

Sec. 5. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(O) chapter 166 (disposal of covered electronic devices).

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect July 1, 2010.

Sec. 7. ANR REPORT ON ADDITIONAL INCENTIVES FOR RECYCLING ELECTRONIC WASTE

On or before January 15, 2011, the secretary of natural resources shall report to the senate and house committees on natural resources and energy with recommended incentives to increase the rate of recycling of covered electronic devices and video display devices, as those terms are defined in 10 V.S.A. § 7301.

And that when so amended the bill ought to pass.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, on motion of Senator Shumlin, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 1, 2009.

WEDNESDAY, APRIL 1, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 42

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 435. An act relating to palliative care.

H. 436. An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

In the passage of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 83. House concurrent resolution congratulating the 2009 Essex High School Hornets Division I championship girls' ice hockey team.

H.C.R. 84. House concurrent resolution congratulating the 2009 Essex High School Hornets state gymnastics championship team.

H.C.R. 85. House concurrent resolution congratulating Essex High School gymnast Mary Krug on winning four consecutive all-around state championship competitions.

H.C.R. 86. House concurrent resolution congratulating the 2009 Proctor High School Phantoms' Division IV championship boys' basketball team.

H.C.R. 87. House concurrent resolution honoring Olympic runner and model sportsman Andrew Wheating of Norwich.

H.C.R. 88. House concurrent resolution celebrating the success of the education-based after-school programs in Vermont.

H.C.R. 89. House concurrent resolution commending the leadership of Green Mountain Power Corporation and other electric companies and state offices in restoring electric power in southern Vermont following the December 2008 ice storm.

In the adoption of which the concurrence of the Senate is requested.

Bill Referred to Committee on Finance

S. 137.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to the Vermont recovery and reinvestment act of 2009.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 435.

An act relating to palliative care.

To the Committee on Health and Welfare.

H. 436.

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

To the Committee on Finance.

Consideration Resumed; Bill Amended; Third Reading Ordered**S. 77.**

Consideration was resumed on Senate bill entitled:

An act relating to the disposal of electronic waste.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Sears moved to amend the recommendation of amendment of the Committee on Natural Resources and Energy in Sec. 2 by striking out 10 V.S.A. § 7312 (ban on prison labor) in its entirety.

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, was decided in the affirmative on a division of the Senate, Yeas 29, Nays 0.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Illuzzi moved that the bill be ordered to lie.

Thereupon, pending the question, Shall the bill be ordered to lie?, Senator Illuzzi requested and was granted leave to withdraw his motion.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative on a roll call, Yeas 18, Nays 12.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Campbell, Cummings, Doyle, Giard, Hartwell, Kittell, Lyons, MacDonald, McCormack, Miller, Mullin, Racine, Sears, Shumlin, Snelling, White.

Those Senators who voted in the negative were: Bartlett, *Brock, Carris, Choate, Flanagan, Illuzzi, Kitchel, Maynard, Mazza, Nitka, Scott, Starr.

*Senator Brock explained his vote as follows:

“I believe that dealing effectively with e-waste is a great idea. But I voted against this bill for three reasons:

(1) It risks creating an unfunded mandate for the Agency of Natural Resources. At a time when state government’s resources are shrinking, we should not be adding additional unclear, unfunded requirements on an already overburdened staff.

(2) It will increase prices on electronic equipment for businesses and government agencies with more than 10 employees, with no environmental benefit whatsoever from large purchasers of these commodities.

(3) It will create a complex and fundamentally unworkable system of regulation and enforcement.”

Consideration Postponed

Senate Committee bill entitled:

S. 126.

An act relating to digital forensic specialists.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Bill Amended; Bill Passed**S. 109.**

Senate bill entitled:

An act relating to brominated flame retardants.

Was taken up.

Thereupon, pending third reading of the bill, Senator Mullin, on behalf of the Committee on Judiciary, moved to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. § 2971, by striking out subsections (b), (c), and (d) in their entirety and inserting in lieu thereof new subsections (b), (c) and (d) to read as follows:

(b) As of July 1, 2010, no person may offer for sale, distribute for sale, distribute for promotional purposes, or knowingly sell at retail a product containing octaBDE or pentaBDE.

(c) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2010, manufacture, offer for sale, distribute for sale, or knowingly sell at retail the following products containing decaBDE:

(1) A mattress or mattress pad; or

(2) Upholstered furniture.

(d) Except for inventory purchased prior to July 1, 2009, a person may not, as of July 1, 2012, manufacture, offer for sale, distribute for sale, or knowingly sell at retail a television or computer with a plastic housing containing decaBDE.

Second: In Sec. 1, 9 V.S.A. § 2971, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) As of July 1, 2010, a manufacturer of a product that contains decaBDE and that is prohibited under subsection (c) or (d) of this section shall notify persons that sell the manufacturer's product of the requirements of this section.

Third: In Sec. 1, 9 V.S.A. § 2971, by inserting two new subsections to be lettered subsections (i) and (j) to read as follows:

(i) In addition to any other remedies and procedures authorized by this section, the attorney general may request a manufacturer of upholstered furniture, mattresses, mattress pads, computers, or televisions offered for sale or distributed for sale in this state to provide the attorney general with a certificate of compliance with this section with respect to such products. Within 10 days of receipt of the request for a certificate of compliance, the manufacturer shall:

(1) Provide the attorney general with a certificate declaring that its product complies with the requirements of this section; or

(2) Notify persons who sell in this state a product of the manufacturer's which does not comply with this section that sale of the product is prohibited, and submit to the attorney general a list of the names and addresses of those notified.

(j) The attorney general shall consult with retailers and retailer associations in order to assist retailers in complying with the requirements of this section.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 30, Nays 0.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Bill Amended; Third Reading Ordered

S. 54.

Senator Hartwell, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to clean energy assessment districts.

Reported recommending 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 it is in the public interest for municipalities to finance renewable energy projects and energy efficiency projects in light of the goals set forth in section 578 of Title 10 (greenhouse gas reduction goals), section 580 of Title 10 (25 by 25 state goal), and section 581 of Title 10 (building efficiency goals).

Sec. 2. 24 V.S.A. § 1751(3) is amended to read:

(3) "Improvement," shall include, apart from its ordinary signification;

(A) ~~the~~ The acquiring of land for municipal purposes, the construction of, extension of, additions to, or remodeling of buildings or other improvements thereto, also furnishings, equipment or apparatus to be used for or in connection with any existing or new improvement, work, department or other corporate purpose, and also shall include the purchase or acquisition of other capital assets, including licenses and permits, in connection with any existing or new improvement benefiting the municipal corporation, and all costs incurred by the municipality in connection with the construction or acquisition of the improvement and the financing thereof, including without

limitation capitalized interest, underwriters discount, the funding of reserves and the payment of contributions to establish eligibility and participation with respect to loans made from any state revolving fund, to the extent such payment is consistent with federal law;

(B) Pursuant to subchapter 2 of chapter 87 of this title, projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 3. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(23) Acting individually or in concert with other towns, cities, or incorporated villages and pursuant to subchapter 2 of chapter 87 of this title, to incur indebtedness for or otherwise finance by any means permitted under chapter 53 of this title projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 4. SUBCHAPTER DESIGNATION

24 V.S.A. chapter 87, §§ 3251 – 3256 shall be designated as:

Subchapter 1. General Provisions

Sec. 5. 24 V.S.A. § 3252 is amended to read:

§ 3252. PURPOSE OF ASSESSMENTS

Special assessments may be made for the purchase, construction, repair, reconstruction, or extension of a water system or sewage system, or any other public improvement which is of benefit to a limited area of a municipality to be served by the improvement, including those projects authorized under subchapter 2 of this chapter.

Sec. 6. 24 V.S.A. chapter 87, subchapter 2 is added to read:

Subchapter 2. Clean Energy Assessments

§ 3261. CLEAN ENERGY ASSESSMENT DISTRICTS; APPROVAL OF VOTERS

(a) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a clean energy assessment district. In a clean energy assessment district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of real property within the boundaries of the town, city, or incorporated village.

§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS; ENERGY SAVINGS ANALYSIS

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of real property within the boundaries of a clean energy assessment district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment, as set forth in section 3255 of this title. A participating municipality may establish underwriting or other qualifying criteria it deems necessary to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality may refuse to enter into a written agreement if it determines that the property owner will not have the ability to meet his or her assessment payment obligations.

(b) Prior to entering into a written agreement, a property owner shall have an analysis performed to quantify the project costs and energy savings and estimated carbon impacts of the proposed energy improvements, including an annual cash-flow analysis. This analysis shall be conducted by the entities appointed as energy efficiency utilities under section 209(d)(2) of Title 30, or conducted by another entity deemed qualified by the participating municipality. All analyses shall be reviewed and approved by the entities appointed as energy efficiency utilities.

(c) A written agreement shall provide that:

(1) the length of time allowed for the property owner to repay the assessment shall not exceed the lifetime of the project. In instances where multiple projects have been installed, the length of time shall not exceed the average lifetime of all projects, weighted for cost. Lifetimes of projects shall be determined by the entities appointed as energy efficiency utilities under section 209(d)(2) of Title 30 or another qualified technical entity designated by a participating municipality;

(2) At the time of foreclosure or a transfer of property ownership, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(d) A written agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the municipality for recording in the land records of the municipality and shall be disclosed to potential buyers prior to transfer of property of ownership.

(e) At least 14 days prior to entering into a written agreement, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the written agreement.

(f) The amount of an assessment under this subchapter shall not exceed more than 15 percent of the assessed value of the property.

§ 3263. COSTS OF OPERATION OF DISTRICT

The owners of real property who have entered into written agreements with the municipality under section 3262 of this title shall be obligated to cover the costs of operating the district. A municipality may use other available funds to operate the district.

§ 3264. RIGHTS OF PROPERTY OWNERS

A property owner who has entered into a written agreement with the municipality under section 3262 of this title may enter into a private agreement for the installation or construction of a project relating to renewable energy, as defined in section 8002(2) of Title 30, or relating to energy efficiency as defined by section 3267 of this title.

§ 3265. LIABILITY OF MUNICIPALITY

A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

§ 3266. INTERMUNICIPAL AGREEMENTS

Two or more municipalities, by resolution of their respective legislative bodies or boards, may establish and enter into agreements for incurring indebtedness or otherwise financing projects under this subchapter.

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS

Those entities appointed as energy efficiency utilities under section 209(d) of Title 30 shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year.

§ 3268. RESERVE FUND

A participating municipality shall create a reserve fund for use in the event of a foreclosure upon an assessed property. The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of any outstanding assessment balances that exist in the event of a foreclosure upon any participating properties.

Sec. 7. 24 V.S.A. § 4592 is amended to read:

§ 4592. SUPPLEMENTARY POWERS

The bank, in addition to any other powers granted in this chapter, has the following powers:

* * *

(8) To the extent permitted under its contracts with the holders of bonds or notes of the bank, to consent to any modification of the rate of interest, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party; ~~and~~

(9) To issue its bonds or notes which are secured by neither the reserve fund nor the revenue bond reserve fund, but which may be secured by such other funds and accounts as may be authorized by the bank from time to time;

(10) To issue bonds, other forms of indebtedness, or other financing obligations for projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to energy efficiency projects under subchapter 2 of chapter 87 of this title.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending 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 it is in the public interest for municipalities to finance renewable energy projects and energy efficiency projects in light of the goals set forth in section 578 of Title 10 (greenhouse gas reduction goals), section 580 of Title 10 (25 by 25 state goal), and section 581 of Title 10 (building efficiency goals).

Sec. 2. 24 V.S.A. § 1751(3) is amended to read:

(3) "Improvement," shall include, apart from its ordinary signification;

(A) ~~the~~ The acquiring of land for municipal purposes, the construction of, extension of, additions to, or remodeling of buildings or other improvements thereto, also furnishings, equipment or apparatus to be used for or in connection with any existing or new improvement, work, department or other corporate purpose, and also shall include the purchase or acquisition of other capital assets, including licenses and permits, in connection with any existing or new improvement benefiting the municipal corporation, and all costs incurred by the municipality in connection with the construction or acquisition of the improvement and the financing thereof, including without limitation capitalized interest, underwriters discount, the funding of reserves and the payment of contributions to establish eligibility and participation with respect to loans made from any state revolving fund, to the extent such payment is consistent with federal law;

(B) Pursuant to subchapter 2 of chapter 87 of this title, projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible energy efficiency projects undertaken by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 3. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(23) Acting individually or in concert with other towns, cities, or incorporated villages and pursuant to subchapter 2 of chapter 87 of this title, to incur indebtedness for or otherwise finance by any means permitted under chapter 53 of this title projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible energy efficiency projects undertaken

by owners of real property within the boundaries of the town, city, or incorporated village. Energy efficiency projects shall be those that are eligible under section 3267 of this title.

Sec. 4. SUBCHAPTER DESIGNATION

24 V.S.A. chapter 87 §§ 3251 – 3256 shall be designated as:

Subchapter 1. General Provisions

Sec. 5. 24 V.S.A. § 3252 is amended to read:

§ 3252. PURPOSE OF ASSESSMENTS

Special assessments may be made for the purchase, construction, repair, reconstruction, or extension of a water system or sewage system, or any other public improvement which is of benefit to a limited area of a municipality to be served by the improvement, including those projects authorized under subchapter 2 of this chapter.

Sec. 6. 24 V.S.A. chapter 87, subchapter 2 is added to read:

Subchapter 2. Clean Energy Assessments

§ 3261. CLEAN ENERGY ASSESSMENT DISTRICTS; APPROVAL OF VOTERS

(a) The legislative body of a town, city, or incorporated village may submit to the voters of the municipality the question of whether to designate the municipality as a clean energy assessment district. In a clean energy assessment district, only those property owners who have entered into written agreements with the municipality under section 3262 of this title would be subject to a special assessment, as set forth in section 3255 of this title.

(b) Upon a vote of approval by a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose, the municipality may incur indebtedness for or otherwise finance projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to eligible projects relating to energy efficiency as defined by section 3267 of this title, undertaken by owners of real property within the boundaries of the town, city, or incorporated village.

§ 3262. WRITTEN AGREEMENTS; CONSENT OF PROPERTY OWNERS; ENERGY SAVINGS ANALYSIS

(a) Upon an affirmative vote made pursuant to section 3261 of this title and the performance of an energy savings analysis pursuant to subsection (b) of this section, an owner of real property within the boundaries of a clean energy assessment district may enter into a written agreement with the municipality that shall constitute the owner's consent to be subject to a special assessment,

as set forth in section 3255 of this title. A participating municipality shall follow underwriting criteria, consistent with responsible underwriting and credit standards as established by the department of banking, insurance, securities, and health care administration, and shall establish other qualifying criteria to provide an adequate level of assurance that property owners will have the ability to meet assessment payment obligations. A participating municipality shall refuse to enter into a written agreement with a property owner who fails to meet the underwriting or other qualifying criteria.

(b) Prior to entering into a written agreement, a property owner shall have an analysis performed to quantify the project costs and energy savings and estimated carbon impacts of the proposed energy improvements, including an annual cash-flow analysis. This analysis shall be conducted by the entities appointed as energy efficiency utilities under section 209(d)(2) of Title 30, or conducted by another entity deemed qualified by the participating municipality. All analyses shall be reviewed and approved by the entities appointed as energy efficiency utilities.

(c) A written agreement shall provide that:

(1) the length of time allowed for the property owner to repay the assessment shall not exceed the life expectancy of the project. In instances where multiple projects have been installed, the length of time shall not exceed the average lifetime of all projects, weighted by cost. Lifetimes of projects shall be determined by the entities appointed as energy efficiency utilities under section 209(d)(2) of Title 30 or another qualified technical entity designated by a participating municipality;

(2) At the time of a transfer of property ownership excepting foreclosure, the past due balances of any special assessment under this subchapter shall be due for payment, but future payments shall continue as a lien on the property.

(d) A written agreement and the analysis performed pursuant to subsection (b) of this section shall be filed with the clerk of the municipality for recording in the land records of the municipality and shall be disclosed to potential buyers prior to transfer of property of ownership.

(e) At least 30 days prior to entering into a written agreement, the property owner shall provide to the holders of any existing mortgages on the property notice of his or her intent to enter into the written agreement.

(f) The total amount of assessments under this subchapter shall not exceed more than 15 percent of the assessed value of the property. The combined amount of the assessment plus any outstanding mortgage obligations for the property shall not exceed 90 percent of the assessed value of that property.

(g) In the case of an agreement with the resident owner of a dwelling, as defined in section 103(v) of the federal Truth in Lending Act:

(1) the assessments to be repaid under the agreement, when calculated as the repayment of a loan, shall not violate chapter 4 of Title 9;

(2) the maximum length of time for the owner to repay the loan shall not exceed 20 years; and

(3) the maximum amount to be repaid for the project shall not exceed \$30,000.00 or 15 percent of the assessed value of the property, whichever is less.

§ 3263. COSTS OF OPERATION OF DISTRICT

The owners of real property who have entered into written agreements with the municipality under section 3262 of this title shall be obligated to cover the costs of operating the district. A municipality may use other available funds to operate the district.

§ 3264. RIGHTS OF PROPERTY OWNERS

A property owner who has entered into a written agreement with the municipality under section 3262 of this title may enter into a private agreement for the installation or construction of a project relating to renewable energy, as defined in section 8002(2) of Title 30, or relating to energy efficiency as defined by section 3267 of this title.

§ 3265. LIABILITY OF MUNICIPALITY

A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

§ 3266. INTERMUNICIPAL AGREEMENTS

Two or more municipalities, by resolution of their respective legislative bodies or boards, may establish and enter into agreements for incurring indebtedness or otherwise financing projects under this subchapter.

§ 3267. ELIGIBLE ENERGY EFFICIENCY PROJECTS

Those entities appointed as energy efficiency utilities under section 209(d) of Title 30 shall develop a list of eligible energy efficiency projects and shall make the list available to the public on or before July 1 of each year.

§ 3268. RESERVE FUND

A participating municipality shall create a reserve fund for use in the event of a foreclosure upon an assessed property. The reserve fund shall be funded by participating property owners at a level sufficient to provide for the

payment of any past due balances on assessments under this subchapter, and any remaining principal balances on those assessments in the event of a bank or tax foreclosure upon any participating properties. Upon proper demand from a party to foreclosure action on an assessed property, the participating municipality shall pay from the reserve fund any past due balances of the participating property owner and any remaining principal balances of the participating property owner relating to the assessment. The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration.

Sec. 7. 24 V.S.A. § 4592 is amended to read:

§ 4592. SUPPLEMENTARY POWERS

The bank, in addition to any other powers granted in this chapter, has the following powers:

* * *

(8) To the extent permitted under its contracts with the holders of bonds or notes of the bank, to consent to any modification of the rate of interest, time and payment of any installment of principal or interest, security or any other term of bond or note, contract or agreement of any kind to which the bank is a party; ~~and~~

(9) To issue its bonds or notes which are secured by neither the reserve fund nor the revenue bond reserve fund, but which may be secured by such other funds and accounts as may be authorized by the bank from time to time;

(10) To issue bonds, other forms of indebtedness, or other financing obligations for projects relating to renewable energy, as defined in section 8002(2) of Title 30, or to energy efficiency projects under subchapter 2 of chapter 87 of this title. Bonds shall be supported by both the general obligation and the assessment payment revenues of the participating municipality.

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Lyons requested and was granted leave to withdraw the recommendation of amendment of the Committee on Natural Resources and Energy.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Finance, Senator Cummings moved to amend the recommendation of amendment of the Committee on Finance in Sec. 6, 24 V.S.A. § 3268, in the second sentence, by striking out the word: "bank" and inserting in lieu thereof the word: lender

Which was agreed to.

President *Pro Tempore* Assumes the Chair

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Finance, as amended, was agreed to, and third reading of the bill was ordered on a roll call, Yeas 25, Nays 3.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Sears.

