed to optimize patient care at a lower cost and to reduce redundancies in the health care delivery system as a whole. The design options shall consider and include building on the delivery system initiatives that are part of the Blueprint for Health, such as the medical home pilot projects.

(B) The Vermont health care board shall include in each design option a recommendation for the improvement of the organization of the health care delivery system, including:

(i) mechanisms in each region of the state to solicit public input; conduct a community needs assessment for incorporation into the health resources allocation plan; plan for community health needs based on the community needs assessment; develop budget recommendations and resource

allocations for the region; provide oversight and evaluation regarding the delivery of care in its region; and other functions determined to be necessary in managing of the region's health care delivery system or furthering cost-containment.

(ii) a regional entity organized by health care professionals and providers to coordinate health services for that region's population, including developing payment methodologies and budgeting, incentive payments, and other functions determined to be necessary in managing the region's health care delivery system or furthering cost-containment.

(4) Health system planning and public health.

(A) The Vermont health care board shall include in each of the design options an evaluation of the existing mechanisms for health system and facility planning and assessing quality indicators and outcomes, and of public health initiatives, including the health resource allocation plan, the certificate of need process, the Blueprint for Health, the statewide health information exchange, services provided by the Vermont Program for Quality in Health Care, and community prevention programs.

(B) The board shall include recommendations for changes to existing mechanisms to ensure compatibility with the design options.

(5) Budgets. The Vermont health care board shall include in each option a recommendation for amending the unified health care budget as provided for in subdivision (A) of this subdivision (5) and to develop a global budget for a facility, provider, or part of the health care system as appropriate to that option and as provided for in subdivision (B).

(A) Unified health care budgets.

(i) The purpose of the unified health care budget is to establish a statewide spending target within which costs are controlled, resources directed, and quality and access assured.

(ii) The Vermont health care board shall propose recommendations to revise the unified health care budget provided for in 18 V.S.A. § 9406, including consideration of cost-containment mechanisms or targets, anticipated revenues available to support the expenditures, and other appropriate considerations.

(iii) The board shall also propose recommendations on how to align the unified health care budget with the health resource allocation plan under 18 V.S.A. § 9405; the hospital budget review process under 18 V.S.A. § 9456; and the proposed global budgets and payments, if applicable and recommended in a design option.

(B) Global budgets. The board shall recommend whether a global

budget is appropriate to ensure cost-containment by a health care facility, health care provider, a group of health care professionals, or a combination as appropriate to that option. The board shall also recommend the appropriate process and considerations for developing a global budget, including circumstances under which an entity may seek an amendment of its budget, and any changes to the hospital budget process in 18 V.S.A. § 9456.

(6) Payment methods.

(A) The Vermont health care board shall include a recommendation for the payment methods to be used for each health care sector which provides health services under each design option. The payment methods shall be aligned with the goals of this act and shall provide for cost-containment, provision of high quality, evidence-based health services in a coordinated setting, patient self-management, and healthy lifestyles.

(B) The board shall consider the following payment methods:

(i) periodic payments based on approved annual global budgets;

(ii) capitated payments;

(iii) incentive payments to health care professionals based on performance standards, which may include evidence-based standard physiological measures, or if the health condition cannot be measured in that manner, a process measure, such as the appropriate frequency of testing or appropriate prescribing of medications;

(iv) fee supplements if necessary to encourage specialized health care professionals to offer a specific, necessary health service which is not available in a specific geographic region;

(v) diagnosis-related groups;

(vi) global payments based on a global budget, including whether the global payment should be population-based, cover specific line items, provide a mixture of a lump sum payment, diagnosis-related group (DRG) payments, incentive payments for participation in the Blueprint for Health, quality improvements, or other health care reform initiatives as defined in 3 V.S.A. § 2222a; and

(vii) fee for service.

(7) Process for determining payment amounts.

