CONFIDENTIAL

LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.372 **Name of Bill:** An act relating to allowing the selling of carbon offsets from State land in regulatory carbon markets

Agency/ Dept: FPR **Author of Bill Review:** Steven Sinclair and Jared Nunery

Date of Bill Review: 3/9/2015 **Related Bills and Key Players:** None known

Status of Bill: (check one): X Upon Introduction _____As passed by 1st body _____As passed by both

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Recommended Position:

_____Support _____Oppose _____Remain Neutral X Support with modifications identified in #8 below

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Analysis of Bill

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1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.* This bill proposes to authorize the Department of Forests, Parks and Recreation to conduct a feasibility study to determine whether selling carbon offsets from State lands and enrolling state lands in regulatory carbon compliance programs is a prudent investment of funds from the Electric Efficiency Fund established under 30 V.S.A. §209(d)(3). Further the bill requires the Department of Forests, Parks and Recreation to investigate to what extent the State can aid private landowners in engaging in carbon markets, and investigate the potential utility of the Use Value Appraisal Program in acting in some way as an enabler for enrollment in carbon markets. The bill authorizes the Department to enroll state lands in compliance carbon markets and sell carbon credits from state lands if the results of the feasibility study demonstrate this would result in a net financial benefit to the Electric Efficiency Fund.

2. **Is there a need for this bill?** *Please explain why or why not.* There is always a need for better understanding potential options that may assist in maintaining the long-term sustainability of our forestland, however, similar feasibility studies have been completed regarding the feasibility of developing carbon projects in the Northeast (see Sligman et al. 2013). It is suggested that the scope of the feasibility study be narrowed significantly and consist of a research/literature review.

Seligman?

3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?** As requested, this bill requires a feasibility study that far exceeds the capacity of our Department. Of greatest concern is the funding mechanism for the feasibility study. As described, the feasibility study would be funded through the sale of carbon credits but does not specify that those credits would be from the sale of carbon allowances under the RGGI cap and trade program. Currently, there are no qualified carbon offset projects in Vermont or any of the RGGI states. The average annual amount that Vermont receives from the existing sale of carbon allowances amounts to approximately $2 million dollars, which is deposited into the Energy Efficiency Fund. The Department of Environmental Conservation receives approximately $80,000 of that $2 million to cover the administrative expenses associated with operating the RGGI program. The remainder is allocated to Efficiency Vermont and it is not clear how a reduction of their allocation of $100,000 would impact Efficiency Vermont or whether they would support this.

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As proposed, the feasibility study and investigation of private and UVA lands would require more than $100,000. Thus, any in excess of the $100,000 would need to be absorbed by the Department under this proposal which is not feasible. Thus, the Department proposes to limit the scope of the feasibility study to a research/literature review.

For example,page 3 L 9 requests an inventory of the current carbon stock within the study area. This is a significant undertaking practically and financially and is commonly the greatest challenge in developing a carbon project. Although the Department has the expertise to conduct a carbon inventory, the Department would need to purchase additional equipment and would need to dedicate a minimum of 3-4 foresters each field season, depending on how large the study area is, which would prevent those foresters from working on other statutorily required activities. As such it is suggested that the scope of the feasibility study is limited to an estimate of carbon stocks using existing forest inventory data and best available information from the literature.

4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** This bill specifically identifies the Department of Forests, Parks and Recreation (FPR) to complete the feasibility study, and as such FPR will ~~burden the~~ bear the burden ~~brunt~~ of the fiscal and programmatic implications in the short-term. However, in the long-term this bill enables the sale of carbon credits from State land, and as such all agencies with fee ownership land will potentially be impacted.

5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** (*for example, public, municipalities, organizations, business, regulated entities, etc)* Given the focus of the bill on the completion of a feasibility study, it is not clear what fiscal and programmatic implications non-state departments would incur. As such this is assumed to be not applicable.

6. **Other Stakeholders:**

   6.1 Who else is likely to support the proposal and why? Environmental organizations and others who value forests ability to provide ecosystem services. Landowners and organizations looking for other revenue sources for forestland ownership.

   6.2 Who else is likely to oppose the proposal and why? Those who might feel that this market opportunity could reduce forest management options.