Those Senators absent or not voting were: Flanagan, Shumlin (presiding).

Rules Suspended; Report of Committee of Conference; Consideration Interrupted by Adjournment

H. 232.

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Was taken up for immediate consideration.

Senator Bartlett, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 2.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.001. Secretary of administration - secretary's office

Personal services	848,494	803,917
Operating expenses	59,918	59,918
Grants	<u>150,000</u>	<u>150,000</u>
Total	1,058,412	1,013,835
Source of funds		
General fund	829,122	872,208
Global Commitment fund	76,613	70,316
Interdepartmental transfer	<u>152,677</u>	<u>71,311</u>
Total	1,058,412	1,013,835

Sec. 2. Sec. 2.024 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.024. Buildings and general services - fee for space

Personal services	11,993,881	12,332,498
Operating expenses	<u>12,126,545</u>	<u>13,854,846</u>
Total	24,120,426	26,187,344
Source of funds		
Internal service funds	24,120,426	26,187,344

Sec. 3. Sec. 2.027 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.027. Executive office - national and community service

Personal services	202,006	151,504
Operating expenses	122,923	92,378
Grants	<u>1,835,463</u>	<u>1,377,300</u>
Total	2,160,392	1,621,182
Source of funds		
General fund	56,528	43,284
Federal funds	<u>2,103,864</u>	<u>1,577,898</u>
Total	2,160,392	1,621,182

Sec. 4. Sec. 2.034 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.034. Auditor of accounts

Personal services	2,805,929	2,785,632
Operating expenses	<u>142,283</u>	<u>142,283</u>
Total	2,948,212	2,927,915
Source of funds		
General fund	526,254	526,254
Special funds	54,431	54,431

Internal service funds	<u>2,367,527</u>	<u>2,347,230</u>
Total	<u>2,948,212</u>	<u>2,927,915</u>

Sec. 5. Sec. 2.040 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.040. VOSHA review board

Personal services	40,414	40,414
Operating expenses	<u>9,680</u>	<u>9,680</u>
Total	50,094	50,094
Source of funds		
General fund	25,047	25,047
Federal funds	25,047	
<u>Interdepartmental transfer</u>		<u>25,047</u>
Total	50,094	50,094

Sec. 6. Sec. 2.043 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.043. Tax department - reappraisal and listing payments

Grants	<u>3,240,112</u>	3,250,112
Source of funds		
Education fund	<u>3,240,112</u>	3,250,112

Sec. 7. Sec. 2.049 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.049. Total general government	<u>177,473,806</u>	178,946,640
Source of funds		
General fund	<u>70,712,700</u>	70,742,542
Education fund	<u>8,809,208</u>	8,819,208
Special funds	8,436,938	8,436,938
Tobacco fund	58,000	58,000
Global Commitment fund	<u>416,113</u>	409,816
Federal funds	<u>2,952,640</u>	2,401,627
Enterprise funds	2,762,854	2,762,854
Internal service funds	<u>49,185,637</u>	51,232,258
Pension trust funds	29,204,037	29,204,037
Private purpose trust funds	1,018,536	1,018,536
Interdepartmental transfer	<u>3,917,143</u>	<u>3,860,824</u>
Total	<u>177,473,806</u>	178,946,640

Sec. 8. Sec 2.101 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.101. Attorney general

Personal services	<u>7,245,495</u>	7,315,495
Operating expenses	<u>1,066,918</u>	<u>1,066,918</u>
Total	<u>8,312,413</u>	8,382,413

Source of funds		
General fund	4,594,248	4,594,248
Special funds	1,295,235	1,295,235
Tobacco fund	<u>290,000</u>	360,000
Federal funds	643,000	643,000
Interdepartmental transfer	<u>1,489,930</u>	<u>1,489,930</u>
Total	<u>8,312,413</u>	8,382,413

Sec. 9. Sec. 2.110 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.110. Public safety - state police

Personal services	38,966,689	42,378,789
Operating expenses	8,200,082	7,190,140
Grants	<u>582,087</u>	<u>582,087</u>
Total	47,748,858	50,151,016
Source of funds		
General fund	12,281,795	14,681,216
Transportation fund	28,231,384	28,231,384
Special funds	2,073,265	2,076,002
Federal funds	2,777,985	2,777,985
Interdepartmental transfer	<u>2,384,429</u>	<u>2,384,429</u>
Total	47,748,858	50,151,016

Sec. 10. Sec. 2.111 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.111. Public safety - criminal justice services

Personal services	5,708,438	6,008,538
Operating expenses	3,129,222	3,129,222
Grants	<u>3,046,453</u>	<u>3,046,453</u>
Total	11,884,113	12,184,213
Source of funds		
General fund	759,697	1,059,797
Transportation fund	4,429,971	4,429,971
Special funds	1,393,043	1,896,043
Federal funds	4,677,888	4,677,888
Interdepartmental transfer	<u>623,514</u>	<u>120,514</u>
Total	11,884,113	12,184,213

Sec. 11. Sec. 2.121 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.121. Center for crime victims services

Personal services	1,404,168	1,404,168
Operating expenses	318,275	318,275
Grants	<u>9,624,834</u>	<u>9,091,834</u>

Total	11,347,277	10,814,277
Source of funds		
General fund	49,809	49,809
Special funds	7,432,390	6,899,390
Federal funds	<u>3,865,078</u>	<u>3,865,078</u>
Total	11,347,277	10,814,277

Sec. 12. Sec. 2.142 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.142. Liquor control - administration

Personal services	1,476,488	1,476,488
Operating expenses	422,089	<u>428,750</u>
Total	1,898,577	1,905,238
Source of funds		
Enterprise funds	1,694,577	1,694,577
<u>Tobacco fund</u>		6,661
Interdepartmental transfer	<u>204,000</u>	<u>204,000</u>
Total	1,898,577	1,905,238

Sec. 13. Sec. 2.145 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.145. Total protection to persons and property

	256,999,660	259,245,579
Source of funds		
General fund	90,404,831	93,104,352
Transportation fund	32,725,324	32,725,324
Special funds	66,951,903	66,924,640
Tobacco fund	619,645	696,306
Global Commitment fund	1,898,824	1,898,824
Federal funds	49,775,682	49,775,682
Enterprise funds	4,735,317	4,735,317
Interdepartmental transfer	<u>9,888,134</u>	<u>9,385,134</u>
Total	256,999,660	259,245,579

Sec. 14. Sec. 2.201 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.201. Agency of human services - secretary's office

Personal services	6,977,471	7,174,248
Operating expenses	3,004,134	3,023,587
Grants	<u>3,671,153</u>	<u>4,142,977</u>
Total	13,652,758	14,340,812
Source of funds		
General fund	4,360,112	4,554,264
Special funds	7,517	7,517

<u>Global Commitment fund</u>		415,000
Tobacco funds	397,021	397,021
Federal funds	<u>5,183,280</u>	5,443,891
Interdepartmental transfer	<u>3,704,828</u>	<u>3,523,119</u>
Total	<u>13,652,758</u>	14,340,812

Sec. 15. Sec. 2.202 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.202. Secretary's office - Global Commitment

Grants	909,022,731	928,583,437
Source of funds		
General fund	132,807,629	85,896,217
Special fund	16,261,307	16,045,307
Tobacco fund	39,487,801	39,487,801
State health care resources fund	147,623,246	148,261,016
Catamount fund	8,186,672	8,229,295
Federal funds	564,293,422	570,987,388
<u>Federal ARRA funds</u>		59,313,759
Interdepartmental transfer	<u>362,654</u>	<u>362,654</u>
Total	909,022,731	928,583,437

Sec. 16. Sec. 2.205 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.205. Human services board

Personal services	284,719	284,719
Operating expenses	<u>65,106</u>	<u>65,106</u>
Total	349,825	349,825
Source of funds		
General fund	50,030	50,030
Federal funds	12,254	149,897
Interdepartmental transfer	<u>287,541</u>	<u>149,898</u>
Total	349,825	349,825

Sec. 17. Sec. 2.206 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.206. Office of Vermont health access - administration

Personal services	32,033,668	36,514,151
Operating expenses	2,724,407	2,724,407
Grants	<u>1,196,000</u>	<u>1,010,700</u>
Total	35,954,075	40,249,258
Source of funds		
General fund	75,246	228,241
Global Commitment fund	34,428,247	38,597,284
Catamount fund	750,582	351,627

Federal funds	700,000	<u>1,072,106</u>
Total	35,954,075	40,249,258

Sec. 18. Sec. 2.207 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.207. Office of Vermont health access - Medicaid program - Global Commitment

Grants	461,385,056	467,778,316
Source of funds		
Global Commitment fund	461,385,056	467,778,316

Sec. 19. Sec. 2.208 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.208. Office of Vermont health access - Medicaid program - long-term care waiver

Grants	194,755,729	200,956,746
Source of funds		
General fund	79,168,224	68,589,966
Federal funds	115,587,505	119,267,829
<u>Federal ARRA funds</u>		<u>13,098,951</u>
Total	194,755,729	200,956,746

Sec. 20. Sec. 2.209 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.209. Office of Vermont health access - Medicaid program - state only

Grants	55,086,870	39,357,551
Source of funds		
General funds	35,376,640	28,509,473
Global Commitment fund	1,383,714	1,316,718
Catamount fund	18,326,516	<u>9,531,360</u>
Total	55,086,870	39,357,551

Sec. 21. Sec. 2.210 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.210. Office of Vermont health access - Medicaid non-waiver matched

Grants	44,448,317	44,176,458
Source of funds		
General funds	16,068,046	15,970,521
Federal funds	28,380,271	<u>28,205,937</u>
Total	44,448,317	44,176,458

Sec. 22. Sec. 2.211 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211. Health - administration and support

Personal services	6,409,341	6,447,115
Operating expenses	2,582,888	2,582,888

Grants	<u>2,902,000</u>	<u>2,877,000</u>
Total	11,894,229	11,907,003
Source of funds		
General funds	651,479	651,479
Special funds	24,743	24,743
Global Commitment fund	<u>4,860,720</u>	4,873,494
Federal funds	6,285,287	6,285,287
Interdepartmental transfer	<u>72,000</u>	<u>72,000</u>
Total	11,894,229	11,907,003

Sec. 23. Sec. 2.211.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211.1. Health - public health

Personal services	<u>36,310,118</u>	37,855,081
Operating expenses	7,326,174	7,326,174
Grants	<u>34,895,747</u>	<u>35,073,747</u>
Total	78,532,039	80,255,002
Source of funds		
General fund	<u>5,090,652</u>	5,479,402
Special funds	<u>6,362,319</u>	4,515,606
Tobacco fund	2,780,225	2,780,225
Global Commitment fund	24,048,864	25,383,077
Catamount fund	<u>3,250,000</u>	5,096,713
Federal funds	36,397,848	36,397,848
Permanent trust funds	10,000	10,000
Interdepartmental transfer	<u>592,131</u>	<u>592,131</u>
Total	78,532,039	80,255,002

Sec. 24. Sec. 2.217 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.217. Health - alcohol and drug abuse programs

Personal services	<u>3,372,335</u>	3,385,862
Operating expenses	<u>811,106</u>	708,263
Grants	<u>27,528,671</u>	<u>27,528,671</u>
Total	31,712,112	31,622,796
Source of funds		
General fund	<u>3,413,874</u>	3,311,031
Special funds	236,210	236,210
Tobacco funds	2,382,834	2,382,834
Global Commitment fund	16,840,983	16,854,510
Federal funds	8,688,211	8,688,211
Interdepartmental transfer	<u>150,000</u>	<u>150,000</u>
Total	31,712,112	31,622,796

Sec. 25. Sec. 2.219 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.219. Mental health - mental health

Personal services	4,963,769	4,753,680
Operating expenses	614,618	614,618
Grants	<u>132,073,344</u>	<u>131,967,443</u>
Total	137,651,731	137,335,741
Source of funds		
General fund	703,540	703,540
Global Commitment fund	132,849,352	132,533,362
Federal funds	4,078,839	4,078,839
Interdepartmental transfer	<u>20,000</u>	<u>20,000</u>
Total	137,651,731	137,335,741

Sec. 26. Sec. 2.220 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.220. Mental health - Vermont state hospital

Personal services	19,922,915	20,285,503
Operating expenses	1,821,721	1,821,721
Grants	<u>3,000</u>	<u>3,000</u>
Total	21,747,636	22,110,224
Source of funds		
General fund	14,227,636	21,140,224
Special funds	170,000	170,000
Global Commitment fund	7,000,000	450,000
Federal funds	50,000	50,000
Interdepartmental transfer	<u>300,000</u>	<u>300,000</u>
Total	21,747,636	22,110,224

Sec. 27. Sec. 2.221 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.221. Department for children and families - administration & support services

Personal services	33,227,280	34,954,219
Operating expenses	6,655,247	7,370,900
Grants	<u>1,450,215</u>	<u>1,450,215</u>
Total	41,332,742	43,775,334
Source of funds		
General fund	12,422,107	13,627,359
Global Commitment fund	14,698,891	14,799,359
Catamount fund	560,036	560,036
Federal funds	13,651,708	14,484,506
<u>Federal ARRA funds</u>		<u>304,074</u>
Total	41,332,742	43,775,334

Sec. 28. Sec. 2.222 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.222. Department for children and families - family services

Personal services	21,476,718	21,618,703
Operating expenses	3,330,327	3,162,879
Grants	<u>64,337,283</u>	<u>65,678,018</u>
Total	89,144,328	90,459,600
Source of funds		
General fund	17,308,746	18,273,249
Special funds	1,938,367	1,938,367
Tobacco funds	275,000	275,000
Global Commitment fund	43,690,692	43,224,231
Federal funds	25,669,650	26,486,880
Interdepartmental transfer	<u>261,873</u>	<u>261,873</u>
Total	89,144,328	90,459,600

Sec. 29. Sec. 2.223 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.223. Department for children and families - child development

Personal services	3,338,891	3,338,891
Operating expenses	843,660	520,557
Grants	<u>51,064,583</u>	<u>54,940,903</u>
Total	55,247,134	58,800,351
Source of funds		
General fund	23,228,747	25,621,964
Special funds	865,000	865,000
Global Commitment fund	4,289,469	5,365,469
Federal funds	26,724,411	26,808,411
Interdepartmental transfer	<u>139,507</u>	<u>139,507</u>
Total	55,247,134	58,800,351

Sec. 30. Sec. 2.224 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.224. Department for children and families - office of child support

Personal services	8,768,046	8,558,676
Operating expenses	<u>3,890,320</u>	<u>4,140,838</u>
Total	12,658,366	12,699,514
Source of funds		
General fund	2,690,872	2,559,002
Special funds	455,718	455,718
Federal funds	9,124,176	8,868,194
<u>Federal ARRA funds</u>		429,000
Interdepartmental transfer	<u>387,600</u>	<u>387,600</u>
Total	12,658,366	12,699,514

Sec. 31. Sec. 2.225 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.225. Department for children and families - aid to aged, blind and disabled

Personal services	1,801,009	1,801,009
Grants	<u>9,989,580</u>	<u>10,145,700</u>
Total	11,790,589	11,946,709
Source of funds		
General fund	8,040,589	8,196,709
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	11,790,589	11,946,709

Sec. 32. Sec. 2.226 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.226. Department for children and families - general assistance

Grants	4,401,516	6,301,516
Source of funds		
General fund	2,950,196	4,850,196
Global Commitment fund	340,000	340,000
Federal funds	<u>1,111,320</u>	<u>1,111,320</u>
Total	4,401,516	6,301,516

Sec. 33. Sec. 2.227 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.227. Department for children and families - food stamp cash out

Grants	10,710,133	15,285,013
Source of funds		
Federal funds	10,710,133	15,285,013

Sec. 34. Sec. 2.228 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.228. Department for children and families - reach up

Grants	40,298,530	45,437,952
Source of funds		
General fund	13,815,723	15,950,049
<u>Global Commitment fund</u>		390,000
Special funds	18,200,000	18,200,000
Federal funds	8,282,807	8,582,807
<u>Federal ARRA funds</u>		<u>2,315,096</u>
Total	40,298,530	45,437,952

Sec. 35. Sec. 2.230 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.230. Department for children and families - office of economic opportunity

Personal services	235,441	235,441
Operating expenses	81,555	77,055
Grants	<u>4,952,562</u>	<u>5,202,562</u>
Total	<u>5,269,558</u>	5,515,058
Source of funds		
General fund	1,372,103	1,372,103
Special funds	<u>57,340</u>	307,340
Federal funds	<u>3,797,615</u>	3,793,115
Interdepartmental transfer	<u>42,500</u>	<u>42,500</u>
Total	<u>5,269,558</u>	5,515,058

Sec. 36. Sec. 2.232 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.232. Department for children and families - Woodside rehabilitation center

Personal services	<u>2,899,574</u>	3,132,974
Operating expenses	<u>649,151</u>	<u>599,151</u>
Total	<u>3,548,725</u>	3,732,125
Source of funds		
General fund	<u>3,493,833</u>	3,677,233
Interdepartmental transfer	<u>54,892</u>	<u>54,892</u>
Total	<u>3,548,725</u>	3,732,125

Sec. 37. Sec. 2.235 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.235. Disabilities, aging, and independent living - administration & support

Personal services	<u>24,187,650</u>	24,096,125
Operating expenses	<u>3,732,463</u>	<u>3,732,463</u>
Total	<u>27,920,113</u>	27,828,588
Source of funds		
General fund	<u>6,709,033</u>	6,557,508
Special funds	941,685	941,685
Global Commitment fund	<u>6,254,872</u>	6,314,872
Federal funds	11,524,001	11,524,001
Interdepartmental transfer	<u>2,490,522</u>	<u>2,490,522</u>
Total	<u>27,920,113</u>	27,828,588

Sec. 38. Sec. 2.236 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.236. Disabilities, aging, and independent living - advocacy and independent living

Grants	<u>21,455,103</u>	21,779,103
Source of funds		

General fund	10,006,493	10,330,493
Global Commitment fund	3,355,319	3,355,319
Federal funds	7,655,791	7,655,791
Interdepartmental transfer	<u>437,500</u>	<u>437,500</u>
Total	21,455,103	21,779,103

Sec. 39. Sec. 2.238 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.238. Disabilities, aging, and independent living - vocational rehabilitation

Grants	5,921,471	5,968,971
Source of funds		
General fund	1,495,695	1,535,695
<u>Global Commitment fund</u>		7,500
Federal funds	4,132,389	4,132,389
Interdepartmental transfer	<u>293,387</u>	<u>293,387</u>
Total	5,921,471	5,968,971

Sec. 40. Sec. 2.239 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.239. Disabilities, aging and independent living - developmental services

Grants	138,705,970	139,846,155
Source of funds		
General fund	185,693	185,693
Special funds	185,463	185,463
Global Commitment fund	137,964,074	139,104,259
Federal funds	<u>370,740</u>	<u>370,740</u>
Total	138,705,970	139,846,155

Sec. 41. Sec. 2.241 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.241. Corrections - administration

Personal services	2,022,147	2,126,692
Operating expenses	<u>315,394</u>	<u>315,394</u>
Total	2,337,541	2,442,086
Source of funds		
General fund	2,337,541	2,442,086

Sec. 42. Sec. 2.242 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.242. Corrections - parole board

Personal services	317,373	319,240
Operating expenses	<u>62,076</u>	<u>62,076</u>
Total	379,449	381,316