(A) The Vermont health care board shall recommend a process for determining payment amounts with the intent to ensure reasonable payments to health care professionals and providers and to eliminate the shift of costs between the payers of health services by ensuring that the amount paid to health care professionals and providers is sufficient. Payment amounts should

provide reasonable access to health services, provide sufficient uniform payment to health care professionals, reduce unnecessary care, and encourage the financial stability of health care professionals.

(B) When considering the payment methods in subdivision (6)(A) of this section, the Vermont health care board shall make recommendations for the appropriate process for each of the design options, including:

(i) Negotiations with hospitals, health care professionals, and groups of health care professionals;

(ii) Establishing a global payment for health services provided by a particular hospital, health care provider, or group of professionals and providers. In recommending a process for determining a global payment, the board shall consider the interaction with a global budget and other information necessary to the determination of the appropriate payment, including all revenue received from other sources. The recommendation may include that the global payment be reflected as a specific line item in the annual budget.

(iii) Negotiating a contract including payment methods and amounts with any out-of-state hospital or other health care provider that regularly treats a sufficient volume of Vermont residents, including contracting with out-of-state hospitals or health care providers for the provision of specialized health services that are not available locally to Vermonters.

(iv) Paying the amount charged for a medically necessary health service for which the individual received a referral or for an emergency health service customarily covered and received in an out-of-state hospital with which there is not an established contract;

(v) Developing a reference pricing system for nonemergency health services usually covered which are received in an out-of-state hospital or by a health care provider with which there is not a contract.

(C) To facilitate negotiation of payment amounts, the board may recommend the utilization of one or more health care professional bargaining groups provided for in 18 V.S.A. § 9409, consisting of health care professionals who choose to participate and may propose criteria for forming and approving bargaining groups, and criteria and procedures for negotiations authorized by this section. In authorizing the activities provided for in this section, the intent of the general assembly is to displace state and federal antitrust laws by granting state action immunity for actions that might otherwise be considered to be in violation of state or federal antitrust laws.

(8) Financing. The board shall include an estimate of any additional costs for providing access to and coverage for health services to the uninsured and underinsured, any estimated savings from streamlining the administration



of health care, and financing proposals for sustainable revenue necessary for funding the system.

(9) Medicaid and Medicare waiver proposals. The board shall propose how to redesign the Global Commitment to Health Medicaid Section 1115 and the Choices for Care Long-Term Care waiver to be consistent with each design option in order to maximize federal participation and funding in the health care system. The board shall also include a proposal for a Medicare waiver where appropriate to the design option to ensure the participation of Medicare in all or part of the system proposed by that option.

(10) Employee Retirement Income Security Act (ERISA). The board shall propose a strategy to seek an ERISA exemption from Congress if necessary for one of the design options. In addition, assuming the absence of an ERISA exemption, the board shall consider how to design each option in compliance with ERISA.

(11) Evaluation of state agencies. The board shall evaluate redesigning the structure of state agencies administering or regulating health care, health care professionals, health care providers, or health insurers, or involved in other health-related services, such as public health or health resource planning. The purpose of the evaluation shall be to ensure the appropriate and efficient operation of state government and to ensure a single locus of responsibility for the health care system and for health care reform.

#### Sec. 7. APPROPRIATIONS

The amount of \$300,000 is appropriated from the general fund to the office of legislative council in fiscal year 2011 for the health care board to accomplish the purposes of this act.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 6-0-0)

#### **Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1(12), by striking out the words “as a human right” at the end of the sentence

Second: In Sec. 2(1), by inserting at the end of the subdivision, the following sentence: All Vermonters must receive affordable and appropriate health care at the appropriate time in the appropriate setting, and health care costs must be contained over time.

Third: By striking out Secs. 4 through 8 in their entirety and inserting in lieu thereof new Secs. 4 through 16 to read as follows:

Sec. 4. 2 V.S.A. § 901 is amended to read:

§ 901. CREATION OF COMMISSION

(a) There is established a commission on health care reform. The commission, under the direction of co-chairs who shall be appointed by the speaker of the house and president pro tempore of the senate, shall monitor health care reform initiatives and recommend to the general assembly actions needed to attain health care reform.