7. **Rationale for recommendation:** *Justify recommendation stated above.* H.372 requests a significant undertaking for the Department of Forests, Parks and Recreation that exceeds the Department's technical capacity. Beyond the specific technical capacity issues, the effort required to complete a carbon inventory of the study area exceeds the current work capacity of FPR staff given the multitude of other ongoing responsibilities. This hurdle can be overcome with additional assistance from outside contractors with specialized training in this field (see proposed modification below).

8. **Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.* If a feasibility study were to be completed it is suggested that it be done by a contractor with the technical capacity to complete such a study, and be managed by FPR staff. Additionally it is suggested that P.3. L. 9 is

modified from "and inventory of the current carbon stock within the study area" to "an estimate of the current carbon stock within the study area."

Specific concerns identified by Page (P) and Line (L):

- P2 L 14: The bill defines the "study area" as not to exceed two state-owned parcels of land. FPR owned parcels can be quite large and are characterized and managed as "management units" within a state forest or state park. A recent study in the Northeast found that the minimum financially viable project area size is between 3,000 and 5,000 acres. The average project area size in California is 1500 acres. Therefore, the Department proposes that the determination of the appropriate size of a study area be included as part of the feasibility study and this definition deleted.
- P2 L 18 – P3 L2: The determination of whether enrolling state lands in the compliance carbon market will further Vermont's greenhouse gas emission reduction goals is appropriate, but such determination must be sure to not result in double-counting of such offset credits.
- P3 L7 – L18: FPR is tasked with completing a feasibility study that far exceeds our capacity . In many cases, private consulting firms are hired to complete similar studies on behalf of public land managers. As such it is suggested that FPR is allowed to contract with a private firm with the expertise in this field to undertake the feasibility study.
- P3 L4: The $100,000 allocated for the feasibility study will come from the existing annual deposit into the Electric Efficiency Fund from the sale of carbon allowances under the RGGI program. This $100,000 will be deducted from the amount allocated to Efficiency Vermont, and as such, will result in a decrease of funding for Efficiency Vermont. It should be clarified that DEC's allocation to cover administrative expenses of operating the RGGI program will not be impacted by this $100,000 allocation to FPR.
  - P3 L9: The feasibility study includes an inventory of carbon stocks. This is something that is well beyond the scope of a traditional carbon project feasibility study. The inventory is one of the most complicated, costly, and time consuming portions of any project development. This IS NOT a normal forest inventory. The degree of accuracy required far exceeds any inventory FPR conducts for LRMP development. Plots must be permanently monumented, all inventoried trees should be marked, all tree heights must be measured (total tree height not merchantable, and measured with a hypsometer or better a laser rangefinder), CWD must be measured, and in general a much more robust inventory than we do for our state land management is required. The inventory must be completed in such a way that the auditor can revisit as sub-sample of plots and re-measure plots and come up with the same values within a defined statistical certainty). The allocated $100,000 is insufficient to cover the costs associated with a carbon inventory. This requirement is not necessary to complete a feasibility study and should be deleted as a requirement of the study.
  - P3 L13: This would need to be limited to a literature review. This information does exist for this region.
  - P4 L9 – L14: The determination of what is a net financial benefit should be defined – must this consider the initial $100,000 allocation? Also, how will funds generated from any potential future forest carbon offset sales be used? Such funds should be allocated to FPR to cover administrative and programmatic costs associated with evaluating, offering and conducting such projects. As written, the funds would be deposited into the Electric Efficiency Fund and would most likely be allocated to Efficiency Vermont, leaving an unfunded mandate and significant burden on FPR to conduct such projects.
  - P5 L18-20: This language should specify that notwithstanding language to the contrary in 30 VSA §209(d)(3), the $100,000 allocated to FPR may be used to cover expenses incurred by the

Department, including staff and other administrative expenses that might be considered ordinary general obligations.

Further, it should be clarified where the funds for the feasibility study will be obtained from (see concerns in item 3 above).

9. Gubernatorial appointments to board or commission? None noted.

Commissioner has reviewed this document: ______ ***Date:*** 3/30/15

Secretary has reviewed this document: ______ ***Date:*** 3-31/15

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