Source of funds		
General fund	379,449	381,316
Sec. 43. Sec. 2.243 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.243. Corrections - correctional education		
Personal services	4,032,390	3,915,100
Operating expenses	<u>342,079</u>	<u>342,079</u>
Total	4,374,469	4,257,179
Source of funds		
General fund	3,476,001	3,358,711
Special funds	500,000	500,000
Interdepartmental transfer	<u>398,468</u>	<u>398,468</u>
Total	4,374,469	4,257,179
Sec. 44. Sec. 2.244 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.244. Corrections - correctional services		
Personal services	77,382,681	77,922,980
Operating expenses	32,273,859	32,637,551
Grants	<u>1,695,800</u>	<u>1,895,800</u>
Total	111,352,340	112,456,331
Source of funds		
General fund	106,870,826	108,024,817
Special funds	633,963	583,963
Tobacco fund	87,500	87,500
Global Commitment fund	3,094,144	3,094,144
Federal funds	584,861	584,861
Interdepartmental transfer	<u>81,046</u>	<u>81,046</u>
Total	111,352,340	112,456,331
Sec. 45. Sec. 2.245 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.245. Corrections - correctional services - out-of-state beds		
Operating expenses	12,158,493	11,457,276
Source of funds		
General fund	12,158,493	11,457,276
Sec. 46. Sec. 2.251 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.251. Total human services	2,649,379,658	2,693,573,326
Source of funds		
General fund	521,931,597	474,482,196
Special funds	66,707,178	64,844,465
Tobacco fund	45,410,381	45,410,381

Global Commitment fund	906,593,258	914,305,775
State health care resources fund	147,623,246	148,261,016
Catamount fund	31,073,806	23,769,031
Federal funds	916,671,195	933,989,937
<u>Federal ARRA funds</u>		75,460,880
Permanent trust funds	10,000	10,000
Internal service funds	3,282,548	3,282,548
Interdepartmental transfer	10,076,449	9,757,097
Total	2,649,379,658	2,693,573,326

Sec. 47. Sec. 2.303 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.303. Labor - domestic and sexual violence survivors' transitional employment program

Grants	15,000	30,000
Source of funds		
Special fund	15,000	30,000

Sec. 48. Sec. 2.304 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.304. Total labor	29,020,561	29,035,561
Source of funds		
General fund	2,307,673	2,307,673
Special funds	3,301,108	3,316,108
Catamount fund	394,072	394,072
Federal funds	20,613,870	20,613,870
Interdepartmental transfer	2,403,838	2,403,838
Total	29,020,561	29,035,561

Sec. 49. Sec. 2.305 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.305. Education - finance and administration

Personal services	5,161,711	5,161,711
Operating expenses	1,713,880	1,813,880
Grants	10,757,117	10,757,117
Total	17,632,708	17,732,708
Source of funds		
General fund	3,506,583	3,606,583
Special funds	11,383,118	11,383,118
Global Commitment fund	845,143	845,143
Federal funds	1,890,747	1,890,747
Interdepartmental transfer	7,117	7,117
Total	17,632,708	17,732,708

Sec. 50. Sec. 2.306 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.306. Education - education services

Personal services	12,608,878	12,608,878
Operating expenses	1,889,869	1,889,869
Grants	<u>111,549,873</u>	<u>111,437,175</u>
Total	<u>126,048,620</u>	125,935,922
Source of funds		
General fund	7,766,318	7,781,103
Transportation fund	<u>127,483</u>	
Special funds	1,985,599	1,985,599
Federal funds	116,144,125	116,144,125
Interdepartmental transfer	<u>25,095</u>	<u>25,095</u>
Total	<u>126,048,620</u>	125,935,922

Sec. 51. Sec. 2.308 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.308. Education - state-placed students

Grants	15,767,500	16,367,500
Source of funds		
Education fund	15,767,500	16,367,500

Sec. 52. Sec. 2.309 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.309. Education - adult education and literacy

Grants	5,315,885	5,821,268
Source of funds		
General fund	2,690,224	2,690,224
Education fund	1,750,000	2,250,000
Federal funds	<u>875,661</u>	<u>881,044</u>
Total	<u>5,315,885</u>	5,821,268

Sec. 53. Sec. 2.310 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.310. Education - adjusted education payment

Grants	1,115,355,604	1,111,968,302
Source of funds		
Education fund	1,115,355,604	1,111,968,302

Sec. 54. Sec. 2.314 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.314. Education - tobacco litigation

Personal services	142,152	142,152
Operating expenses	18,114	11,453
Grants	<u>835,402</u>	<u>835,402</u>

Total	995,668	989,007
Source of funds		
Tobacco fund	995,668	989,007

Sec. 55. Sec. 2.320 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.320. Total general education	1,814,547,027	1,812,245,749
Source of funds		
General fund	338,640,022	338,754,807
Transportation fund	127,483	
Education fund	1,315,047,726	1,312,760,424
Special funds	14,699,439	14,699,439
Tobacco fund	995,668	989,007
Global Commitment fund	1,075,143	1,075,143
Federal funds	118,910,533	118,915,916
Pension trust funds	25,018,801	25,018,801
Interdepartmental transfer	<u>32,212</u>	<u>32,212</u>
Total	1,814,547,027	1,812,245,749

Sec. 56. Sec. 2.327 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.327. Vermont student assistance corporation

Grants	19,153,758	19,129,758
Source of funds		
General fund	19,153,758	19,129,758

Sec. 57. Sec. 2.329 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.329. Total higher education and other	88,256,776	88,232,776
Source of funds		
General fund	83,845,213	83,821,213
Global Commitment fund	<u>4,411,563</u>	<u>4,411,563</u>
Total	88,256,776	88,232,776

Sec. 58. Sec. 2.601 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.601. Transportation - finance and administration

Personal services	9,314,503	9,194,503
Operating expenses	<u>2,560,917</u>	<u>2,560,917</u>
Total	11,875,420	11,755,420
Source of funds		
Transportation fund	11,375,420	11,255,420
Federal funds	<u>500,000</u>	<u>500,000</u>
Total	11,875,420	11,755,420

Sec. 59. Sec. 2.604 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.604. Transportation - program development

Personal services	35,192,941	35,192,941
Operating expenses	106,514,171	159,788,137
Grants	<u>23,370,050</u>	<u>23,370,050</u>
Total	165,077,162	218,351,128
Source of funds		
Transportation fund	28,465,101	27,499,067
Local match	1,476,992	1,476,992
Federal funds	131,223,819	131,463,819
<u>Federal ARRA funds</u>		54,000,000
Interdepartmental transfer	<u>3,911,250</u>	<u>3,911,250</u>
Total	165,077,162	218,351,128

Sec. 60. Sec. 2.609 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.609. Transportation - bridge maintenance

Operating expenses	12,448,348	10,798,348
Source of funds		
Transportation fund	3,008,456	1,358,456
Federal funds	<u>9,439,892</u>	<u>9,439,892</u>
Total	12,448,348	10,798,348

Sec. 60a. Sec. 2.610 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.610. Transportation – public transit

Personal services	646,295	646,295
Operating expenses	58,784	58,784
Grants	<u>19,014,142</u>	<u>24,694,142</u>
Total	19,719,221	25,399,221
Source of funds		
Transportation fund	6,677,897	6,677,897
Federal funds	13,041,324	13,041,324
<u>Federal ARRA funds</u>		<u>59,680,000</u>
Total	19,719,221	25,399,221

Sec. 61. Sec. 2.611 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.611. Transportation - central garage

Personal services	3,305,508	3,305,508
Operating expenses	<u>11,625,266</u>	<u>10,922,675</u>
Total	14,930,774	14,228,183

Source of funds

Internal service funds	14,930,774	14,228,183
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Sec. 62. Sec. 2.612 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.612. Department of motor vehicles

Personal services	17,549,186	16,549,186
Operating expenses	8,037,725	8,037,725
Grants	<u>339,000</u>	<u>339,000</u>
Total	25,925,911	24,925,911

Source of funds

Transportation fund	23,854,657	22,854,657
Federal funds	<u>2,071,254</u>	<u>2,071,254</u>
Total	25,925,911	24,925,911

Sec. 62a. Sec. 2.613 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.613. Transportation - town highway structures

Grants	3,833,500	3,494,500
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Source of funds

Transportation fund	3,833,500	3,494,500
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Sec. 62b. Sec. 2.615 of No. 102 of the Acts of 2008 is amended to read:

Sec. 2.615. Transportation - town highway class 2 roadway

Grants	6,448,750	5,748,750
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Source of funds

Transportation fund	6,448,750	5,748,750
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Sec. 63. Sec. 2.618.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.618.1. Transportation - town highway emergency fund

Grants	250,000	880,000
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Source of funds

Transportation fund	250,000	880,000
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Sec. 64. Sec. 2.622. of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.622. Total transportation	412,801,007	462,193,382
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Source of funds

Transportation fund	187,152,506	183,007,472
Local match	2,553,311	2,553,311
Federal funds	203,753,166	203,993,166
<u>Federal ARRA funds</u>		54,000,000
Internal service funds	14,930,774	14,228,183

Interdepartmental transfer	<u>4,411,250</u>	<u>4,411,250</u>
Total	<u>412,801,007</u>	<u>467,873,382</u>

Sec. 65. APPROPRIATION ADJUSTMENTS

(a) To reflect adjustments to budgets due to savings in budgeted benefit rates (dental plan, medical plan, and employee assistance plan), personal service appropriations are reduced by \$1,260,463 in general funds in accordance with the schedule entitled "FY 2009 Appropriation Reductions Due to Budgeted Benefit Rate Savings," filed with the joint fiscal committee.

(b) In addition to the pay act appropriations made to the secretary of administration in Sec. 3(a)(1) of No. 206 of the Acts of the 2007 Adj. Sess. (2008), there is hereby appropriated from the general fund to the secretary of administration in fiscal year 2009 \$54,624 for transfer to the department for children and families, \$616,912 for transfer to the department of corrections, and \$588,927 for transfer to the department of human resources for the non-salary items entailed by the VSEA/state bargaining agreement in effect for FY 2009.

Sec. 65a. Sec. 2.802(a) of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.802. FISCAL YEAR 2009 ONE-TIME APPROPRIATIONS

* * *

(6) to the treasurer for the cost of short term borrowing in fiscal year 2009 \$100,000

Sec. 66. Sec. 3(a)(1)(B) of No. 206 of the Acts of 2008 is amended to read:

(B) Transportation fund. The amount of ~~\$1,210,258.00~~ \$841,078.00 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation and the department of public safety to fund the fiscal year 2009 collective bargaining agreement and the requirements of this act.

Sec. 67. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>21005 FMS System Development Fund</u>	<u>600,000</u>
<u>21030 Exxon Settlement Fund</u>	<u>3,631 Approx.</u>
<u>21045 Getty Oil Company Settlement</u>	<u>63,343 Approx.</u>
<u>21170 EO School Interest Program</u>	<u>15,634 Approx.</u>

<u>21705 PSD-HydroQuebec Power</u>	<u>64,426</u>
<u>21405 Fidelity\interest earnings</u>	<u>450,000</u> Approx.
<u>62100 Abandoned property</u>	<u>2,055,517</u> Approx.
<u>Amortization of W.R. Grace</u>	<u>5,452</u>
<u>Caledonia Fair</u>	<u>5,000</u>
<u>North Country Hospital Loan</u>	<u>24,250</u>
<u>50300 Liquor Control</u>	<u>836,519</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>1,400,000</u>
<u>21782 Vermont Veterans' Home</u>	<u>1,090,000</u>
<u>21110 Employee Leasing Companies</u>	<u>3,303</u>
<u>21520 Treasurer's Retirement Admin. Cost</u>	<u>440</u>
<u>21585 Pers-Human Resource Development</u>	<u>42,000</u>
<u>21638 Attny. Gen. Fees- Reimbursements</u>	<u>1,659,234</u>
<u>21669 AF&M Pesticide Monitoring</u>	<u>50,000</u>
<u>21686 AF&M Pesticide Control</u>	<u>75,000</u>
<u>21844 PERS - Recruitment Services</u>	<u>33,152</u>
<u>21845 Chittenden COPS Grant</u>	<u>19,492</u>
<u>21848 ED-Private Sector Grants</u>	<u>3,889</u>
<u>21870 Misc. Special Revenue Fund- Liquor Control (Bus Unit #2300)</u>	<u>1,420</u>
<u>21884 Emergency Personnel Survivors' Benefit Fund</u>	<u>50,000</u>
<u>Bond Premium</u>	<u>388,239</u>
<u>59500 Single Audit Internal Service Fund</u>	<u>20,297</u>
<u>21260 Act 250 Permit Fund</u>	<u>100,000</u>
<u>21698 PSD Regulation/Energy Efficiency</u>	<u>345,000</u>
<u>21709 PSB Special Fund</u>	<u>328,000</u>
<u>21991 VEDA - Food & Fuel</u>	<u>100,000</u>

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be

approximately \$16,035,260, shall be transferred to the general fund, provided that on or before July 1, 2009, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2010 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amounts shall be transferred from the general fund to the funds indicated:

<u>58800 Facilities Operations Fund</u>	<u>2,318,763</u>
<u>21035 Stripper Well Settlement Special Fund</u>	<u>6,511 Approx.</u>
<u>21175 Palo Pinto Special Fund</u>	<u>661 Approx.</u>
<u>21714 VT Racing Commission Special Fund</u>	<u>5,206</u>
<u>21911 Sarcoidosis Fund</u>	<u>419,688</u>
<u>21555 Emergency Relief and Assistance Fund (ERAF)</u>	<u>1,692,096</u>

(4) The following amount shall be transferred between special funds as indicated:

From the Unemployment Compensation Administration fund # 21360 to the Workers' Compensation Administration fund # 21105 703,171

(5)(A) The following amount shall be transferred to the transportation fund from the fund indicated:

<u>57100 Central Garage Fund</u>	<u>1,485,111</u>
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Sec. 68. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall revert to the general fund from the accounts indicated:

<u>2270001000 Vermont Racing Commission</u>	<u>477</u>
<u>3440090000 LIHEAP</u>	<u>1,383,336</u>
<u>1100010000 Secretary of Admin.</u>	<u>27,065</u>
<u>1120060000 Human Resources - Workforce Planning</u>	<u>45,493</u>

<u>1140040000 Homeowner Rebates</u>	<u>45,104</u>
<u>1140070000 Use Tax Reimbursement Program</u>	<u>58,171</u>
<u>1140330000 Renter Rebates</u>	<u>40,333</u>
<u>1210890505 Dairy Policy Cont Consult Services</u>	<u>226</u>
<u>1210890803 Leg. Council - Current Use Tax Study</u>	<u>712</u>
<u>1250010000 Auditor of Accounts</u>	<u>23,606</u>
<u>2100890802 Legal Costs Comp. Legal Actions – Attny. Gen.</u>	<u>5,000</u>
<u>2130100000 State’s Attorneys</u>	<u>66,788</u>
<u>2230010000 Secretary of State</u>	<u>11,288</u>
<u>3420890508 Health - Pilot Program</u>	<u>15,000</u>
<u>3420890701 Methamphetamine Precursor Program</u>	<u>20,000</u>
<u>6140880005 152/00 St. Asst. Munic. Poll Cont.</u>	<u>381</u>
<u>1110890901 VEDA FY 2009 One-Time Appropriation: Targeted Emergency Financing Assistance</u>	<u>500,000</u>

(2) The following amounts shall revert to the education fund from the accounts indicated:

<u>1140050000 Homestead Prop. Tax Assistance</u>	<u>970,497</u>
<u>1140330000 Renter Rebates</u>	<u>856,574</u>
<u>5100090000 Education Grant</u>	<u>1,083,408</u>
<u>5100190000 Essential Early Educ. Grant</u>	<u>104,082</u>
<u>5100200000 Education-Technical Education</u>	<u>570,327</u>
<u>5100890601 Cncl. on Ed. Governance Grants</u>	<u>4,823</u>

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund appropriations remaining unexpended on June 30, 2009 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general and transportation fund appropriations remaining unexpended on June 30, 2009 in the legislative and judicial branch of state government shall be carried forward and shall be designated for expenditure.

Sec. 70. FY 2009 RESCISSIONS; JOINT FISCAL COMMITTEE ACTIONS PURSUANT TO 32 V.S.A. § 704(f)

(a) The fiscal year 2009 appropriations passed in No. 192 of the Acts of the 2007 Adj. Sess. (2008) have been adjusted by actions of the joint fiscal committee on August 27, 2008 and December 19, 2008, pursuant to 32 V.S.A. § 704(f). In order to provide public access to the fiscal year 2009 expenditure reduction plans duly adopted by the joint fiscal committee, the approved plans and schedules of specific appropriation reductions are on file with the clerk of the house and the secretary of the senate, and posted on the legislative website. The appropriation changes and other actions in the fiscal year 2009 budget adjustment act and other acts of the 2009 legislative session are separate from and in addition to the actions of the joint fiscal committee pursuant to 32 V.S.A. § 704(f).

Sec. 71. Sec. 4.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 4.001. APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues. Notwithstanding Sec. 266(a)(4) of No. 65 of the Acts of 2007:

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$13,383,258~~ \$12,464,095 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$13,383,258~~ \$12,464,095 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of ~~\$4,302,105~~ \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above ~~\$4,302,105~~ \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The ~~\$4,302,105~~ \$3,449,427 shall be allocated as follows:

(A) ~~\$3,011,473~~ \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) ~~\$860,421~~ \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) ~~\$430,210~~ \$408,700 to the Vermont center for geographic information.

(4) It is the intent of the general assembly that in fiscal year 2010, the appropriations in this subsection shall increase by at least 4.5 percent.

Sec. 72. Sec. 5.006(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$150,000~~ \$75,000 is made available for grants to be awarded on a competitive basis among the 11 existing regional marketing programs (RMP). In addition to these funds, any prior fiscal year RMP grant funds not awarded shall carry forward into the current fiscal year unrestricted by prior year requirements and shall be used to meet current year obligations. Any unobligated balance residing in the crossroads regional marketing program grant, as appropriated in Sec. 233a(a)(9) of No. 65 of the Acts of 2007, is hereby relieved of any prior year restrictions and may be used to meet the current year obligations of the RMP as appropriated in this section.

Sec. 73. Sec. 5.013(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this general fund appropriation, ~~\$30,000~~ \$6,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. 74. Sec. 5.101.1(b) of No. 192 of the Acts of 2008 is amended to read:

~~(b) \$30,000 of this appropriation shall be used for the Vermont sentencing commission recidivism rate analysis by the center for justice research.~~

Sec. 75. Sec. 111b of No. 65 of the Acts of 2007, as amended by Sec. 5.203.1 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 111b. CHIROPRACTIC COVERAGE UNDER MEDICAID AND VHAP

(a) Effective on July 1, 2008 through January 31, 2009, the agency of human services shall reinstate chiropractic coverage for adults in the Medicaid and VHAP programs consistent with section 4088a of Title 8 and at rates comparable to payments for care or services by other health care providers not to exceed Medicare rates. ~~The fiscal year 2009 Medicaid expenditure forecast adopted by the emergency board shall include the reinstatement of chiropractic coverage.~~

Sec. 76. Sec. 5.310(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$396,115~~ \$380,326 shall be transferred to EPSCoR (Experimental Program To Stimulate Competitive Research) for the

purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds, or both.

Sec. 77. Sec. 5.311(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$446,652~~ \$428,786 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. 78. Sec. 5.313(c) of No. 192 of the Acts of 2008 is amended to read:

(c) ~~\$350,000~~ \$342,500 of state funds available to the Vermont student assistance corporation pursuant to Sec. 5.107(a) and 5.801(a)(3)(B) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

Sec. 79. Sec. 5.801 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.801. FISCAL YEAR 2009 NEXT GENERATION FUND ALLOCATIONS (Sec. 2.801)

(a) The ~~\$8,000,000~~ \$7,293,000 appropriated in Sec. 2.801(a)(1) of this act from the next generation initiative fund, created in 16 V.S.A. § 2887, shall be as follows:

(1) Workforce development ~~\$3,450,000~~ \$3,220,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of ~~\$1,550,000~~ \$1,472,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent (7%) of the funds may be used for administration of the program.

(B) Vermont Training Program. The sum of ~~\$750,000~~ \$712,500 is appropriated to the agency of commerce and community development. This appropriation is for the Vermont training program for the issuance of grants pursuant to 10 V.S.A. § 531.