(b)(1) Members of the commission shall include ~~four~~ three representatives appointed by the speaker of the house, ~~four~~ three senators appointed by the committee on committees, ~~and~~ two nonvoting members appointed by the governor, one nonvoting member with experience in health care appointed by the speaker of the house, and one nonvoting member with experience in health care appointed by the president pro tempore of the senate.

(2) The two nonvoting members with experience in health care shall not be in the employ of or holding any official relation to any health care provider or insurer, or engaged in the management of a health care provider or insurer, or owning stock, bonds, or other securities thereof, or who is, in any manner, connected with the operation of a health care provider or insurer. In addition, these two members shall not render professional health care services or make or perform any business contract with any health care provider or insurer if such service or contract relates to the business of the health care provider or insurer, except contracts made as an individual or family in the regular course of obtaining health care services.

\* \* \*

Sec. 5. APPOINTMENT; COMMISSION ON HEALTH CARE REFORM

Within 15 days of enactment, the speaker of the house, the president pro tempore of the senate, and the committee on committees shall appoint members of the joint legislative commission on health care reform as necessary to reflect the changes in Sec. 4 of this act. All other current members, including those appointed by the governor, shall continue to serve their existing terms.

Sec. 6. HEALTH CARE SYSTEM DESIGN AND IMPLEMENTATION PLAN

(a)(1) By February 1, 2011, the joint legislative commission on health care reform established in chapter 25 of Title 2 shall propose to the general assembly and the governor at least two design options, including implementation plans, for creating a single system of health care which insures

all Vermonters have access to and coverage for affordable, quality health services through a public or private single-payer or multipayer system and that meets the principles and goals outlined in Secs. 2 and 3 of this act.

(2) One option shall include the design of a government-administered and publicly financed “single-payer” health benefits system decoupled from employment which prohibits insurance coverage for the health services provided by this system and allows for private insurance coverage only of supplemental health services.

(3) Each design option shall include sufficient detail to allow the governor and the general assembly to consider the adoption of one design during the 2011 legislative session and to initiate implementation of the new system through a phased process beginning no later than July 1, 2012.

(4) The proposal to the general assembly and the governor shall include a recommendation for which of the design options best meets the principles and goals outlined in Secs. 2 and 3 of this act in an affordable, timely, and efficient manner.

(b) No later than 45 days after enactment, the commission shall propose to the joint fiscal committee a recommendation, including the requested amount, for one or more outside consultants who have demonstrated experience in health care systems or designing health care systems that have expanded coverage and contained costs to provide the expertise necessary to do the analysis and design required by this act. The joint fiscal committee may accept, reject, or modify the commission’s proposal.

(c) In creating the design options, the consultant shall review and consider the following:

(1) the findings and reports from previous studies of health care reform in Vermont, including the Universal Access Plan Report from the health care authority, November 1, 1993; reports from the Hogan Commission; relevant studies provided to the state of Vermont by the Lewin Group; and studies and reports provided to the commission.

(2) existing health care systems or components thereof in other states or countries as models.

(3) Vermont’s current health care reform efforts as defined in 3 V.S.A. § 2222a.

(4) the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010; Employee Retirement Income Security Act (ERISA); and Titles XVIII (Medicare), XIX (Medicaid), and XXI (SCHIP) of the Social Security Act.

(d) Each design option shall propose a single system of health care which

maximizes the federal funds to support the system and is composed of the following components, which are described in subsection (e) of this section:

(1) a payment system for health services which includes one or more packages of health services providing for the integration of physical and mental health; budgets, payment methods, and a process for determining payment amounts; and cost reduction and containment mechanisms;

(2) coordinated local delivery systems;

(3) health system planning, regulation, and public health;

(4) financing and proposals to maximize federal funding; and

(5) a method to address compliance of the proposed design option or options with federal law.

