



**David Mears, Executive Director**

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**Testimony Before the Vermont General Assembly  
House Committee on Natural Resources and Energy**

- Audubon Vermont supports the Senate's two changes to H.683, which clarify the bill without changing the key policy decisions made by this Committee:
  - Adding a reference to the MBTA federal list of birds in section 2 is a simple solution to the question of how to define a state list of birds that avoids having to create a separate state list; and
  - Ensuring that the Department has the authority to choose between a judicial bureau ticket with a maximum fine of \$1000.00 (10 VSA section 4515), or civil enforcement, will give the Department the discretion to tier the enforcement response to the severity of the violation.
- H.683 remains necessary to ensure that the State of Vermont can protect migratory birds, and replaces a level of protection prohibiting the incidental take of migratory birds that was in effect at the national level under the Migratory Bird Treaty Act (MBTA) for over fifty years until a recent opinion by the U.S. Department of Interior Solicitor General to reinterpret the law, followed by issuance of a proposed U.S. Fish and Wildlife Service rule confirming and expanding on this interpretation.
- While a recent federal court decision has struck down the Interior Solicitor General's opinion, that decision may be appealed by the U.S. government to the U.S. Court of Appeals for the Second Circuit. Further, the decision does not reach the rule proposed by the U.S. Fish and Wildlife Service, a rule that the Service's Director has indicated that the agency intends to finalize despite the court ruling. Finally, given the current antagonism to the law by the current U.S. leadership, it is far from certain that the Service would enforce the MBTA even if the courts continue to rule against the agency.
- In addition, while Audubon Vermont is hopeful that Congress will address the confusion created by the U.S. Department of Interior through passage of the migratory bird protection legislation currently progressing through the U.S. House of Representatives, the fate of that bill remains uncertain.
- Regardless of how the current confusion at the federal level resolves, having a state law equivalent to the MBTA protections is vital. Passage of H.683 into law will ensure that protections for migratory birds in Vermont do not ebb and flow with the political whims of national leadership. Also, providing the Vermont Department of Fish and Wildlife with its own direct avenue for protecting migratory birds is a good backstop to federal authority since there may be impacts on birds in Vermont that do not concern the federal government but are significant to Vermonters.