(C) Career and Alternative Workforce Education. The amount of ~~\$450,000~~ \$387,500 is appropriated to the department of labor. This appropriation shall be to support out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education as follows:

(i) ~~Forty-five~~ Fifty-two and three-tenths percent (45%) (52.3%) shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12.

(ii) ~~Fifty-five~~ Forty-seven and seven-tenths percent (47.7%) shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and ~~non-profit~~ nonprofit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

(D) Adult Technical Education Programs. The amount of ~~\$450,000~~ \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(E) UVM Technology Transfer Program. The amount of ~~\$250,000~~ \$237,500 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(2) Loan repayment ~~\$500,000~~ \$475,000 as follows:

(A) The sum of ~~\$500,000~~ \$475,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants ~~\$4,050,000~~ \$3,597,500 as follows:

(A) Non-degree VSAC Grants. The amount of ~~\$750,000~~ \$712,500 is appropriated to the Vermont student assistance corporation. This appropriation shall be for the purpose of providing non-degree grants to Vermonters to improve job skills and increase overall employability enabling them to enroll in a post-secondary education or training program, including adult-technical education that is not part of a degree or accredited certificate program. A portion of this appropriation shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of this appropriation shall be used for administrative overhead.

(B) The sum of ~~\$3,000,000~~ \$2,600,000 is appropriated for awarding need-based scholarships to Vermont residents. The first ~~\$150,000~~ \$142,500 shall be distributed to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

~~\$950,000~~ \$819,166 shall be distributed to the University of Vermont, ~~\$950,000~~ \$819,166 to the Vermont state colleges, and ~~\$950,000~~ \$819,166 to the Vermont student assistance corporation. The Vermont student assistance corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont state colleges. None of the ~~\$3,000,000~~ \$2,600,000 appropriation shall be used for administrative overhead.

(C) Dual Enrollment Programs. The sum of ~~\$300,000~~ \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

Sec. 80. Sec. 5.802 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.802. SETTLEMENT CONTINGENT APPROPRIATIONS (Sec. 2.803)

(a) The first ~~\$5,566,045~~ \$2,300,000 of any amount of bank franchise tax, and associated penalty and interest, due to the general fund resulting from a court decision and received ~~after May 1, 2008 in fiscal year 2008 or in fiscal year 2009~~ shall be reserved and is hereby appropriated ~~or transferred as follows:~~

(1) ~~First, \$1,000,000 is appropriated to the Vermont housing and conservation board;~~

(2) ~~Second, \$2,266,045 is appropriated to the higher education entities as follows:~~

(A) ~~\$1,056,796 to the University of Vermont.~~

(B) ~~\$730,405 to the Vermont state colleges of which \$100,000 is for use as the state's fiscal year 2009 contribution toward the growth of the endowment fund for the Vermont state colleges. The state's funds are to serve as a challenge match to enhance the state colleges' ability to secure endowment contributions from alumni and other interested parties. The intent is that the fiscal year 2009 appropriation will be the first of five annual appropriations through fiscal year 2013 totaling \$500,000. The conditions of this challenge match are that the state colleges are required to raise three dollars for each dollar appropriated by the state. A method for accounting for the state colleges' share has been agreed to between the state colleges and the commissioner of finance and management. Transfers to the state colleges' endowment fund shall be under the condition that only the interest accruing to the fund will be available for purposes as designated by the board of trustees of the state colleges. By June 30, 2014, any remaining state appropriations~~

~~designated for the state colleges' endowment fund that have not been matched by the state colleges shall revert to the general fund.~~

~~(C) \$478,844 to the Vermont student assistance corporation.~~

~~(3) Third, \$2,300,000 is appropriated to the teachers' retirement fund.~~

~~(b) In the event that settlement funds as specified in subsection (a) are not received by January 1, 2009, the administration shall consider funding the above appropriations and transfers in the fiscal year 2009 adjustment process.~~

Sec. 81. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

* * *

(h) The commissioner shall make all payments required by subchapter 5 of chapter 23 of this title.

(i) Annually, by October 1, the commissioner shall send to school boards for inclusion in town reports and publish on the department website the following information:

(1) the statewide average district spending per equalized pupil for the current fiscal year; and 125 percent of that average spending; and

(2) a statewide comparison of student-teacher ratios among schools which are similar in number of students and number of grades.

Sec. 82. SALARY REDUCTIONS; EXEMPT EXECUTIVE BRANCH EMPLOYEES

(a) Notwithstanding statutory salaries to the contrary, in fiscal years 2009 and 2010, exempt executive branch employees may decline to accept their full statutory salaries.

Sec. 83. Sec. 5.003 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.003. FEDERAL FUNDS

* * *

(c) During fiscal year 2009, any federal funds received and to be expended in the fiscal year from the American Recovery and Reinvestment Act of 2009 shall be accepted in accordance with the provisions of subsection (a) of this section. Federal funds from the American Recovery and Reinvestment Act of 2009, other than competitive grants, for expenditure in the following fiscal years shall be appropriated through the budget process including grants under Title V – State Fiscal Relief. Receipts from competitive grants shall be accepted through the statutory grant process in accordance with 32 V.S.A. § 5.

 Sec. 83a. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation related projects. The allocation is subject to a requirement that 50% of a portion of the allocation be obligated by the state within a 120 day time period. The secretary of transportation is authorized in fiscal year 2009 to obligate ARRA funds to the projects listed below as necessary to satisfy such requirements. The total amount obligated may exceed the 50% minimum to the extent the secretary determines the obligation of such additional amounts are necessary to ensure compliance with federal requirements after taking into account project readiness and other factors relevant to obtaining obligation approval.

<u>Project Name</u>	<u>Project Number</u>	<u>Type of Work</u>
Barre City	BHF 6000(15)	Bridge Rehabilitation
Bennington	NH 019-1(51)	Roadway on New Location
Brownington	BRO 1449(28)	Bridge Replacement
Burlington	NH 2726(1)	Resurfacing
Burlington	STP 2727(1)	Resurfacing
Colchester-Essex	STP 2616(1)	Resurfacing
Colchester-Georgia	IM 089-3(64)	Resurfacing
East Montpelier	BRF 028-3(36)	Bridge Replacement
Fair Haven	STP 2615(1)	Resurfacing
Fair Haven-Castleton	STP HES 2614(1)	Resurfacing
Fairlee	STP CULV(13)	Culvert Replacement
Hardwick	BHF 030-2(18)	Bridge Rehabilitation
Hartford	STP 2701(1)	Resurfacing
Hartford-Norwich	STP 2206(1)S	Resurfacing
Hartford-Sharon	IM 089-1(55)	Line Culverts
Hartford-Sharon	IM MEMB(15)	Replace Bridge Membranes
Montpelier	NH 2604(1) & STP 2618(1)	Resurfacing
Norton-Canaan	STP SURF(13)	Resurfacing
Norwich	STP 2602(1)	Resurfacing
Richmond	BHF 0209(6)	Bridge Rehabilitation

Richmond-Highgate	IM MEMB(13)	Replace Bridge Membranes
Rockingham-Chester	NH 2628(1)	Resurfacing
Royalton-Bethel	IM 089-1(54)	Resurfacing
Springfield	STP 0136(1)	Rehab. Existing Roadway
St. Johnsbury-Lyndon	IM MEMB(18)	Replace Bridge Membranes
Statewide	STP CRAK(27)	Resurfacing
Statewide -Southwest	BHF MEMB(20)	Replace Bridge Membranes
Statewide-Northeast	BHF MEMB(19)	Replace Bridge Membranes
Waterbury-Moretown	BHF MEMB(12)	Replace Bridge Membranes
Winooski	STP 2617(1)	Resurfacing
Woodford-Searsburg	NH ST 2630(1)	Resurfacing

(b) The secretary of transportation is authorized in fiscal year 2009 to obligate for the purchase of public transit vehicles up to 100 percent of all Federal Transit Administration funds made available to the state by the American Recovery and Reinvestment Act of 2009.

(c) The secretary of transportation is authorized to request additional federal funds through any discretionary or competitive grant transportation program in the American Recovery and Reinvestment Act of 2009 with respect to projects in the state's approved transportation program.

Sec. 83b. ENHANCEMENTS

(a) Notwithstanding 19 V.S.A. §38, enhancement grants in the fiscal year 2009 program shall be awarded prior to April 30, 2009. No grants in the fiscal year 2009 program shall be made with respect to federal funds made available to the state under the American Recovery and Reinvestment Act of 2009.

Sec. 83c. TOWN HIGHWAY AID PAYMENTS

(a) The secretary of administration shall issue the normal quarterly payments under the town highway aid program in April 2009 and shall not make up any reduction made consistent with JRS.007 of 2009. The secretary of administration shall adjust transportation fund appropriations for fiscal year 2009 to ensure the transportation fund stabilization reserve meets its maximum statutory required level at the close of fiscal year 2009.

Sec. 83d. Sec. 51(d) of No. 164 of the acts of 2008 is amended to read:

(d) Any funding not needed to maintain existing services shall remain in the capital program. To the extent the funding provided in this section is not

needed to maintain existing services, the agency is authorized to make grants of the unneeded funds to cover unanticipated shortfalls in the funding of elder and persons with disabilities (E&D) program services and critical medical care transportation services incurred by transit agencies with grant agreements to provide such services.

Sec. 83e. Sec. 16 of No. 164 of the Acts of 2008 is amended to read:

Sec. 16. Town Highway Class 2 Roadway

The following modifications are made to the town highway class 2 roadway program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	5,748,750	6,448,750	5,748,750	700,000	0
Total	5,748,750	6,448,750	5,748,750	700,000	0
Sources of funds					
State	5,748,750	6,448,750	5,748,750	700,000	0
Federal	0		0		0
Local	0		0		0
Total	5,748,750	6,448,750	5,748,750	700,000	0

Sec. 83f. Sec. 17 of No. 164 of the Acts of 2008 is amended to read:

Sec. 17. Town Highway Structures

The following modifications are made to the town highway structures program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	3,494,500	3,833,500	3,494,500	339,000	0
Total	3,494,500	3,833,500	3,494,500	339,000	0
Sources of funds					
State	3,494,500	3,833,500	3,404,500	339,000	0
Federal	0		0		0
Local	0		0		0
Total	3,494,500	3,833,500	3,494,500	339,000	0

Sec. 84. Sec. 5.009 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.009. Finance and management – financial operations (Sec. 2.005; #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed ~~\$5,853,981~~ \$6,042,587, plus the costs of fiscal year 2009 salary increases bargained as part of the state/VSEA agreement, are hereby approved. Of this amount, \$1,305,490, plus the costs of fiscal year 2009 salary increases bargained as part of the state/VSEA agreement, will be used to

support the HCM system that is operated by the department of human resources technical services division.

Sec. 85. Sec. 5.110 of No. 192 of the Acts of 2008 is added to read:

Sec. 5.110. Criminal justice training council (Sec. 2.122. #2170010000)

(a) The establishment of one (1) classified position – Domestic Violence Trainer – is authorized in fiscal year 2009. This position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 86. 16 V.S.A. § 2856(a) is amended to read:

(a) An active member of the Vermont army national guard or the air national guard may be eligible for an interest-free loan in an academic year for financial assistance to pay for tuition and fees for courses taken at a Vermont colleges, university, ~~or~~ regional technical center or other programs approved pursuant to policies adopted in accordance with subsection (f) of this section. Academic year awards may be up to the in-state tuition rate at the University of Vermont for that year. ~~Traditional airmen may receive academic year awards up to \$9,500.00 per year.~~

Sec. 87. 16 V.S.A. § 2179 is amended to read:

§ 2179. NONAPPLICABILITY OF CERTAIN STATUTES

Except as expressly provided in this chapter, the corporation, its officers and employees shall not be governed by: (1) chapter 9 of Title 3, dealing with administrative departments; (2) chapter 13 of Title 3, dealing with classification of state personnel; (3) chapter 16 of Title 3, dealing with state employees retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (4) chapter 55 of this title, dealing with the state teachers retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (5) chapter 7 of Title 32, dealing with public moneys; (6) chapters 3 and 5 of this title, dealing with the state board of education and the commissioner of education; (7) chapter 49 of Title 29, dealing with supplies, duties of commissioner of buildings and general services as to purchases of material, supplies or equipment except upon request of the corporation; ~~or~~ (8) chapter 5 of Title 29, dealing with the department of buildings and general services, except that any contracts awarded for the construction of buildings by the corporation shall continue to be subject to the provisions of 29 V.S.A.

§ 161(b); or (9) subsection 342(d) of Title 21, dealing with required written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the state.

Sec. 88. Sec. 5.005(d) of No. 192 of the Acts of 2008 is amended to read:

(d) The secretary of administration is directed to reduce ~~travel~~ budgets throughout the executive branch of state government, thereby reducing operating expense, including travel, appropriations by \$998,627 in general funds and \$222,724 in Global Commitment funds. This shall be accomplished through a combination of general fund reductions and direct applications to the general fund from alternative fund reductions. The secretary shall provide an update to the joint fiscal committee in November 2008 on these reductions.

Sec. 89. Sec. 6(b)(1) of No. 206 of the Acts of 2008 is amended to read:

(1) The allocation by department and section from the fiscal year ~~2008~~ 2009 pay act appropriation and the appropriations for pay act needs of this act and any other offsets to meet pay act needs;

Sec. 90. REPEAL

(a) Secs. 21 and 28(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (transfers from the transportation fund to the central garage fund) are repealed.

Sec. 91. Sec. 5.600(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$5,657,375~~ \$2,959,855 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. 92. REPEAL

(a) Sec. 406(c) of No. 65 of the Acts of 2007 (sunset on \$5,000 grant review threshold) is repealed.

Sec. 93. 32 V.S.A. § 305a(c) is amended to read:

(c) The January estimates shall include estimated caseloads and estimated per member per month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the agency and the joint fiscal office for state health care assistance programs or premium assistance programs supported by the state health care resources and Global Commitment funds, for VermontRx, and for the programs under the Choices for Care Medicaid Section 1115 waiver. For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category. The January estimates shall include the expenditures for the current

and next succeeding fiscal years for the Medicare Part D phased-down state contribution payment and for the disproportionate share hospital payments. In July, the administration and the joint fiscal office shall make a report to the emergency board on the most recently ended fiscal year for all Medicaid and Medicaid related programs including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the emergency board may adopt revised estimates for the current and next succeeding fiscal year.

Sec. 94. Sec. 5.112(b) of No. 192 of the Acts of 2008 is amended to read:

(b) The secretary of state is authorized to spend, in addition to its appropriation in this ~~act~~ section, up to \$450,000 for the purpose of conducting the 2008 primary and general elections, and it is the intent of the general assembly to provide an additional appropriation in this amount in the fiscal year 2009 budget adjustment act if funding is not available through Sec. 5.803 of this act.

Sec. 95. Sec. 26(a) of No. 174 of the Acts of 2008 is amended to read:

(a) The amount of ~~\$883,000.00~~ \$500,000 from the victims' compensation fund created by 13 V.S.A. § 5359 ~~shall be available~~ is appropriated in FY 2009 for the center for crime victim services for the Vermont network against domestic and sexual violence. This amount shall be used to fund domestic violence prevention programs and services in order to break the generational cycle of domestic violence and to support the victims of domestic and sexual violence. Additional expenditures may be authorized pursuant to 32 V.S.A. § 511 if the revenues collected in fiscal year 2009 from the \$10 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A., § 7282(a)(8)(B), and from the \$20 authorized by Sec. 21 of No. 174 of 2008 applied to the fee in 32 V.S.A. § 1712(1), exceed the \$500,000 appropriation.

Sec. 96. 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND SURPLUS RESERVES

(a) There is hereby created within the general fund a general fund surplus reserve. After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year general fund surplus not to exceed one percent of the appropriations from the general fund for the prior fiscal year shall be reserved in the general fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

(b) There is hereby created within the transportation fund a transportation fund surplus reserve. After satisfying the requirements of section 308a of this title, and after other reserve requirements have been met, any remaining

unreserved and undesignated end of fiscal year transportation fund surplus shall be reserved in the transportation fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

~~(e) The general fund surplus reserve created in subsection (a) of this section shall supersede and replace the general fund surplus reserve established in Sec. 277(5) of No. 147 of the Acts of the 1997 Adj. Sess. (1998), as amended by Sec. 88 of No. 1 of the Acts of 1999.~~

Sec. 97. 32 V.S.A. § 308d is amended to read:

§ 308d. REVENUE SHORTFALL RESERVE; CREATION AND PURPOSE

(a) It is the purpose of this section to create a revenue shortfall reserve to be used in times of economic or fiscal stress.

(b) There is hereby created a revenue shortfall reserve administered by the commissioner of finance and management. Any budgetary basis unreserved and undesignated general fund surplus ~~in excess of one percent~~ occurring at the close of a fiscal year after the general fund budget stabilization reserve established by ~~See: section~~ section 308 of this title has been brought to its authorized level and after any deposits to the general fund surplus reserve established by subsection 308c(a) of this title, and any additional amounts as may be authorized by the general assembly, shall be reserved in the revenue shortfall reserve created by this section.

(c) In any fiscal year, if the general assembly determines there are insufficient revenues to fund expenditures for the operation of state government at a level the general assembly finds prudent and required, it may specifically appropriate the use of the revenue shortfall reserve to compensate for a reduction of revenues or fund such needs as the general assembly may determine.

(d) Determination of the amount of the revenue shortfall reserve shall be made by the commissioner of finance and management ~~with the approval of~~ and reported to the legislative joint fiscal committee at its first meeting following September 1 of each year.

Sec. 98. Sec. 23(e) of No. 203 of the Acts of 2008 is amended to read:

(e) The sum of \$100,000.00 is appropriated from the general fund to the UVM College of Medicine in fiscal year 2009 to support the Vermont academic detailing program, ~~provided that such appropriation shall expire upon collection of the first dollar of the manufacturer fee established in section 2004 of Title 33 and all funds remaining from this appropriation shall be redeposited in the general fund.~~

Sec. 99. 30 V.S.A. § 7052 is amended to read:

§ 7052. VERMONT ENHANCED 911 BOARD

* * *

(b) The board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont state sheriff's association; one municipal law enforcement officer elected by the chiefs of police association of Vermont; one official of a municipality ~~not currently receiving 911 service~~; a firefighter; an emergency medical services provider; a department of public safety representative; and three members of the public. Board members shall be appointed by the governor to three-year terms, except that the governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing board members, the governor shall give due consideration to the different geographical regions of the state, and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the governor.

* * *

Sec. 100. 32 V.S.A. § 464 is amended to read:

§ 464. ITEMIZED STATEMENTS AND RECEIPTS REQUIRED

When required by the commissioner of finance and management and before payment therefor is made by the state, all claimants for compensation for services rendered or expense incurred for the state shall furnish the commissioner of finance and management itemized statements in such form as the commissioner of finance and management may from time to time prescribe and shall be verified by written declarations or, if specifically authorized by the commissioner of finance and management, by electronic signature as defined at 9 V.S.A. § 271(9) that they are made under the pains and penalties of perjury, and a person who wilfully makes a false statement shall be guilty of perjury and be punished accordingly.

Sec. 101. Sec. 5.005(k) of No. 192 of the Acts of 2008 is amended to read:

(k) ~~The secretary of administration is directed to initiate a program by September 30, 2008 which requires all state employees to receive paperless notification of their direct deposit payroll advice. The secretary and representatives of the Vermont state employees' association are encouraged to meet to determine the most expeditious and efficient means of implementing this section~~ Beginning in fiscal year 2009, all persons who are paid through the state payroll system must be paid by direct deposit and receive electronic notification of pay information unless excused for good cause by the commissioner of finance

and management or designee, or in the legislative and judicial branches, the presiding officers or the chief justice of the supreme court or their designees. Their decisions on excusal shall be final.