(e) In creating the design options, the consultant shall include the following components for each option:

(1) A payment system for health services.

(A) Packages of health services. Each design shall include one or more packages of health services providing for the integration of physical and mental health:

(i) all of which shall include access to and coverage for primary care, preventive care, chronic care, acute episodic care, hospital services, prescription drugs, and mental health services;

(ii) one or more may include coverage for additional health services, such as home- and community-based services, services in nursing homes, or dental or vision services;

(iii) one or more may be modeled after the health services offered under Medicaid; and

(iv) all of which shall include a cost-sharing proposal.

(B) Administration. The consultant shall include a recommendation for:

(i) a method for administering payment for health services, which may include administration by a government agency, under an open bidding process soliciting bids from insurance carriers or third-party administrators, through private insurers, or a combination.

(ii) enrollment processes.

(iii) integration of the pharmacy best practices and cost control program established by 33 V.S.A. §§ 1996 and 1998 and other mechanisms, to promote evidence-based prescribing, clinical efficacy, and cost-containment.

such as a single statewide preferred drug list, prescriber education, or utilization reviews.

(iv) appeals processes for decisions made by entities or agencies administering coverage for health services.

(C) Budgets and payments. Each design shall include a recommendation for budgets, payment methods, and a process for determining payment amounts. The consultant shall consider:

(i) amendments necessary to current law on the unified health care budget, including consideration of cost-containment mechanisms or targets, anticipated revenues available to support the expenditures, and other appropriate considerations, in order to establish a statewide spending target within which costs are controlled, resources directed, and quality and access assured.

(ii) how to align the unified health care budget with the health resource allocation plan under 18 V.S.A. § 9405; the hospital budget review process under 18 V.S.A. § 9456; and the proposed global budgets and payments, if applicable and recommended in a design option.

(iii) recommending a global budget where it is appropriate to ensure cost-containment by a health care facility, health care provider, a group of health care professionals, or a combination. Any recommendation shall include a process for developing a global budget, including circumstances under which an entity may seek an amendment of its budget, and any changes to the hospital budget process in 18 V.S.A. § 9456.

(iv) payment methods to be used for each health care sector which are aligned with the goals of this act and provide for cost-containment, provision of high quality, evidence-based health services in a coordinated setting, patient self-management, and healthy lifestyles. Payment methods may include:

(I) periodic payments based on approved annual global budgets;

(II) capitated payments;

(III) incentive payments to health care professionals based on performance standards, which may include evidence-based standard physiological measures, or if the health condition cannot be measured in that manner, a process measure, such as the appropriate frequency of testing or appropriate prescribing of medications;

(IV) fee supplements if necessary to encourage specialized health care professionals to offer a specific, necessary health service which is not available in a specific geographic region;

(V) diagnosis-related groups;

(VI) global payments based on a global budget, including whether the global payment should be population-based, cover specific line items, provide a mixture of a lump sum payment, diagnosis-related group (DRG) payments, incentive payments for participation in the Blueprint for Health, quality improvements, or other health care reform initiatives as defined in 3 V.S.A. § 2222a; and

(VIII) fee for service.

(v) what process or processes are appropriate for determining payment amounts with the intent to ensure reasonable payments to health care professionals and providers and to eliminate the shift of costs between the payers of health services by ensuring that the amount paid to health care professionals and providers is sufficient. Payment amounts should provide reasonable access to health services, provide sufficient uniform payment to health care professionals, reduce unnecessary care, and encourage the financial stability of health care professionals. The consultant shall consider the following processes:

(I) Negotiations with hospitals, health care professionals, and groups of health care professionals;

(II) Establishing a global payment for health services provided by a particular hospital, health care provider, or group of professionals and providers. In recommending a process for determining a global payment, the board shall consider the interaction with a global budget and other information necessary to the determination of the appropriate payment, including all revenue received from other sources. The recommendation may include that the global payment be reflected as a specific line item in the annual budget.

(III) Negotiating a contract including payment methods and amounts with any out-of-state hospital or other health care provider that regularly treats a sufficient volume of Vermont residents, including contracting with out-of-state hospitals or health care providers for the provision of specialized health services that are not available locally to Vermonters.

(IV) Paying the amount charged for a medically necessary health service for which the individual received a referral or for an emergency health service customarily covered and received in an out-of-state hospital with which there is not an established contract;

(V) Developing a reference pricing system for nonemergency health services usually covered which are received in an out-of-state hospital or by a health care provider with which there is not a contract.

(VI) Utilizing one or more health care professional bargaining

groups provided for in 18 V.S.A. § 9409, consisting of health care professionals who choose to participate and may propose criteria for forming and approving bargaining groups, and criteria and procedures for negotiations authorized by this section.

(C) Cost-containment. Each design shall include cost reduction and containment mechanisms, which may include a fee assessed on insurers combined with a global budget to streamline administration of health services.

(2) Coordinated local delivery systems. The consultant shall propose a local delivery system to ensure that the delivery of health care in Vermont is coordinated in order to provide health services to the citizens of Vermont, to improve health outcomes, and to improve the efficiency of the health care system by ensuring that health care professionals, hospitals, health care facilities and home- and community-based providers offer patient care in an integrated manner designed to optimize patient care at a lower cost and to reduce redundancies in the health care delivery system as a whole. The consultant shall consider the following models:

(A) mechanisms in each region of the state to solicit public input; conduct a community needs assessment for incorporation into the health resources allocation plan; a plan for community health needs based on the community needs assessment; develop budget recommendations and resource allocations for the region; provide oversight and evaluation regarding the delivery of care in its region; and other functions determined to be necessary in managing the region's health care delivery system or furthering cost-containment.

(B) a regional entity organized by health care professionals and providers to coordinate health services for that region's population, including developing payment methodologies and budgeting, incentive payments, and other functions determined to be necessary in managing the region's health care delivery system or furthering cost-containment.

(3) Health system planning, regulation, and public health. The consultant shall evaluate the existing mechanisms for health system and facility planning and for assessing quality indicators and outcomes and shall evaluate public health initiatives, including the health resource allocation plan, the certificate of need process, the Blueprint for Health, the statewide health information exchange, services provided by the Vermont Program for Quality in Health Care, and community prevention programs.

(4) Financing, including federal financing. The consultant shall provide:

(A) an estimate of any additional costs for providing access to and coverage for health services to the uninsured and underinsured, any estimated savings from streamlining the administration of health care, and financing

proposals for sustainable revenue necessary for funding the system, including by maximizing federal revenues.

(B) a proposal to the Centers on Medicare and Medicaid Services to waive provisions of Titles XVIII (Medicare), XIX (Medicaid), and XXI (SCHIP) of the Social Security Act if necessary to align the federal programs with the proposals contained within the design options, or to promote the simplification of administration, cost-containment, or promotion of health care reform initiatives as defined by 3 V.S.A. § 2222a; and

(C) a proposal to participate in a federal insurance exchange established by the Patient Protection and Affordable Care Act of 2010, as amended by the Health Care and Education Reconciliation Act of 2010 or for a waiver from these provisions when available.

(5) A method to address compliance of the proposed design option or options with federal law, including the Employee Retirement Income Security Act (ERISA), if necessary.

(f)(1) The agency of human services, the department of health, and the department of banking, insurance, securities, and health care administration shall collaborate to ensure the commission and its consultant have the information necessary to create the design options.

(2) The consultant may request legal and fiscal assistance from the office of legislative council and the joint fiscal office.

(3) The commission or its consultant may engage with interested parties, such as health care providers and professionals, patient advocacy groups, and insurers, as necessary in order to have a full understanding of health care in Vermont.

(g)(1) By January 1, 2011, the commission or its consultant shall release a draft of the design options to the public and provide 15 days for public review and the submission of comments on the design options. The commission or its consultant shall review and consider the public comments and revise the draft design options as necessary prior to the final submission to the general assembly and the governor.