Sec. 101a. STATE EMPLOYEE POSITIONS; CURRENT COLLECTIVE BARGAINING AGREEMENT

The general assembly urges the administration and the Vermont State Employees' Association to explore options for achieving savings for fiscal year 2010, including a limited reopener of the current collective bargaining agreement as soon as possible. The general assembly also urges the administration to wait until the completion of the fiscal year 2010 budget process before implementing further layoffs, reductions in force, or the elimination of state employee positions or programs.

Sec. 102. OFFICE OF VERMONT HEALTH ACCESS; DEPUTY DIRECTOR

(a) An exempt position – deputy director for health care reform – is authorized in the office of Vermont health access in fiscal year 2009. This position shall be transferred and converted from existing positions in the executive branch.

Sec. 103. Sec. 2(c) of No. 71 of the Acts of 2007 as amended by Sec. 5.903 of No. 192 of the Acts of 2008 is further amended to read:

(c) After submission of the application, the agency shall determine if the applicant meets full eligibility requirements. Beginning October 1, ~~2009~~ 2011, if the individual is found eligible for the Vermont health access plan, the agency shall, subject to approval from the center for Medicare and Medicaid services, provide payment for any services received by the individual beginning with the date the application was received by the agency.

Sec. 103a. GLOBAL COMMITMENT WAIVER AMENDMENT

(a) Upon passage of this act, the secretary of the agency of human services or designee shall seek a Global Commitment to Health Section 1115 waiver amendment from the Centers for Medicare and Medicaid Services to:

(1) include the Catamount Health Assistance program under subchapter 3A of Chapter 19 of Title 33 for individuals with incomes above 200 percent of the federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(2) include the employer-sponsored premium assistance program under section 1974 of Title 33 for individuals with incomes above 200 percent of the federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(3) include the entire VPharm program described in subchapter 8 of Chapter 19 of Title 33, including individuals with incomes up to 225 percent of FPL and the cost-sharing benefits described in section 2073 of Title 33 in the premium amount paid to the office of Vermont health access under Global Commitment; and

(4) modify the definition of “uninsured” to:

(A) add the loss of insurance due to domestic violence as an exclusion from the 12-month waiting period as required by Sec. 22 of No. 174 of the Acts of the 2007 Adj. Sess. (2008); and

(B) reduce the waiting period from 12 months to six months as provided for in Sec. 5 of No. 203 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 103b. TEMPORARY SUSPENSION OF 2008 PREMIUM INCREASES; GLOBAL COMMITMENT TO HEALTH

(a) The general assembly finds that the state should maximize the federal economic stimulus money available for Medicaid provided in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, by complying with the maintenance of eligibility requirements in section 5001(f). It is the intent of this section to comply with Section 5001(f) for the duration of the recession adjustment period as defined in Section 5001(h)(3) of Public Law 111-5, which ends December 31, 2010, by reverting to the premiums due on June 15, 2008 for individuals with incomes less than or equal to 200% of the federal poverty level (FPL) receiving Catamount Health Premium Assistance, individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance, and individuals with incomes no greater than 175% of FPL enrolled in VPharm and VermontRx. By reinstating the premiums for programs included in Global Commitment to Health no later than July 1, 2009, the state will remain eligible for the full amount of stimulus funds available for Medicaid and Medicaid-waiver programs.

(b)(1) Notwithstanding the premium amounts listed in sections 1974(j)(2)(A) and (B), 1984(c)(1)(A) and (B), 2073(d)(2), and 2074(c) of Title 33, the agency of human services shall reinstate premiums to the amounts due on June 15, 2008 for :

(A) individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance;

(B) individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance; and

(C) individuals with incomes no greater than 175% of FPL in VPharm and VermontRx.

(2) The agency shall maintain the premium amounts established in subdivision (1) of this subsection through December 31, 2010. Notwithstanding 33 V.S.A. §1984(b), individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance shall not have the premiums indexed until January 1, 2011.

(3) Only if required by the Centers on Medicare and Medicaid Services (CMS) as a condition of receiving the federal stimulus funds, the agency may reimburse individuals described in subdivision (1) of this subsection for the increase in premiums paid prior to the time of suspension.

(c)(1) Immediately upon passage through December 31, 2010, this section of the Act shall supersede any agency rules establishing premium amounts above the amounts due on June 15, 2008 from the individuals described in subsection (b) of this section. The agency shall issue policy guidance to clarify that there is a temporary suspension of increases in premium amounts through December 31, 2010 and indicate the appropriate premium amounts for affected individuals.

(2) At its discretion, the agency may adopt emergency rules as provided for in section 844 of Title 3 to reinstate the premium amounts to amounts due on June 15, 2008, and also may adopt emergency rules to raise the premium amounts to the amounts indicated in statute effective January 1, 2011. The general assembly deems the temporary suspension of premium increases to meet the public health, safety, or welfare requirement in subsection 844(a) of Title 3.

Sec. 104. NO. 80 OF THE ACTS OF 2007; DELAYED IMPLEMENTATION OF CERTAIN PROVISIONS

(a) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services may delay collection of the manufacturer fee established in 33 V.S.A. § 2004 pending a final decision by the U.S. District Court in the pending lawsuit captioned PhRMA v. Sorrell, Docket No. 1:07-cv-00220. Any decision by the secretary to delay collection shall not affect the obligation of a pharmaceutical manufacturer or labeler to pay the required fee, once collection begins, for each calendar year beginning with 2007. Pharmaceutical manufacturers and labelers shall not be required to pay interest on the fee amounts for any period of time before the secretary begins collection of the fee.

(b) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services, the

director of the office of Vermont health access, and the commissioner of health may delay implementation of the following statutory provisions until the secretary begins collection of the manufacturer fee as described in subsection (a) of this section and the funds are appropriated :

(1) 18 V.S.A. § 4622 (evidence-based education program; generic drug voucher program) and the related requirements in Sec. 15 (generic drug pilot program) of No. 80 of the Acts of 2007 and Sec. 15a (generic drug voucher pilot; report) of No. 80 of the Acts of 2007; and

(2) 33 V.S.A. § 2004a (evidence-based education and advertising fund).

Sec. 104a. 26 V.S.A. § 2032(g) is amended to read:

(g)(1) The board may develop procedures to permit it to oversee, at no more than three locations and for no more than two years each in duration, pilot experiments for remote pharmacies. In addition, the board may develop a pilot experiment, for no more than two years in duration, to use telepharmacy to dispense prescriptions from secure automatic dispensing units at locations in Vermont recognized as a covered entity under Section 340B of the Public Health Service Act.

(2) On December 1 of each year, the board shall report to the house committee on health care and senate ~~committees~~ committee on ~~government operations~~ health and welfare its findings with regard to pilot experiments initiated in the previous calendar year. If the board determines that the pilot experiments should be extended statewide, the board shall include in its final report proposed rules governing remote pharmacy and telepharmacy practice.

Sec. 105. REACH AHEAD IMPLEMENTATION STATUS REPORT

(a) No later than February 1, 2010, the department for children and families shall provide a status report on the Reach Ahead post-employment program to the house committees on appropriations and on human services and the senate committees on appropriations and on health and welfare. The status report shall include:

(1) information by month on caseloads, spending, and cost estimates, including:

(A) actual caseload data and trends since implementation;

(B) actual spending for the program; and

(C) a revised cost estimate for maintaining the program based on actual caseload and the take-up rate for the program;

(2) an analysis of improved employment stability and child well-being of families in Reach Ahead, including:

(A) the impact of food assistance in providing additional financial resources to the family;

(B) the number of families in Reach Ahead who are employed as of December 31, 2009 and the length of time each family was employed; and

(C) an estimate of the reduction in the number of individuals who return to the Reach Up program after participating in Reach Ahead and an estimate of the resulting savings to the Reach Up program;

(3) the impact on the state's work participation rate in federal fiscal years 2009 and 2010, including the impact on avoiding federal fiscal sanctions.

Sec. 106. REACH AHEAD SUNSET

(a) 33 V.S.A. chapter 12 (Reach Ahead) shall expire on June 30, 2010, and sections of chapters 10 and 11 of Title 33 shall be amended to strike references to the Reach Ahead program.

Sec. 106a. Sec. 26 of No. 30 of the Acts of 2007, as amended by Sec. 5.902 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 26. EFFECTIVE DATES; IMPLEMENTATION

* * *

(b) The amendments to 33 V.S.A. chapter 11 contained in Secs. 2-13 (Reach Up), 14 (solely state-funded programs), and 16 (Reach Up transitions) of this act shall take effect immediately when the rule changes necessary to implement the sections become final, but no later than April 1, 2008. Until the time that the rule modifications are final, the Reach Up program shall operate under current law. Any provisions in these sections relating to Reach Ahead shall take effect ~~on April 1, 2009~~ as provided for in subsection (d) of this section.

* * *

(d) Reach First established in Sec. 1 of this act shall be implemented no later than April 1, 2008. Reach Ahead established in Sec. 18 shall be implemented as soon as possible and no later than July 1, 2009 for families, who leave Reach Up or the Postsecondary Education Program on or after ~~April 1, 2009~~ the actual implementation date, as provided for in 33 V.S.A. § 1203(1). Subject to appropriation, Reach Ahead shall be implemented for all other families as provided for in 33 V.S.A. § 1203 no later than ~~July 1, 2009~~ October 1, 2010.

* * *

Sec. 107. HOME WEATHERIZATION TRUST FUND; HOMELESSNESS

(a) Notwithstanding the provisions of chapter 25 (home weatherization assistance program) of Title 33 of the Vermont Statutes Annotated, in fiscal year 2009 the agency of human services may use up to \$250,000 of state funds from the home weatherization assistance trust fund for the purpose of reducing homelessness. Funds unspent for this purpose in fiscal year 2009 may be carried forward into fiscal year 2010 and spent for the same purpose.

Sec. 108. 33 V.S.A. § 2604(a) is amended to read:

(a) Household income eligibility requirements. The secretary, by rule, shall establish household income and asset eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income and assets of all residents of the household.

(1) The income eligibility requirements shall require that households have a net household income no greater than 125 percent of the federal poverty level in order to be potentially eligible for benefits. Net income shall be derived by making the following deductions from gross income: 20 percent of household members' gross earned income; 100 percent of federal or state earned income credits received by household members; dependent care expenses that are within an allowable maximum, paid by a household member, and necessary to support a household member's employment or training for employment, according to criteria established by the secretary by rule; child support or alimony payments made by a household member on behalf of a nonhousehold member that meet criteria established by the secretary by rule; ~~\$150.00~~ \$250.00 for each household member who is 60 years of age or older or disabled according to criteria established by the secretary by rule; any deductions or exclusions required by federal law or regulations; and any other deduction or exclusion established by the secretary by rule.

(2) In order to be eligible, a household shall have net household assets no greater than \$5,000.00, or \$10,000.00 one member of the household is 60 years of age or older. The secretary shall establish exclusions from the asset limit by rule.

Sec. 109. 33 V.S.A. § 2603 is amended to read:

§ 2603. HOME HEATING FUEL ASSISTANCE ~~TRUST FUND~~

(a) There is created in the state treasury a fund to be known as the home heating fuel assistance ~~trust fund to be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.~~

(b) The fund shall ~~be composed of~~ consist of the receipts from any taxes dedicated to the fund; and such other state funds as may be appropriated to it

by the general assembly, ~~including funds from the federal Low Income Home Energy Assistance Program (LIHEAP).~~ Funds from the home heating fuel assistance fund and the federal Low Income Home Energy Assistance Program (LIHEAP) shall be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.

(c) All balances in the home heating fuel assistance fund at the end of any fiscal year shall ~~be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. Disbursements from the fund shall be made by the state treasurer on warrants drawn by the commissioner of finance and management remain in the fund for future disbursements.~~

(d) The secretary may spend, in anticipation of federal receipts into the home heating fuel assistance ~~trust~~ fund established under this section, a sum no greater than 75 percent of the federal block grant funds allocated to Vermont for the current federal fiscal year under the Low Income Home Energy Assistance Program (LIHEAP), for the purpose of permitting preseason purchases of fuel and other cost-effective purchasing practices authorized by subsection 2602(c) of this title, in accordance with rules adopted by the secretary.

Sec. 110. Sec. 5.224(f) of No. 192 of the Acts of 2008 is added to read:

(f) In fiscal year 2009, the secretary of administration may upon recommendation of commissioner of corrections transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 111. VERMONT COMMISSION ON NATIONAL AND COMMUNITY SERVICE; POSITIONS

(a) The exempt positions in the Vermont Commission on National and Community Service shall be transferred to the agency of human services.

Sec. 112. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2009, the secretary of the agency of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside of the agency of human services. At least three business days prior to any transfer, the agency shall submit to the joint fiscal office a proposal of transfers to be made pursuant to this section. A final

report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2009 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 113. Sec. 5.206(c) of No. 192 of the Acts of 2008 is added to read:

(c) The agency of human services secretary's office – Global Commitment appropriation (Section 2.202) shall be reduced by \$813,000 in general funds and by \$1,187,000 federal funds and the office of Vermont health access – Medicaid program – long-term care waiver (Section 2.208) shall be increased by the same amounts to accomplish the intent of using \$2,000,000 of Global Commitment funds specified in Section 5.206(b)(2)(E).

Sec. 114. Sec. 5.202(b)(6) of No. 192 of the Acts of 2008 is added to read:

(6) Notwithstanding 16 V.S.A. § 2959a, any additional federal funds received as a result of an enhanced FMAP that are associated with the certified expenditures specified in subdivisions (1) through (5) of this subsection shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

Sec. 115. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

(1) “Claimant agency” means any unit of state government, including agencies, departments, boards, commissions, authorities or public corporations, including the Vermont student assistance corporation and a collection agency under contract with the court administrator pursuant to 4 V.S.A. § 1109(d) or 13 V.S.A. § 7171. Notwithstanding the foregoing, the department of taxes shall not be considered a claimant agency and shall not be subject to the limitations contained in this chapter when it applies a refund to the outstanding Vermont state tax liability of a taxpayer, including a taxpayer's liability for interest, penalties and fees.

* * *

Sec. 116. 32 V.S.A. § 5941 is amended to read:

§ 5941. PROCEDURE FOR SETOFF OF COURT JUDGMENTS

* * *

(e) The court administrator may contract with one or more collection agencies to serve as a claimant agency on behalf of a court for purposes of this subchapter.

Sec. 117. 13 V.S.A. § 7171 is amended to read:

§ 7171. COLLECTION BY COMPLAINT, INFORMATION, OR INDICTMENT

* * *

(b) The court administrator is authorized to contract with private collection agencies for collection of penalties, fines, surcharges, court costs, and any other assessment authorized by law incurred or imposed by statute on persons who ~~have failed fail~~ to pay, ~~at or after reasonable notification of the debt, and the risk that the debt may be~~ time of judgment, after notice that failure to pay the debt will result in the debt being referred to a collection agency and that the debtor will be liable for the collection agency's fee. The court administrator may agree to pay collection agencies a fee based on a fixed rate for services rendered or a percentage of the amount actually collected by such agencies and remitted to the state. The debtor shall be liable for the collection agency's fee, in addition to the judgment amount. The collection agency shall deduct its fee from the collected amount and remit the balance to the judiciary. All collection agency fees shall be governed by the contract with the court administrator and shall be clearly disclosed in all notices sent by the collection agency to the debtor.

Sec. 118. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

(a) The counties of Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, and Washington shall each constitute a probate district, which shall be designated by the name of the county.

(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster, or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321.00 for the Windham probate district and \$75,859.00 for the Rutland and Windsor probate districts.

Sec. 119. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	Annual Salary as of July 8, 2007
(1) Addison	\$59,321
(2) Bennington	51,559 <u>59,321</u>
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8) Grand Isle	28,853
(9) Hartford	59,321
(10) Lamoille	43,594
(11) Manchester	43,594
(12) Marlboro	51,559
(13) <u>(12)</u> Orange	51,559
(14) <u>(13)</u> Orleans	51,559
(15) <u>(14)</u> Rutland	75,859
(16) <u>(15)</u> Washington	75,859
(17) <u>(16)</u> Westminster	43,594
(18) <u>(17)</u> Windsor	51,559

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 120. REPEAL

(a) 4 V.S.A. § 273 (Bennington and Manchester probate districts) is repealed.

Sec. 121. TRANSITIONAL PROVISIONS

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The records of the probate courts of the probate districts of Bennington and Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 122. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

~~(a) The counties of Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans and Washington shall each constitute a probate district, which shall be designated by the name of the county.~~

~~(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321~~

~~for the Windham probate district and \$75,859 for the Rutland and Windsor probate districts.~~

There shall be one probate district in each county, which shall be designated by the name of the county.

Sec. 123. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

Annual Salary as of July 8, 2007

(1) Addison	\$59,321
(2) Bennington	59,321
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8)(7) Grand Isle	28,853
(9) Hartford	59,321
(10)(8) Lamoille	43,594
(11) Marlboro	51,559
(12)(9) Orange	51,559
(13)(10) Orleans	51,559
(14)(11) Rutland	75,859
(15)(12) Washington	75,859
(16)(13) Westminster <u>Windham</u>	43,594 <u>59,321</u>
(17)(14) Windsor	51,559 <u>75,859</u>

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 124. REPEALS

(a) 4 V.S.A. §§ 275 (Fair Haven and Rutland probate districts), 276 (Hartford and Windsor probate districts), and 277 (Marlboro and Westminster probate districts) are repealed.

Sec. 125. TRANSITIONAL PROVISIONS

(a) On the effective date of this section, the newly consolidated probate court district within each county is deemed to be a continuation of the prior probate court districts within the county. The newly consolidated court shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the prior probate districts within the county, including all pending matters and appeals. The records of the prior probate court districts shall become the records of the probate court of the newly consolidated probate district. The newly consolidated probate court district shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The probate judge for the newly consolidated district shall be elected on the first Tuesday of November of 2010. The current probate registers of the prior probate districts shall be allowed to maintain their employment status that was in effect on January 31, 2011 for six months, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The assistant judges of these counties shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 126. MUNICIPAL TICKET REPAYMENT REVOLVING FUND

(a) Notwithstanding the provisions of 4 V.S.A. § 28(a)(2), the Town of Rutland may receive additional loans from the Municipal Ticket Repayment Revolving Fund for payments received from the Judicial Bureau between June 30, 2001 and June 30, 2004 in an amount not to exceed \$97,687.48.

Sec. 127. 10 V.S.A. § 1942(a) and (b) are amended to read:

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this state, which will be assessed against every distributor, dealer or user as defined in 23 V.S.A. chapters 27 and 28, and which will be deposited into the petroleum cleanup fund. ~~The~~ After analysis of the projected unencumbered fund balance, ~~the~~ secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. ~~shall annually determine~~ may make a recommendation to the legislature as to whether or not to assess the one-cent

licensing fee for the upcoming year. ~~If the unencumbered balance of the motor fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$7,000,000.00, then the one-cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$7,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the commissioner of motor vehicles and deposited into the petroleum cleanup fund. This fee requirement shall terminate on April 1, 2011.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil or kerosene, sold in this state and not used to propel a motor vehicle, a licensing fee of one-half cent per gallon of such heating oil or kerosene. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund. ~~The~~ After analysis of the projected unencumbered fund balance, the secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. ~~shall annually determine~~ may make a recommendation to the legislature as to whether or not to assess the one-half cent licensing fee for the upcoming year. ~~If the unencumbered balance of heating fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$3,000,000.00, then the one-half cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$3,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee provision shall terminate April 1, 2011.

Sec. 128. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, ~~in addition to revenues from the sale of credits under the RGGI cap and trade program established under section 255 of this title.~~

* * *

Sec. 129. 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, net proceeds above costs from the sale of carbon credits under section 255 of this title shall be deposited into the electric efficiency fund established by this section and be used by the entity or entities appointed under subdivision (2) of this subsection to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers to help meet the state's building efficiency goals established by 10 V.S.A. § 581.