(2) In the proposal and implementation plan provided to the general assembly and the governor, the commission shall include an analysis of each design option as compared to the current state of health care in Vermont, including:

(A) the costs of providing health care to the uninsured and underinsured in Vermont;

(B) any potential savings from creating an integrated system of health care;



- (C) the impacts on the current private and public insurance system;
- (D) the expected net fiscal impact on individuals and on businesses from the modifications to the health care system proposed in the design;
- (E) impacts on the state's economy;
- (F) the pros and cons of alternative timing for the implementation of each design, including the sequence and rationale for the phasing in of the major components; and
- (G) the pros and cons of each design option and of no changes to the current system.

\* \* \* Immediate Cost-Containment Provisions \* \* \*

#### Sec. 7. HOSPITAL BUDGETS

(a) The commissioner of banking, insurance, securities, and health care administration shall implement this section consistent with 18 V.S.A. § 9456, with the goals identified in Sec. 50 of No. 61 of the Acts of 2009, and with the goals of systemic health care reform, including the goals of containing costs, ensuring solvency for efficient and effective hospitals, and promoting fairness and equity in health care financing. In addition to the commissioner's authority under subchapter 7 of chapter 221 of Title 8 (hospital budget reviews), the commissioner of banking, insurance, securities, and health care administration shall target hospital budgets for fiscal years 2011 and 2012 consistent with the following:

(1) Except as provided in subdivision (5) of this subsection, the total systemwide rate increase for all hospitals reviewed by the commissioner shall not exceed 4.0 percent;

(2) Except as provided in subdivision (5) of this subsection, the total systemwide net patient revenue increase for all hospitals reviewed by the commissioner shall not exceed 4.5 percent;

(3) Except as provided in subdivision (5) of this subsection, the total systemwide hospital operating margin percentages shall not exceed those percentages allowed in fiscal year 2010;

(4) Consistent with the goals of lowering overall cost increases in health care without compromising the quality of health care, the commissioner may restrict or disallow specific expenditures, such as new programs. In his or her own discretion, the commissioner may identify or may require hospitals to identify the specific expenditures to be restricted or disallowed.

(5) The commissioner may exempt hospital revenue and expenses associated with health care reform and other expenses, such as all or a portion of the provider tax, from the limits established in subdivisions (1) through (3)

of this subsection if necessary to achieve the goals identified in this section. The expenditures shall be specifically reported, shall be supported with sufficient documentation as required by the commissioner, and may only be exempt if approved by the commissioner.

(b) Consistent with this section and the overarching goal of containing health care and hospital costs, and notwithstanding 18 V.S.A. § 9456(e) which permits the commissioner to exempt a hospital from the budget review process, the commissioner may exempt a hospital from the hospital budget process for more than two years consecutively. This provision does not apply to a tertiary teaching hospital.

(c) Upon a showing that a hospital's financial health or solvency will be severely compromised, the commissioner may approve or amend a hospital budget in a manner inconsistent with subsection (a) of this section.

Sec. 8. 18 V.S.A. § 9453(c) is added to read:

(c) The commissioner's authority shall extend to affiliated corporations or similar affiliated entities of the hospital as defined by subdivision 9402(13) of this title to the extent that the commissioner reasonably believes that the action is necessary to carry out of the purposes of this subchapter.

Sec. 9. 18 V.S.A. § 9456(h)(2) is amended to read:

(2)(A) After notice and an opportunity for hearing, the commissioner may impose on a person who knowingly violates a provision of this subchapter, or a rule adopted pursuant to this subchapter, a civil administrative penalty of no more than \$40,000.00, or in the case of a continuing violation, a civil administrative penalty of no more than \$100,000.00 or one-tenth of one percent of the gross annual revenues of the hospital, whichever is greater. This subdivision shall not apply to violations of subsection (d) of this section caused by exceptional or unforeseen circumstances.