Sec. 130. 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. Notwithstanding any other provision of this section, Proceeds net proceeds above costs from the sale of carbon credits shall be deposited into the ~~fuel~~ electric efficiency fund established under ~~section 203a~~ subsection 209(d)(2) of this title for use as specified in subsection 209(d)(8) of this title.

Sec. 131. Sec. 16 (2) of Act No. 200 of the Acts of 2008 is amended to read:

(2) For the agricultural buffer program, to install water quality conservation buffers, and for the capital equipment assistance program established in 6 V.S.A. §4828. Up to \$225,000 shall be for the Farmers Water Shed Alliances and up to \$40,000 shall be for the Southern Vermont Nutrient Management Program for the purchase of aerators. Up to ~~\$250,000~~ \$200,000 of this appropriation shall be for the capital equipment assistance program, provided that the state's share shall not exceed \$50,000 or 50 percent of a project.

Sec. 132. Sec. 4 of No. 206 of the Acts of 2008 is amended to read:

Sec. 4. APPROPRIATION REDUCTIONS

(a) Position reductions. The secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$3,670,000.00~~ \$2,456,393.00 consistent with reductions in positions in the executive branch. In addition, the secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$250,000.00~~ \$161,046.00 by not filling up to

four exempt positions, not including attorneys and clerical personnel. In order to maintain direct services to Vermonters, the secretary shall give preference to reducing those positions which do not provide those direct services. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ March 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

(b) ~~Reductions in contractual services and temporary positions.~~ The secretary of administration shall reduce fiscal year 2009 general fund appropriations budgeted ~~for contractual services and temporary positions~~ in the executive branch of state government by \$2,300,000.00. The secretary of administration may substitute appropriation reductions in other funds, and in fund transfers to the general fund, to achieve this amount, and may reduce Global Commitment appropriations correspondingly. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ February 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

Sec. 133. EFFECTIVE DATES

(a) This act shall take effect upon passage, except Sec. 75 (Medicaid chiropractic coverage) of this act shall apply retroactively beginning February 1, 2009.

(b) Sec. 87 of this act (Vermont State Colleges payment of employee wages through direct deposit) shall take effect May 1, 2009.

(c) Secs. 122, 123, 124, and 125 shall take effect on February 1, 2011.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

SUSAN J. BARTLETT
M. JANE KITCHEL
DIANE SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
MARK LARSON

Committee on the part of the House

Thereupon, pending the question, Shall the Senate accept and adopt the report of the Committee of Conference?, on motion of Senator Mazza, the Senate adjourned until Thursday, April 2, 2009 at eight o'clock and fifteen minutes in the morning.

THURSDAY, APRIL 2, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 43

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 27. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 138.

By Senators Sears and Campbell,

An act relating to credit card fees.

To the Committee on Judiciary.

President Assumes the Chair

**Consideration Resumed; Report of Committee of Conference Accepted
and Adopted on the Part of the Senate**

H. 232.

Consideration was resumed on House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was agreed to on a roll call, Yeas 26, Nays 1.

Senator Ayer having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kittell, Lyons, MacDonald, Maynard, Mazza, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

The Senator who voted in the negative was: Miller.

Those Senators absent and not voting were: Cummings, Kitchel, McCormack.

Consideration Postponed

Senate bills entitled:

S. 54.

An act relating to clean energy assessment districts.

S. 77.

An act relating to the disposal of electronic waste.

S. 99.

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

S. 126.

An act relating to digital forensic specialists.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 19. An act relating to extension of filing deadlines for homestead declarations and property tax adjustment claims.

S. 28. An act relating to the regulation of landscape architects.

S. 58. An act relating to electronic payment of wages.

S. 128. An act relating to workers' compensation benefits and misclassification.

Bill Ordered to Lie

H. 11.

House bill entitled:

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Was taken up.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, on motion of Senator Campbell, the bill was ordered to lie.

Joint Resolutions Referred

J.R.S. 26.

Joint Senate resolution entitled:

Joint resolution relating to the legalization of industrial hemp.

Having been placed on the Calendar for action, was taken up and pending the question, Shall the joint Senate resolution be adopted on the part of the Senate?, on motion of Senator Sears, the joint resolution was referred to the Committee on Judiciary.

J.R.H. 14.

Joint House resolution entitled:

Joint resolution relating to the closure and rehabilitation of the Vilas Bridge.

Having been placed on the Calendar for action, was taken up and pending the question, Shall the joint House resolution be adopted in concurrence?, on motion of Senator Mazza, the joint resolution was referred to the Committee on Transportation.

Consideration Resumed; Third Reading Ordered

S. 127.

Consideration was resumed on Senate Committee bill entitled:

An act relating to small school districts that pay tuition for their resident students.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Third Reading Ordered**S. 121.**

Senate committee bill entitled:

An act relating to miscellaneous election laws.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator White, on behalf of the Committee on Government Operations, moved to amend the bill by adding a new Sec. 4a to read as follows:

Sec. 4a. 17 V.S.A. § 2685 is amended to read:

§ 2685. INSPECTION OF BALLOTS

At the time and place specified by the clerk, the board of civil authority shall break the seal, open the ballot container and recount the votes, unless the candidate who petitions for a recount requests that the recount be conducted by optical scanner. The petitioner, the opposing candidates and their designated representatives may inspect the ballots and observe the recount under the guidance of the board. The board shall certify the result to the clerk, who shall declare the result. After the recount the board shall seal the ballots and other materials back in the containers and the town clerk shall safely store them as provided in section 2590 of this title.

Which was agreed to.

Thereupon, the pending question, Shall the bill be read a third time?, was decided in the affirmative.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 19, S. 28, S. 58, S. 128, H. 232.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o'clock and thirty minutes in the morning.

FRIDAY, APRIL 3, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Venerable Dhyani Ywahoo of Lincoln.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with commemorative posters:

Susanna Billings of Tunbridge
Neel Desai of South Burlington
Shoshana Goldman of Plainfield
Isabel Hardy of Barre
Laura Harris of Williston
Jeff Heney of Essex
Emma Horowitz-McCadden of Plainfield
Sebastian Lissarrague of Shelburne
Ellen Sartorelli of Williston
Noa Shems of Moretown

Joint Resolution Placed on Calendar**J.R.S. 28.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Sears,

Joint resolution designating April as sexual violence awareness month.

Whereas, the Senate Committee on Judiciary in 2009 focused extensively on the extent and nature of the problem of sexual violence in Vermont communities, and found that this crime is pervasive and deserving of an immediate and intensive legislative response, and

Whereas, as a result of its work, the committee introduced S.13, "An Act Relating to Vermont's Sexual Abuse Response System," which Governor Douglas signed into law on March 4, 2009, and

Whereas, S.13 recognizes that the only way to end the public health epidemic of sexual violence in Vermont communities is through extensive and comprehensive statewide prevention efforts, and

Whereas, there are many dedicated organizations, educators and community organizers around the state undertaking excellent work to end sexual violence in different ways, and

Whereas, the Vermont Approach, A Strategic Plan for Comprehensive, Collaborative Sexual Violence Prevention in Vermont was unveiled in 2006, and the General Assembly has endorsed and funded this proposal, and

Whereas, The Vermont Approach contains seven strategies for ending sexual violence in Vermont, which include: providing statewide leadership developing community sexual violence prevention efforts and new community allies; changing media representations; contributing to the sexual violence prevention capacity of state and local institutions; educating professionals, families and individuals; learning from and developing *The Vermont Approach*; and generating income and budgeting resources, and

Whereas, The Vermont Approach 2009 report to the General Assembly highlights progress made on each of the seven prevention strategies in the past three years, and

Whereas, in 2006, the General Assembly also established the sexual violence prevention task force, a project of The Vermont Approach, to examine and enhance statewide sexual violence prevention opportunities in schools, and

Whereas, S.13 reinforced the General Assembly's and the state of Vermont's commitment to eradicating sexual violence by supporting and furthering the work of The Vermont Approach and the sexual violence prevention task force, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates April as Sexual Violence Awareness Month and encourages all Vermonters of every age to participate in preventing sexual violence by promoting the inclusion of prevention education in school communities, speaking up against sexual violence in media and other arenas, supporting local sexual violence service providers, engaging in healthy choices and behaviors, and encouraging opportunities for dialogue, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Network Against Domestic and Sexual Violence in Montpelier.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Senate Resolution Adopted

Senate resolution of the following title was offered, read and adopted, and is as follows:

By Senators Miller, Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons,

MacDonald, Maynard, Mazza, McCormack, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr and White,

S.R. 8. Senate resolution condemning the repression of the Tibetan people and urging Congress to take forceful action to end this denial of human rights and to extend diplomatic recognition to Tibet.

Whereas, the people of Tibet lived in peace and harmony for centuries, and

Whereas, they harbored no ill will toward anyone or desire to extend their mountainous territory beyond its historic boundaries, and

Whereas, with absolutely no provocation from the Tibetan people, on March 10, 1959, the army of the People's Republic of China illegally invaded this peaceful Himalayan Mountain kingdom, and

Whereas, it has been reported that over one million Tibetans have perished as a direct result of the Chinese occupation, and

Whereas, the Tibetan people have been deprived of any right of self-determination, and it is now nearly impossible for them to continue their distinctive cultural practices and religious observances, and

Whereas, despite the assertions of the government of the People's Republic of China, the Tibetan people pose no threat in any manner to the security of that government, and

Whereas, Article 5 of the Universal Declaration of Human Rights states in no uncertain terms that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment," and

Whereas, the cruelty and repression that the People's Republic of China has inflicted on the Tibetan people during a half-century of occupation is a serious violation of human rights, and

Whereas, the International Convention on Human Rights states that contempt for human rights deserves condemnation on the part of the international community when it results in barbarous acts that outrage mankind, and

Whereas, on March 10, 2008, large numbers of Tibetans protested against their occupiers from the People's Republic of China, and hundreds of Tibetans were killed, and many remain missing or are in prison, and

Whereas, March 10, 2009, marked the 50th anniversary of the People's Republic of China's invasion of Tibet, and protests around the world, also known as Tibet Solidarity Walks, sent a message of outrage and an unmistakable demand to the government of the People's Republic of China that it is way past time for Tibetans to be treated with respect and human dignity, and

Whereas, the plight of the Tibetan people must be an urgent matter of the highest priority for Congress and the international community, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont condemns the continuing repression of the Tibetan people and expresses its solidarity with the individuals who participated in the protests that occurred around the world on March 10, 2009, *and be it further*

Resolved: That the Senate of the State of Vermont urges Congress to:

- 1) Take forceful action to end the People's Republic of China's repression of human rights in Tibet;
- 2) Recognize Tibetan political autonomy;
- 3) Ask China to sincerely negotiate with representatives of His Holiness the Dalai Lama to solve the Tibet problem, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Ambassador to the United States of the People's Republic of China, the Office of the Representative of the Dalai Lama in New York City, Students for a Free Tibet, and the Vermont Congressional delegation.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Heidi Tringe, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Barry, Virginia of Barre - Member of the Vermont Lottery Commission, - from March 12, 2009, to February 29, 2012.

To the Committee on Economic Development Housing and General Affairs.

Scala, Thomas of Brattleboro - Member of the Vermont Lottery Commission, - from March 12, 2009, to February 20, 2012.

To the Committee on Economic Development, Housing and General Affairs.

O'Brien, Benjamin R. of South Burlington - Member of the Occupational Safety and Health Review Board, - from March 12, 2009, to February 28, 2015.

To the Committee on Economic Development, Housing and General Affairs.

Johnson, Thomas of Dummerston - Member of the Vermont State Housing Authority, - from March 12, 2009, to February 28, 2014.

To the Committee on Economic Development, Housing and General Affairs.

Bokan, Carol of Shelburne - Member of the Community High School of Vermont Board, - from March 6, 2009, to February 29, 2012.

To the Committee on Education.

Dier, Hilton H., Jr. of Middlebury - Member of the Human Services Board, - from March 24, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Wasik, Mary Jean of Pittsford - Member of the Human Services Board, - from March 5, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Gillies, Paul of Berlin - Member of the Board of Health, - from March 5, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Hill, H. Charles, II, D.D.S. of South Hero - Member of the Board of Health, - from March 5, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Molloy, Maureen K., M.D., J.D. of Shelburne - Member of the Board of Health, - from March 5, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Hutchins, Russ of St. Johnsbury - Member of the Human Services Board, - from March 5, 2009, to February 28, 2015.

To the Committee on Health and Welfare.

Dailey, William E. of South Burlington - Member of the Public Oversight Commission, - from March 12, 2009, to February 29, 2012.

To the Committee on Health and Welfare.

Hafner, Alice of Danville - Member of the Parole Board, - from March 12, 2009, to February 29, 2012.

To the Committee on Institutions.

Hoerr, Roland, III of Colchester - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 12, 2009, to February 29, 2012.

To the Committee on Natural Resources and Energy.

Shannon, Robert of Stowe - Member of the Fish and Wildlife Board, - from March 5, 2009, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Ames, Brian M. of Putney - Chair of the Fish and Wildlife Board, - from March 5, 2009, to February 28, 2015.

To the Committee on Natural Resources and Energy.

Allard, Peter W. of Swanton - Member of the Fish and Wildlife Board, - from March 5, 2009, to February 28, 2013.

To the Committee on Natural Resources and Energy.

Dupont, Lawrence of North Hero - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 12, 2009, to February 29, 2012.

To the Committee on Natural Resources and Energy.

Tyler, Edward J., III of St. Albans - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 12, 2009, to February 29, 2012.

To the Committee on Natural Resources and Energy.

Ehlers, James of Colchester - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from March 12, 2009, to February 29, 2012.

To the Committee on Natural Resources and Energy.

Larken, Jeffrey of Derby - Member of the Travel Information Council, - from March 12, 2009, to February 28, 2011.

To the Committee on Transportation.

LaBarge, John of South Hero - Member of the Travel Information Council, - from March 12, 2009, to February 28, 2011.

To the Committee on Transportation.

Consideration Interrupted by Special Order

S. 54.

Senate bill entitled:

An act relating to clean energy assessment districts.

Was taken up.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill by as follows

First: In Sec. 6, 24 V.S.A. § 3262(c), by adding a new subdivision to be numbered subdivision (3) to read as follows:

(3) A participating municipality shall disclose to participating property owners the risks associated with participating in the program, including risks related to the failure of participating property owners to make payments and the risk of foreclosure.

Second: In Sec. 6, 24 V.S.A. § 3262(d), at the end of the subsection, by adding the following: Personal financial information provided to a municipality by a participating property owner or potential participating property owner shall not be subject to disclosure as set forth in section 317(c)(7) of Title 1.

Third: In Sec. 6, by striking out 24 V.S.A. § 3268 in its entirety.

The time for the special order for consideration of Proposal 5 to amend the Vermont Constitution previously set for 9:00 A.M. having arrived, the President interrupted consideration of the bill.

Special Order; Proposed Amendment to the Constitution Concurred In

Proposed Amendment of the Constitution of the State of Vermont designated as Proposal 5,

Was taken up as a Special Order.

Thereupon, Proposal 5 was read the third time and is as follows:

PROPOSAL 5

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to provide that a person who will attain the age of 18 by the date of the general election shall have the right to vote in the primary election.

Sec. 2. Section 42 of Chapter II of the Vermont Constitution is amended to read:

§ 42. [VOTER'S QUALIFICATIONS AND OATH]

Every person of the full age of eighteen years who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a voter of this state:

You solemnly swear (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any person.

Every person who will attain the full age of eighteen years by the date of the general election who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior, and will take the oath or affirmation set forth in this section, shall be entitled to vote in the primary election.

Sec. 3. EFFECTIVE DATE

This proposal of amendment shall take effect from the date of its approval by a majority vote of the voters of the state.

Thereupon, the pending questions, Shall the Senate concur in the adoption by the preceding General Assembly of Proposal 5 for the amendment of the Constitution of the State of Vermont, and request the concurrence of the House?, was decided in affirmative on a roll call pursuant to Rule 83, Yeas 24, Nays 6 (the necessary majority vote having been attained).

The yeas and nays were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Choate, Maynard, Mazza, Mullin, Scott.

Consideration Resumed; Bill Amended; Bill Ordered to Lie

S. 54.

Consideration was resumed on Senate bill entitled:

An act relating to clean energy assessment districts.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested that the question be divided.

Thereupon, the question, Shall the bill be amended as recommended by Senator Illuzzi in the *first* and *second* recommendations of amendment?, was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senator Illuzzi in the *third* recommendation of amendment?, was disagreed to.

Thereupon, on motion of Senator Snelling the bill was ordered to lie, on a division of the Senate, Yeas 16, Nays 13.

Consideration Postponed

Senate bills entitled:

S. 77.

An act relating to the disposal of electronic waste.

S. 99.

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

S. 126.

An act relating to digital forensic specialists.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 121. An act relating to miscellaneous election laws.

S. 127. An act relating to small school districts that pay tuition for their resident students.

Third Reading Ordered

S. 129.

Senate committee bill entitled:

An act relating to containing health care costs by decreasing variability in health care spending and utilization.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Bartlett, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Bill Amended; Third Reading Ordered**S. 51.**

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to Vermont's motor vehicle franchise laws.

Was taken up for immediate consideration.

Senator Scott, for the Committee on Transportation, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 108 is amended to read:

CHAPTER 108. MOTOR VEHICLE MANUFACTURERS,
DISTRIBUTORS, AND DEALERS FRANCHISING

§ 4083. TITLE OF CHAPTER

This chapter may be known and cited as the "Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act."

§ 4084. LEGISLATIVE FINDINGS

(a) The legislature finds and declares that the distribution and sale of vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate vehicle manufacturers, distributors or wholesalers and factory or distributor representatives, and to regulate franchises issued by the aforementioned who are doing business in this state in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

(b) The legislature further finds that there continues to exist an inequality of bargaining power between motor vehicle franchisors and motor vehicle franchisees. This inequality of bargaining power enables motor vehicle franchisors to compel motor vehicle franchisees to execute franchises and related agreements that contain terms and conditions that would not routinely be agreed to by the motor vehicle franchisees if this inequality did not exist. Furthermore, as the result of the inequality of bargaining power, motor vehicle franchisees have not had the opportunity to have disputes with their motor vehicle franchisors arising out of the franchisor-franchisee relationship heard in an appropriate venue, convenient to both parties, by tribunals established by statute for the resolution of these disputes. It therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of motor vehicle

franchisees by motor vehicle franchisors. It is the legislature's intent to have this chapter liberally construed in order to achieve its purpose.

§ 4085. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Board" means the transportation board as established in section 3 of Title 19.

(2) "Coerce" means the failure to act in a fair and equitable manner in performing or complying with any terms or provisions of a franchise or agreement; provided, however, that recommendation, persuasion, urging, or argument shall not be synonymous with coerce or lack of good faith.

(3) "Dealership facilities" means the real estate, buildings, fixtures, and improvements which have been devoted to the conduct of business under the franchise by the new motor vehicle dealer;

~~(2)~~(4) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealer who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealer under the terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a new motor vehicle dealer, has been appointed by a court as the legal representative of the new motor vehicle dealer's property;

~~(3)~~(5) "Established place of business" means a permanent, commercial building located within this state easily accessible and open to the public at all reasonable times and at which the business of a new motor vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land-use regulatory ordinances;

~~(4)~~(6) "Franchise" means ~~the agreement or contract~~ all agreements and contracts between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer which ~~purport~~ relate to the operation of the franchise and purports to fix the legal rights and liabilities of the parties to such ~~agreement~~ agreements or contract, contracts, including agreements pursuant to which the dealer purchases and resells the franchise product, performs warranty and other service on the manufacturer's products, leases or rents the dealership premises; or agreements concerning the dealership premises or construction or renovation of the dealership premises.

(A) “Franchisee” means a motor vehicle dealer who enters into or is currently a party to a franchise with a franchisor.

(B) “Franchisor” means any manufacturer, distributor, distributor branch or factory branch, importer or other person, partnership, corporation, association, or entity, whether resident or nonresident, which enters into or is currently a party to a franchise with a motor vehicle dealer.

(7) “Fraud” means, in addition to its common law connotation, the misrepresentation, in any manner, of a material fact; a promise or representation not made honestly and in good faith, and the intentional failure to disclose a material fact.

~~(5)~~(8) “Good faith” means honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade as defined and interpreted in section 2-103(1)(b) of the Uniform Commercial Code;

(9) “Line-make” means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor or manufacturer of the motor vehicle.

~~(6)~~(10)(A) “Manufacturer” means any person, resident, or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of motor vehicles, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by the manufacturer;

(B) Additionally, the term manufacturer shall include the following terms:

~~(A)~~(i) “Distributor” means any person, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new motor vehicle to new motor vehicle dealers or who maintains factory representatives or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells or distributes any new motor vehicle to new motor vehicle dealers; and

~~(B)~~(ii) “Factory branch” means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, vehicles to a distributor or new motor vehicle dealer, or for directing or supervising in whole or in part factory or distributor representatives;

~~(7)~~(11) “Motor vehicle” means every vehicle intended primarily for use and operation on the public highways which is self-propelled, not including farm tractors and other machines and tools used in the production, harvesting and care of farm products;

~~(8)~~(12) “New motor vehicle” means a vehicle which has been sold to a new motor vehicle dealer and which has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer;.

~~(9)~~(13) “New motor vehicle dealer” means any person engaged in the business of selling, offering to sell, soliciting or advertising the sale of new motor vehicles and who holds, or held at the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer’s or distributor’s new motor vehicles;.

~~(10)~~(14) “Owner” means any person holding an ownership interest in the business entity operating as a new motor vehicle dealer or under a franchise as defined in this chapter either as a corporation, partnership ~~or~~ sole proprietorship, or other legal entity. To the extent that the rights of any owner under this chapter conflict with the rights of any other owner, such rights shall accrue in priority order based on the percentage of ownership interest held by each owner; with the owner having the greatest ownership interest having first priority and succeeding priority accruing to other owners in the descending order of percentage of ownership interest;.

~~(11)~~(15) “Person” means every natural person, partnership, corporation, association, trust, estate, or any other legal entity;.

~~(12)~~(16) “Relevant market area” means the area within a radius of 25 miles around an existing dealer or the area of responsibility defined in the franchise, whichever is greater; except that, where a manufacturer is seeking to establish an additional new motor vehicle dealer and there are one or more existing new motor vehicle dealers of the same line-make within a 10-mile radius of the proposed dealer site, the “relevant market area” shall in all instances be the area within a radius of 10 miles around an existing dealer.

§ 4086. WARRANTY AND PREDELIVERY OBLIGATIONS TO NEW MOTOR VEHICLE DEALERS

(a) Each new motor vehicle manufacturer shall specify in writing to each of its new motor vehicle dealers licensed in this state the dealer’s obligations for predelivery preparation and warranty service on its products, shall compensate the new motor vehicle dealer for such service required of the dealer by the manufacturer, and shall provide the dealer the schedule of compensation to be paid the dealer for parts, work and service in connection therewith, and the time allowance for the performance of the work and service.

(b) A schedule of compensation shall not fail to include reasonable compensation for diagnostic work, as well as for repair service and labor.

Time allowances for the diagnosis and performance of predelivery and warranty service shall be reasonable and adequate for the work to be performed. The hourly rate paid to a new motor vehicle dealer shall not be less than the rate charged by the dealer to customers for nonwarranty service and repairs. Each manufacturer shall compensate each of its dealers for parts used to fulfill warranty, predelivery and recall obligations of repair and servicing at rates amounts not less than the rates retail amounts customarily charged by the dealer to its retail customers for like parts for nonwarranty work. The amounts established by a dealer to its retail customers for labor and like parts for nonwarranty work are deemed to be fair and reasonable compensation; provided, however, a manufacturer may rebut such a presumption by showing that such amount so established is unfair and unreasonable in light of the practices of at least four other franchised motor vehicle dealers in the vicinity offering the same line-make or a similar competitive line-make. A manufacturer may not otherwise recover all or any portion of its costs for compensating its motor vehicle dealers licensed in this state for warranty parts and service either by reduction in the amount due to the dealer or by separate charge, surcharge, or other imposition.

(c) For purposes of this section, the “retail amounts customarily charged” by the franchisee for parts may be established by submitting to the manufacturer 100 sequential nonwarranty customer-paid service repair orders or 60 days of nonwarranty customer-paid service repair orders, whichever is less in terms of total cost, covering repairs made no more than 180 days before the submission and declaring the average percentage markup. The average percentage markup so declared is the retail amount, which goes into effect 30 days following the declaration, subject to audit of the submitted repair orders by the manufacturer and adjustment of the average percentage markup based on that audit. Only retail sales not involving warranty repairs, not involving state inspection, not involving routine maintenance such as changing the oil and oil filter, and not involving accessories may be considered in calculating the average percentage markup. A manufacturer may not require a new motor vehicle dealer to establish the average percentage markup by an unduly burdensome or time-consuming method or by requiring information that is unduly burdensome or time-consuming to provide, including part-by-part or transaction-by-transaction calculations. A new motor vehicle dealer may not change the average percentage markup more than two times in one calendar year. Further, the manufacturer shall reimburse the new motor vehicle dealer for any labor performed at the retail rate customarily charged by that franchisee for the same labor when not performed in satisfaction of a warranty, provided the franchisee’s rate for labor not performed in satisfaction of a warranty is routinely posted in a place conspicuous to its service customer.

(d) It is a violation of this section for any new motor vehicle manufacturer to fail to perform any warranty obligations or to fail to include in written notices of factory recalls to new motor vehicle owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects, or to fail to compensate any of the new motor vehicle dealers in this state for repairs effected by a recall.

~~(d)~~(e) All claims made by new motor vehicle dealers pursuant to this section for labor and parts shall be paid within ~~30~~ 45 days following their approval; provided, however, that the manufacturer retains the right to audit the claims and to charge back the dealer for fraudulent claims for a period of two years following payment. All claims shall be either approved or disapproved within ~~30~~ 45 days after their receipt on forms and in the manner specified by the manufacturer, and any claim not specifically disapproved in writing within ~~30~~ 45 days after the receipt shall be construed to be approved and payment must follow within ~~30~~ 45 days. No claim which has been approved and paid may be charged back to the dealer unless it can be shown that the claim was false or fraudulent, that the repairs were not made properly or were unnecessary to correct the defective condition, or that the dealer failed to reasonably substantiate the claim either in accordance with the manufacturer's reasonable written procedures or by other reasonable means.

(f) A manufacturer shall retain the right to audit warranty claims for a period of one year after the date on which the claim is paid.

(g) A manufacturer shall retain the right to audit all incentive and reimbursement programs and charge back any amounts paid on claims that are false or unsubstantiated for a period of 18 months from the date on which the claim is paid or one year from the end of a program that gave rise to the payment, whichever is later.

(h) Any chargeback resulting from any audit shall not be made until a final order is issued by the transportation board if a protest to the proposed chargeback is filed within 30 days of the notification of the final amount claimed by the manufacturer, to be due after exhausting any procedure established by the manufacturer to contest the chargeback, other than arbitration. The manufacturer has the burden of proof in any proceeding filed at the board under this section.

(i) It is unlawful for a franchisor, manufacturer, factory branch, distributor branch, or subsidiary to own, operate, or control, either directly or indirectly, a motor vehicle warranty or service facility located in the state except on an emergency or interim basis or if no qualified applicant has applied for appointment as a dealer in a market previously served by a new motor vehicle dealer of that manufacturer's line-make.

§ 4087. TRANSPORTATION DAMAGES

(a) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the manufacturer is liable for all damages to motor vehicles before delivery to a carrier or transporter.

(b) If a new motor vehicle dealer determines the method of transportation, the risk of loss passes to the dealer upon delivery of the vehicle to the carrier.

(c) In every other instance, the risk of loss remains with the manufacturer until such time as the new motor vehicle dealer or his designee accepts the vehicle from the carrier.

(d)(1) On any new motor vehicle, a manufacturer or distributor shall disclose in writing to a dealer and a dealer shall disclose in writing to the ultimate purchaser any uncorrected damage or any corrected damage to the vehicle, as measured by retail repair costs, if the corrected damage exceeds the following percentage of the manufacturer's suggested retail price, as defined in 15 U.S.C. §§ 1231-1233:

(A) five percent up to the first \$10,000.00; and

(B) two percent on any amount over \$10,000.00.

(2) Damage to glass, tires, wheels and bumpers shall be excluded from the calculation required in this subsection when replaced by identical manufacturer's original equipment.

§ 4088. PRODUCT LIABILITY INDEMNIFICATION

Notwithstanding the terms of any franchise agreement, it shall be a violation of this law for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment or settlement for damages, after reasonable notice of the proposed settlement to the manufacturer, including, but not limited to, court costs and reasonable attorneys' fees of the new motor vehicle dealer, arising out of complaints, claims or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, warranty (express or implied), or rescission of the sale as is defined in section 2-608 of the Uniform Commercial Code, to the extent that the judgment or settlement relates to the alleged defective or negligent manufacture, assembly or design of new motor vehicles, parts or accessories or other functions by the manufacturer, beyond the control of the dealer.

§ 4089. TERMINATION; CANCELLATION OR NONRENEWAL

(a) Notwithstanding the terms, provisions or conditions of any franchise or notwithstanding the terms or provisions of any waiver, no manufacturer shall

cancel, terminate or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:

- (1) satisfied the notice requirement of section 4090 of this title;
- (2) has good cause for cancellation, termination, or nonrenewal;
- (3) has acted in good faith as defined in this chapter; and

(4)(A) The transportation board finds after a hearing that the manufacturer has acted in good faith and there is good cause for cancellation, termination, failure to renew, or refusal to continue any franchise relationship. The new motor vehicle dealer may file a protest with the board within 45 days after receiving the 90-day notice. A copy of the protest shall be served by the new motor vehicle dealer on the manufacturer. When a protest is filed to challenge the cancellation, termination, or nonrenewal of a franchise agreement under this section, such franchise agreement shall remain in full force and effect, and such franchisee shall retain all rights and remedies pursuant to the terms and conditions of such franchise agreement, including the right to sell or transfer such franchisee's ownership interest until a final determination by the board and any appeal; or

(B) The manufacturer, distributor, or branch or division thereof has received the written consent of the new motor vehicle dealer; or

(C) The appropriate period for filing a protest has expired.

(b) For purposes of this act, good cause for terminating, canceling, or failing to renew a franchise shall be limited to failure by the franchisee to substantially comply with those requirements imposed upon the franchisee by the franchise as set forth in subdivision (c)(1) of this section.

(c) Notwithstanding the terms, provisions or conditions of any agreement or franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, or nonrenewal when:

(1) there is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that ~~the dealer has been notified in writing of the failure within~~ compliance on the part of the new motor vehicle dealer is reasonably possible; or if the failure by the new motor vehicle dealer to comply with a provision of the franchise is pursuant to a notice issued under 4090(a)(3); and the manufacturer, distributor, or branch or division thereof first acquired actual or constructive knowledge of such failure not more than 180 days after ~~the manufacturer first acquired knowledge of such failure~~ prior to the date on which notification is given pursuant to section 4090 of this title;

(2) if the failure by the new motor vehicle dealer, defined in subdivision (1) of this subsection, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer if the new motor vehicle dealer was apprised by the manufacturer in writing of such failure; and:

(A) ~~said the~~ notification stated that notice was provided ~~of~~ for failure of performance pursuant to this section;

(B) the new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six months, to comply with such criteria; ~~and~~

(C) the new motor vehicle dealer did not demonstrate substantial progress towards compliance with the manufacturer's performance criteria during such period and the new motor vehicle dealer's failure was not primarily due to economic or market factors within the dealer's relevant market area beyond the dealer's control; and

(D) the performance criteria established by the manufacturer are fair, reasonable, and equitable as applied to all same line-make franchisees of the manufacturer in the state.

~~(e)(d)~~ The manufacturer shall have the burden of proof under this section for showing that it has acted in good faith, that all notice requirements have been satisfied, and that there was good cause for the franchise termination, cancellation, nonrenewal, or noncontinuance.

(e) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, or the terms or provisions of any waiver, the following do not constitute good cause for the termination, cancellation, nonrenewal, or noncontinuance of a franchise:

(1) The change of ownership of the new motor vehicle dealer's dealership, excluding any change in ownership which would have the effect of the sale of the franchise without the reasonable consent of the manufacturer, distributor, or branch or division thereof.

(2) The fact that the new motor vehicle dealer refused to purchase or accept delivery of any new motor vehicle parts, accessories, or any other commodity or services not ordered by the new motor vehicle dealer.

(3) The fact that the new motor vehicle dealer owns, has an investment in, participates in the management of, or holds a license for the sale of another make, line, or brand of new motor vehicle, or that the new motor vehicle dealer has established another make, line, or brand of new motor vehicle in the same

dealership facilities as those of the manufacturer, distributor, or branch or division thereof, provided that the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicle and that the new motor vehicle dealer remains in substantial compliance with any reasonable facilities requirements of the manufacturer, distributor, or branch or division thereof.

(4) The fact that the new motor vehicle dealer sells or transfers ownership of the dealership or sells or transfers capital stock in the dealership to the new motor vehicle dealer's spouse, son, or daughter. The manufacturer, distributor, or branch or division thereof shall give effect to such change in ownership unless the transfer of the new motor vehicle dealer's license is denied or the new owner is unable to license, as the case may be.

§ 4090. NOTIFICATION OF TERMINATION; CANCELLATION AND NONRENEWAL

(a) Notwithstanding the terms, provisions, or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation or nonrenewal to the new motor vehicle dealer as follows:

(1) in the manner described in subsection (b) of this section; and

(2) not less than 90 days prior to the effective date of such termination, cancellation, or nonrenewal; or

(3) not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal ~~with respect to any of the following~~ which occurs as a result of:

(A) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

(B) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

(C) conviction of the new motor vehicle dealer, or any owner or operator thereof, of any crime which is punishable by imprisonment;

(D) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership.

~~(4) not less than 180 days prior to the effective date of such termination or cancellation where the manufacturer or distributor is discontinuing the sale~~

~~of the product line~~ Not less than 180 prior to the effective date of such termination, cancellation, or nonrenewal which occurs as a result of:

(A) any change in ownership, operation, or control of all or any part of the business of the manufacturer, whether by sale or transfer of assets, corporate stock, or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law, or otherwise; or

(B) the termination, suspension, or cessation of a part or all of the business operations of the manufacturer; or

(C) discontinuance of the sale of the product line or a change in distribution system by the manufacturer whether through a change in distributors or through the manufacturer's decision to cease conducting business through a distributor altogether.

(b) Notification under this section shall be in writing; shall be by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:

(1) a statement of intention to terminate, cancel, or not to renew the franchise; and

(2) a statement of the reasons for the termination, cancellation, or nonrenewal; and

(3) the date on which the termination, cancellation, or nonrenewal takes effect.

§ 4091. PAYMENTS

(a) ~~Upon~~ Within 90 days of the termination, nonrenewal, or cancellation of any franchise; pursuant to this chapter section 4089 of this title or to the termination, nonrenewal, or cancellation of a franchise by the franchisee or by mutual agreement, the new motor vehicle dealer shall be allowed fair and reasonable compensation paid by the manufacturer for the:

~~(1) new motor vehicle inventory which has been acquired from the manufacturer;~~

~~(2) supplies and parts which have been acquired from the manufacturer;~~

~~(3) equipment and furnishings provided the new motor vehicle dealer purchased from the manufacturer or its approved sources; and~~

~~(4) special tools;~~ dealer cost plus any charges by the manufacturer thereof for distribution, delivery, and taxes paid by the dealer, less all allowances paid to the dealer by the manufacturer for all new and undamaged motor vehicle inventory purchased from the manufacturer or distributor or from another new motor vehicle dealer of the same line-make in the ordinary course of business if the vehicles have 500 miles or less on the odometer and:

(A) were purchased within the previous 12 months; or

(B) are of the current model year or one-year-prior model year. A motor vehicle shall be “undamaged” under this subsection if any corrected damage to the vehicle does not exceed the amounts set forth in subsection 4087(d) of this title;

(2) the dealer cost of each new, unused, undamaged, and unsold part or accessory if such part or accessory is in the current parts catalogue and is still in the original, resaleable merchandising package and acquired from the manufacturer or distributor or from another new motor vehicle dealer of the same line-make in the ordinary course of business;

(3) the fair market value of all special tools owned by the dealer which were recommended in writing and designated as special tools and equipment by the manufacturer, distributor, or branch or division thereof and purchased from or at the request of the manufacturer or distributor, if the tools and equipment are in usable and good condition, normal wear and tear excepted;

(4) the fair market value of each undamaged sign owned by the dealer which bears a trademark, trade name, or commercial symbol used or claimed by the manufacturer if the sign was purchased from or at the request of the manufacturer, distributor, or branch or division thereof;

(5) the cost of transporting, handling, packing, and loading of motor vehicles, parts, signs, and special tools, subject to repurchase by the manufacturer.

(b) In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon any of the occurrences set forth in subdivision 4090(a)(4) of this title, then the manufacturer shall be liable to the dealer for an amount equivalent to the fair market value of the motor vehicle franchise on the day before the date the franchisor announces the action which results in termination, cancellation, or nonrenewal.

(b)(c) Payment is contingent on the new motor vehicle dealer having clear title to the inventory and other items and having the ability to convey the title to the manufacturer excepting any liens or encumbrances on the inventory and other items that will be released when the manufacturer pays the motor vehicle dealer and lien holder for the inventory and other items.

(d) The manufacturer may avoid paying fair market value of the motor vehicle franchise to the dealer under subsection (b) of this section if the franchisor, or another motor vehicle franchisor pursuant to an agreement with the franchisor, offers the franchisee a replacement motor vehicle franchise substantially similar to the existing motor vehicle franchise which takes effect

no later than the date of the termination, cancellation, or nonrenewal of the franchisee's existing motor vehicle franchise.

§ 4092. DEALERSHIP FACILITIES ASSISTANCE UPON TERMINATION, CANCELLATION, OR NONRENEWAL

(a) In the event of a termination, cancellation, or nonrenewal under this chapter; and

(1) the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the rent for the unexpired term of the lease or one year's rent, whichever is less; or

(2) if the new motor vehicle dealer owns the dealership facilities, the manufacturer shall pay the new motor vehicle dealer a sum equivalent to the reasonable rental value of the dealership facilities for one year.

(b) If the termination, cancellation, or nonrenewal is pursuant to ~~subsection subdivision 4090(b)(a)(4)~~ of this title, then, with respect to such facilities as were required as a condition of the franchise and used to conduct sales and service operations related to the franchise product, the manufacturer or distributor shall in addition to the relief described in subsection (a) of this section:

(1) assume the obligations for any lease of the dealership facilities for the unexpired term of the lease or three years' rent, whichever is less; or

(2) arrange for a new lease of any dealership facilities; or

(3) negotiate a lease termination for the dealership facilities at the manufacturer's expense.

(c) If, in an action for damages under this section, the manufacturer or distributor fails to prove either that the manufacturer or distributor has acted in good faith or that there was good cause for the franchise termination, cancellation or nonrenewal, then the court, agency or commission shall order, in addition to any other damages under this section, that the manufacturer or distributor pay the new motor vehicle dealer an amount equal to the value of the dealership, as an ongoing business location.

§ 4093. RIGHT OF DESIGNATED FAMILY MEMBER TO SUCCEED IN OWNERSHIP

(a) Any owner of a new motor vehicle dealer may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the new motor vehicle dealer.