(B)(i) The commissioner may order a hospital to:

(I)(aa) cease material violations of this subchapter or of a regulation or order issued pursuant to this subchapter; or

(bb) cease operating contrary to the budget established for the hospital under this section, provided such a deviation from the budget is material; and

(II) take such corrective measures as are necessary to remediate the violation or deviation and to carry out the purposes of this subchapter.

(ii) Orders issued under this subdivision (2)(B) shall be issued after notice and an opportunity to be heard, except that where the commissioner finds that a hospital's financial or other emergency

circumstances pose an immediate threat of harm to the public or to the financial condition of the hospital. Where there is an immediate threat, the commissioner may issue orders under this subdivision (2)(B) without written or oral notice to the hospital. Where an order is issued without notice, the hospital shall be notified of the right to a hearing at the time the order is issued. The hearing shall be held within 30 days of receipt for the hospital's request for a hearing, and a decision shall be issued within 30 days after the conclusion of the hearing. The commissioner may expand the time to hold the hearing or render the decision for good cause shown. Hospitals may appeal any decision in this section to superior court. An appeal shall be on the record as developed by the commissioner in the administrative proceeding, and the standard of review shall be as provided in 8 V.S.A. § 16.

Sec. 10. REPEAL

18 V.S.A. § 9439(f) (annual review cycles of certificate of need applications) is repealed on July 1, 2010.

Sec. 11. INSURANCE REGULATION; INTENT

It is the intent of the general assembly that the commissioner of banking, insurance, securities, and health care administration use the insurance rate review and approval authority to control the costs of health insurance unrelated to the cost of medical care where consistent with other statutory obligations, such as ensuring solvency. Rate review and approval authority could include imposing limits on producer commissions in specified markets or limiting administrative costs as a percentage of premium.

Sec. 12. 8 V.S.A. § 4080a(h)(2)(D) is added to read:

(D) The commissioner may require a registered small group carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall be at the time of seeking a rate increase and shall be in the manner and form as directed by the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

Sec. 13. 8 V.S.A. § 4080b(h)(2)(D) is added to read:

(D) The commissioner may require a registered nongroup carrier to identify that percentage of a requested premium increase which is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall be at the time of seeking a rate increase and shall be in the manner and form as directed by

the commissioner. Such information shall be made available to the public in a manner that is easy to understand.

Sec. 14. GRANT FUNDING

The staff director of the joint legislative commission on health care reform shall apply for grant funding, if available, for the design and implementation analysis provided for in Sec. 4 of this act. Any amounts received in grant funds, up to the amount appropriated in Sec. 15 of this act, shall offset the general fund appropriation by allowing any remaining general funds appropriated to revert to the general fund or reducing future general fund appropriations. Any grant funds received in excess of the appropriated amount may be used for the analysis.

Sec. 15. APPROPRIATION

The amount of \$250,000.00 is appropriated from the general fund to the joint fiscal office in fiscal year 2011 to accomplish the purposes of this act.

Sec. 16. EFFECTIVE DATE

(a) This section and Secs. 1 through 6 and 14 of this act shall take effect upon passage.

(b) Secs. 7 through 13 and 15 shall take effect on July 1, 2010.

(Committee vote: 5-0-2)

**Favorable with Proposal of Amendment**

**H. 540.**

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

**Reported favorably with recommendation of proposal of amendment by Senator Scott for the Committee on Transportation.**

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2010, page 437 and March 18, 2010, page 454.)

**ORDERED TO LIE**

**S. 99.**

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

**S. 110.**

An act relating to sheltering livestock.

**S. 226.**

An act relating to medical marijuana dispensaries.

**H. 331.**

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

**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.

Robert Kelley of Brandon - Member of the Board of Education - By Senator Flory for the Committee on Education. (1/14/10)

Steven Gurin of Barre - Member of the Vermont Educational & Health Buildings Financing Agency - By Senator Cummings for the Committee on Finance. (2/3/10)

Kenneth Gibbons of Hyde Park - Member of the Vermont Educational & Health Buildings Financing Agency - By Senator McCormack for the Committee on Finance. (2/17/10)

Sandi Murphy of Enosburg Falls - Member of the Valuation Appeals Board - By Senator Giard for the Committee on Finance. (2/24/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jonathan Wood of Cambridge - Secretary of the Agency of Natural Resources - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Justin Johnson of Barre - Commissioner of the Department of Environmental Conservation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Wayne Allen Laroche of Franklin - Commissioner of the Department of Fish & Wildlife - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Peter F. Young, Jr. of Northfield - Chair of the Natural Resources Board - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury - Commissioner of the Department of Forests, Parks & Recreation - By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Jason Gibbs of Duxbury – Commissioner of the Department of Forests, Parks & Recreation – By Senator Lyons for the Committee on Natural Resources and Energy. (3/10/10)

Richard A. Westman of Cambridge – Commissioner of the Department of Taxes – By Senator MacDonald for the Committee on Finance. (3/16/10)

Robert Alberts of Bridport – Member of the Vermont Housing Finance Agency – By Senator Ayer for the Committee on Finance. (3/17/10)

John W. Valente of Rutland – Director of the Vermont Municipal Bond Bank – By Senator Carris for the Committee on Finance. (3/17/10)

Bruce Hyde of Granville – Commissioner of the Department of Tourism & Marketing – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)



Kevin Dorn of Essex Junction – Secretary of the Agency of Commerce & Community Development – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Tayt Brooks of St. Albans – Commissioner of the Department of Economic, Housing and Community Affairs – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Carl Rosenquist of Georgia – Member of the Economic Incentive Review Board – By Sen. Illuzzi for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Karen Marshall of Williston – Member of the Economic Incentive Review Board – By Sen. Racine for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Mary Lintermann of Stowe – Member of the Economic Incentive Review Board – By Sen. Racine for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Mark Young of Orwell – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Stephan Morse of Newfane – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Christopher S. Keyser of Rutland – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Betsy Gentile of Guildford – Member of the Economic Incentive Review Board – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Frederick S. Kenney, II of Jericho – Director of the Economic Incentive Review Board – By Sen. Miller for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Rachel Smith of St. Albans – Member of the Economic Incentive Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Nancy Port of Burlington – Member of the Economic Incentive Review Board – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Thomas Johnson of Dummerston – Member of the Vermont State Housing Authority – By Sen. Ashe for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

David Marvin of Hyde Park – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Lenae Quillen-Blume of Hartland – Member of the Sustainable Jobs Fund Board of Directors – By Sen. Carris for the Committee on Economic Development, Housing and General Affairs. (3/24/10)

Peter Gregory of Hartland – Member of the State Infrastructure Bank Board – By Sen. McCormack for the Committee on Finance. (3/24/10)

Susan Davis of Shelburne – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Francis Heald of Rutland – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Elizabeth G. Kennett of Rochester – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Joseph Sutton of East Middlebury – Member of the Travel Information Council – By Sen. Mazza for the Committee on Transportation. (3/30/10)

Laurie A. Rowell of Saxtons River – Member and Chair, of the Valuation Appeals Board – By Sen. MacDonald for the Committee on Finance. (3/31/10)

Dagyne Canney of North Clarendon – Member of the Vermont Housing Finance Agency – By Sen. Carris for the Committee on Finance. (3/31/10)

Ann L. Hogan of Shelburne – Member of the State Infrastructure Bank Board – By Sen. Hartwell for the Committee on Finance. (4/6/10)

David R. Kimel of St. Albans – Director of the Vermont Municipal Bond Bank – By Sen. Hartwell for the Committee on Finance. (4/6/10)

#### **PUBLIC HEARINGS**

**Wednesday, April 7, 2010 - Room 11 - 4:30-7:00 P.M. - Re: H. 470 - Judicial Restructuring - (Senate Committee on Judiciary)**