(b) Unless there exists good cause for refusal to honor succession on the part of the manufacturer or distributor, any designated family member of a deceased or incapacitated owner of a new motor vehicle dealer may succeed to the ownership of the new motor vehicle dealer under the existing franchise provided that:

(1) the designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the new motor vehicle dealer within 120 days of the owner's death or incapacity; and

(2) the designated family member agrees to be bound by all the terms and conditions of the franchise.

(c) The manufacturer or distributor may request, and the designated family member shall provide, promptly upon said request, personal and financial data that are reasonably necessary to determine whether the succession should be honored.

§ 4094. REFUSAL TO HONOR SUCCESSION TO OWNERSHIP; NOTICE REQUIRED

(a) If a manufacturer or distributor believes that good cause exists for refusing to honor the succession to the ownership of a new motor vehicle dealer by a family member of a deceased or incapacitated owner of a new motor vehicle dealer under the existing franchise agreement, the manufacturer or distributor may, not more than 60 days following receipt of notice of the designated family member's intent to succeed to the ownership of the new motor vehicle dealer, or any personal or financial data which it has requested, serve upon the designated family member notice of its refusal to honor the succession and of its intent to discontinue the existing franchise with the dealer no sooner than 90 days from the date the notice is served.

(b) The notice must state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise with the new motor vehicle dealer no sooner than 90 days from the date the notice is served.

(c) If notice of refusal and discontinuance is not timely served upon the family member, the franchise shall continue in effect subject to termination only as otherwise permitted by this chapter.

(d) In the event of a conflict between the written instrument filed by the motor vehicle dealer with the manufacturer designating a certain person as his or her successor and the provisions of this section, the written instrument filed with the manufacturer shall govern.

§ 4095. BURDEN OF PROOF

In determining whether good cause for the refusal to honor the succession exists, the manufacturer, distributor, factory branch, or importer has the burden of proving that the successor is a person who is not of good moral character or does not meet the franchisor's existing and reasonable standards and, considering the volume of sales and service of the new motor vehicle dealer, uniformly applied minimum business experience standards in the market area.

§ 4096. UNLAWFUL ACTS BY MANUFACTURERS OR DISTRIBUTORS

It shall be a violation of this chapter, for any manufacturer, as defined under this chapter, to require or to attempt to require, coerce, or attempt to coerce any new motor vehicle dealer in this state:

(1) to order or accept delivery of any new motor vehicle, part or accessory thereof, equipment or any other commodity not required by law or a recall campaign which shall not have been voluntarily ordered by the new motor vehicle dealer; except that this subdivision is not intended to modify or supersede any terms or provisions of the franchise requiring new motor vehicle dealers to market a representative line of those motor vehicles which the manufacturer or distributor is publicly advertising;

(2) to order or accept delivery of any new motor vehicle with special features, accessories or equipment not included in the list price of such motor vehicles as publicly advertised by the manufacturer or distributor;

(3) to participate monetarily in an advertising campaign or contest, or to purchase any promotional materials, training materials, showroom or other display decorations or materials at the expense of the new motor vehicle dealer, or to require any dealer without his or her prior written agreement to participate in any manufacturer's rebate program or to require a dealer to contribute to a manufacturer's warranty rebate program, either by discount or otherwise without prior notification and prior written consent of the dealer;

(4) to enter into any agreement with the manufacturer or to do any other act prejudicial to the new motor vehicle dealer by threatening to terminate or cancel a franchise or any contractual agreement existing between the dealer and the manufacturer; except that this subdivision is not intended to preclude the manufacturer or distributor from insisting on compliance with the reasonable terms or provisions of the franchise or other contractual agreement, and notice in good faith to any new motor vehicle dealer of the new motor vehicle dealer's violation of such terms or provisions shall not constitute a violation of the chapter;

(5) to change the capital structure of the new motor vehicle dealer or the means by or through which the new motor vehicle dealer finances the

operation of the dealership provided that the new motor vehicle dealer at all times meets any reasonable capital standards determined by the manufacturer in accordance with uniformly applied criteria; and also provided that no change in the capital structure shall cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor; said consent shall not be unreasonably withheld;

(6) to refrain from participation in the management of, investment in, or the acquisition of any other ~~line~~ line-make of new motor vehicle or related products; provided, however, that this subdivision does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or ~~line~~ line-make of new motor vehicle, the new motor vehicle dealer remains in compliance with any reasonable facilities requirements of the manufacturer, and no change is made in the principal management of the new motor vehicle dealer. For purposes of this act, "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel or display space.

(A) The new motor vehicle dealer shall provide written notice to the manufacturer and the board no less than 90 days prior to the dealer's intent to participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products.

(B) Within 45 days of receipt of the notice from the dealer, the manufacturer may file with the board a protest alleging specific facts to support its claim that the new motor vehicle dealer cannot maintain a reasonable line of credit for each make or line-make of new motor vehicle, the new motor vehicle dealer cannot remain in compliance with any reasonable facilities requirements of the manufacturer, or that a change is being made in the principal management of the new motor vehicle dealer. The manufacturer shall also serve the protest on the new motor vehicle dealer within the 45-day period. If the manufacturer does not file a protest with the board within 45 days, then the dealer may participate in the management of, investment in, or acquisition of another line-make of new motor vehicles or related products as set forth in its written notice of intent.

(C) Within 45 days of the receipt of a protest from a manufacturer, the board shall meet, hear and take evidence limited to the claims set forth in the manufacturer's protest and make a determination on each of the manufacturer's claims. The burden of proof shall be on the manufacturer. The decision of the board shall be final and no appeal may be taken;

(7) to ~~prospectively~~ assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law or to require any controversy between a new motor vehicle dealer and a

manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the state or the United States of America, if such referral would be binding upon the new motor vehicle dealer;

(8) to change location of the dealership or to make any substantial alterations to the dealership premises or facilities when to do so would be unreasonable or without written assurance of a sufficient supply of new motor vehicles so as to justify such an expansion in light of the current market and economic conditions.

§ 4097. MANUFACTURER VIOLATIONS

It shall be a violation of this chapter for any manufacturer defined under this chapter:

(1) to delay, refuse, or fail to deliver new motor vehicles or new motor vehicle parts or accessories in a reasonable time, and in reasonable quantity relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, after acceptance of an order from a new motor vehicle dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer, any new motor vehicle, parts or accessories to new vehicles as are covered by such franchise, if such vehicle, parts, accessories are publicly advertised as being available for delivery or actually being delivered. This subdivision is not violated, however, if failure is caused by acts or causes beyond the control of the manufacturer;

(2) to refuse to disclose to any new motor vehicle dealer, handling the same line-make, the manner and mode of distribution of that line-make within the ~~relevant market area~~ state;

(3) to obtain money, goods, service, or any other benefit from any other person with whom the new motor vehicle dealer does business, on account of, or in relation to, the transaction between the new motor vehicle dealer and such other person, other than for compensation for services rendered, unless such benefit is promptly accounted for, and transmitted to, the new motor vehicle dealer;

(4) to increase prices of new motor vehicles which the new motor vehicle dealer had ordered for private retail consumers prior to the new motor vehicle dealer's receipt of the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each such order provided that the vehicle is in fact delivered to that consumer. In the event of manufacturer price reductions or cash rebates paid to the new motor vehicle dealer, the amount of any reduction or rebate received by a new motor vehicle dealer shall be passed on to the private retail consumer by the new motor vehicle dealer. Price reductions shall apply to all vehicles in the

dealer's inventory which were subject to the price reduction. Price differences applicable to a new model or series shall not be considered a price increase or price decrease. Price changes caused by either the addition to a motor vehicle of required or optional equipment; or revaluation of the United States dollar, in the case of foreign-make vehicles or components; or an increase in transportation charges due to increased rates imposed by common carriers shall not be subject to the provisions of this subdivision;

(5) to offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line or make to be sold to the state or any political subdivision thereof without making the same offer available upon request to all other new motor vehicle dealers in the same line-make within the ~~relevant market area~~ state;

(6) to release to any outside party, except under subpoena or as otherwise required by law or in an administrative, judicial or arbitration proceeding involving the manufacturer or new motor vehicle dealer, any business, financial, or personal information which may be from time-to-time provided by the new motor vehicle dealer to the manufacturer, without the express written consent of the new motor vehicle dealer;

(7) to deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose;

(8) to ~~unfairly~~ compete with a new motor vehicle dealer in the same line-make operating under an agreement or franchise from the aforementioned manufacturer in the relevant market area. A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions;

(9) to unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement;

(10) to unreasonably withhold consent to a change in executive management or the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state. If a new motor vehicle dealer desires to make a change in its executive management or ownership or to sell its principal assets, the new motor vehicle dealer will give the franchisor written notice of the proposed change or sale. The franchisor shall not arbitrarily refuse to agree to such proposed change or sale and may not disapprove or withhold approval of such change or sale unless the franchisor can prove that:

(A) its decision is not arbitrary; and

(B) the new management, owner, or transferee is unfit or unqualified to be a dealer based on the franchisor's prior written, reasonable, objective standards or qualifications which directly relate to the prospective transferee's business experience, moral character, and financial qualifications;

(11) to fail to respond in writing to a request for consent as specified in subdivision (10) of this section within 60 days of receipt of a written request on the forms, if any, generally utilized by the manufacturer or distributor for such purposes and containing the information required therein. Such failure to respond shall be deemed to be consent to the request;

(12) to unfairly prevent a new motor vehicle dealer from receiving fair and reasonable compensation for the value of the new motor vehicle dealership;

(13) to engage in any predatory practice against a new motor vehicle dealer or in any action or failure to act with respect to a dealer if the action or failure to act is arbitrary, in bad faith, or discriminatory compared to similarly situated dealers;

(14) to terminate any franchise solely because of the death or incapacity of an owner who is not listed in the franchise as one on whose expertise and abilities the manufacturer relied in the granting of the franchise;

(15) to require a motor vehicle franchisee to agree to a term or condition in a franchise, or in any lease related to the operation of the franchise or agreement ancillary or collateral to a franchise, as a condition to the offer, grant, or renewal of the franchise, lease, or agreement, that:

(A) Requires the motor vehicle franchisee to waive trial by jury in actions involving the motor vehicle franchisor;

(B) Specifies the jurisdictions, venues, or tribunals in which disputes arising with respect to the franchise, lease, or agreement shall or shall not be submitted for resolution or otherwise prohibits a motor vehicle franchisee from bringing an action in a particular forum otherwise available under the law of this state;

(C) Requires that disputes between the motor vehicle franchisor and motor vehicle franchisee be submitted to arbitration or to any other binding alternate dispute resolution procedure; provided, however, that any franchise, lease, or agreement may authorize the submission of a dispute to arbitration or to binding alternate dispute resolution if the motor vehicle franchisor and motor vehicle franchisee voluntarily agree to submit the dispute to arbitration or binding alternate dispute resolution at the time the dispute arises;

(D) Provides that in any administrative or judicial proceeding arising from any dispute with respect to the agreements in this section that the franchisor shall be entitled to recover its costs, reasonable attorney's fees and other expenses of litigation from the franchisee; or

(E) Grants the manufacturer an option to purchase the franchise, or real estate or business assets of the franchisee;

(16) to impose unreasonable standards of performance or unreasonable facilities, financial, operating, or other requirements upon a motor vehicle franchisee;

(17) to fail or refuse to sell or offer to sell to all motor vehicle franchisees of a line-make, all models manufactured for that line-make, or requiring a dealer to pay any extra fee; require a dealer to execute a separate franchise agreement, purchase unreasonable advertising displays or other materials, or relocate, expand, improve, remodel, renovate, recondition, or alter the dealer's existing facilities; or provide exclusive facilities as a prerequisite to receiving a model or series of vehicles. However, a manufacturer may require reasonable improvements to the existing facility that are necessary to accommodate special or unique features of a specific model or line. The failure to deliver any such motor vehicle, however, shall not be considered a violation of this section if the failure is due to a lack of manufacturing capacity or to a strike or labor difficulty, a shortage of materials, a freight embargo, or other cause over which the franchisor has no control;

(18) to prevent or attempt to prevent any motor vehicle dealer or any officer, partner, or stockholder of any motor vehicle dealer from transferring any part of the interest of any of them to any other person; provided, however, that no dealer, officer, partner, or stockholder shall have the right to sell, transfer, or assign the franchise or power of management or control without the consent of the manufacturer or distributor unless such consent is unreasonably withheld. Failure to respond within 60 days of receipt of a written request and applicable manufacturer application forms and related reasonable information customarily required for consent to a sale, transfer, or assignment shall be deemed consent to the request. Within 20 days of receipt of notice from the dealer, the manufacturer shall provide the dealer with a copy of all application forms and all other required reasonable information necessary to evaluate the dealer's request;

(19) to provide any term or condition in any lease or other agreement ancillary or collateral to a franchise, which term or condition directly or indirectly violates this title;

(20) to use a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of sale of the new motor vehicle to

the dealer or later, that results in the sale of or offer to sell a new motor vehicle at a lower price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is available to another dealer in the state during a similar time period. This subdivision shall not prohibit a promotional or incentive program that is available functionally and equally to competing dealers of the same line-make in the state;

(21) to vary the price charged to any of its franchised new motor vehicle dealers located in this state for new motor vehicles based on the dealer's purchase of new facilities, supplies, tools, equipment, or other merchandise from the manufacturer, the dealer's relocation, remodeling, repair, or renovation of existing dealerships or construction of a new facility, the dealer's participation in training programs sponsored, endorsed, or recommended by the manufacturer, whether or not the dealer is dualed with one or more other line-makes of new motor vehicles, the dealer's sales penetration, the dealer's sales volume, the dealer's level of sales or customer service satisfaction, the dealer's purchase of advertising materials, signage, nondiagnostic computer hardware or software, communications devices, or furnishings, or the dealer's participation in used motor vehicle inspection or certification programs sponsored or endorsed by the manufacturer. The price of the vehicle, for purposes of this subdivision, shall include the manufacturer's use of rebates, credits, or other consideration that has the effect of causing a variance in the price of new motor vehicles offered to its franchised dealers located in the state;

(22) to modify a franchise during the term of the franchise or upon its renewal if the modification substantially and adversely affects the new motor vehicle dealer's rights, obligations, investment, or return on investment without giving 60 days' written notice of the proposed modification to the new vehicle dealer unless the modification is required by law, court order, or the board. Within the 60-day notice period, the new vehicle dealer may file with the board and serve notice upon the manufacturer a protest requesting a determination of whether there is good cause for permitting the proposed modification. Multiple protests pertaining to the same proposed modification shall be consolidated for hearing. The proposed modification shall not take effect pending the determination of the matter. The manufacturer shall have the burden of establishing good cause for the proposed modification. In determining whether there is good cause for permitting a proposed modification, the board shall consider any relevant factors, including:

(A) The reasons for the proposed modification.

(B) Whether the proposed modification is applied to or affects all new vehicle dealers in a nondiscriminatory manner.

(C) Whether the proposed modification will have a substantial and adverse effect upon the new vehicle dealer's investment or return on investment.

(D) Whether the proposed modification is in the public interest.

(E) Whether the proposed modification is necessary to the orderly and profitable distribution of products by the manufacturer.

(F) Whether the proposed modification is offset by other modifications beneficial to the new vehicle dealer;

(23) to engage in any action which is arbitrary, in bad faith, or unconscionable;

(24) to change the relevant market area set forth in the franchise agreement without good cause. For purposes of this subdivision, good cause shall include changes in the dealer's registration pattern, demographics, customer convenience, and geographic barriers.

§ 4098. LIMITATIONS ON ESTABLISHING OR RELOCATING DEALERS

(a) In the event that a manufacturer seeks to enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer within or into a relevant market area where the same line-make is then represented, the manufacturer shall in writing first give notice to the transportation board and notify each new motor vehicle dealer in such line-make in the relevant market area of the intention to establish an additional dealer or to relocate an existing dealer within or into that market area. Within 20 days of receiving such notice or within 20 days after the end of any appeal procedure provided by the manufacturer, any such new motor vehicle dealer may file with a court having jurisdiction an action a protest with the board opposing the establishing or relocating of the new motor vehicle dealer. A copy of the protest shall be served on the manufacturer within the 20-day period. When such a protest is filed, ~~the court shall inform the manufacturer that a timely protest has been filed, and that~~ the manufacturer shall not establish or relocate the proposed new motor vehicle dealer until the ~~court~~ board has held a hearing, nor thereafter, if the ~~court~~ board has determined that there is not good cause for ~~not~~ permitting the addition or relocation of such new motor vehicle dealer.

(b) This section does not apply:

(1) to the relocation of an existing dealer within that dealer's relevant market area, provided that the relocation not be at a site within six miles of a licensed new motor vehicle dealer for the same line-make of motor vehicle; or

(2) if the proposed new motor vehicle dealer is to be established at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line-make of new motor vehicle had ceased operating within the previous two years.

(c) In determining whether good cause has been established for ~~not~~ entering into or relocating an additional new motor vehicle dealer for the same line-make, the ~~court~~ board shall take into consideration the existing circumstances, including, but not limited to:

(1) permanency of the investment of both the existing and proposed new motor vehicle dealers;

(2) growth or decline in population and new car registrations in the relevant market area;

(3) effect on the consuming public in the relevant market area;

(4) whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(5) whether the new motor vehicle dealers of the same line-make in that relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the line-make in the market area which shall include the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel;

(6) whether the establishment of an additional new motor vehicle dealer would increase competition, and therefore be in the public interest; and

(7) the effect that the proposed franchise would have on the stability of existing franchisees in the same line-make in the relevant market area.

(d) At any hearing conducted by the board under this section, the manufacturer seeking to establish an additional new motor vehicle dealership or relocate an existing new motor vehicle dealership shall have the burden of proof in establishing that good cause exists.

§ 4099. CIVIL ACTIONS FOR VIOLATIONS

Notwithstanding the terms, provisions, or conditions of any agreement or franchise or the terms or provisions of any waiver, any consumer who is injured by a violation of this chapter, or any party to a franchise who is so injured in his business or property by a violation of this chapter relating to that franchise, or any person so injured because he or she refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of this chapter, may bring a civil action in a court having jurisdiction to enjoin further violations, and to recover the actual damages sustained by him or her

together with the costs of the suit, including a reasonable attorney's fee. An action, filed in a court of competent jurisdiction, that gives rise or could give rise to a claim or defense under this chapter must be stayed if, within 60 days after the date of filing of the complaint or service of process, whichever is later, a party to the action files a complaint with the board asserting the claims or defenses under this chapter.

§ 4100. APPLICABILITY

The provisions of this chapter shall apply to the conduct of all persons affected by the presumptions of this chapter situated in this state. Any person who engages directly or indirectly in purposeful contacts within this state in connection with the offering or advertising for sale of, or has business dealings with respect to, a motor vehicle within the state shall be subject to the provisions of this chapter and the jurisdiction of the courts of this state. Any and all amendments to this chapter shall apply to existing franchise agreements and franchise agreements entered into on or after the effective date of this act.

§ 4100a. AGREEMENTS GOVERNED

(a) All written agreements between a manufacturer or distributor and a motor vehicle dealer shall be subject to the provisions of this chapter, and provisions of such agreements that are inconsistent with this chapter shall be void as against public policy and unenforceable in court or with the board.

(b) Every new selling agreement or amendment made to such agreement between a motor vehicle dealer and a manufacturer or distributor shall include, and if omitted, shall be presumed to include, the following language: "If any provision herein contravenes the valid laws or rules of the state of Vermont, such provision shall be deemed to be modified to conform to such laws or rules; or if any provision herein, including arbitration provisions, denies, or purports to deny access to the procedures, forums, or remedies provided for by such laws or rules, such provision shall be void and unenforceable; and all other terms and provisions of this agreement shall remain in full force and effect."

§ 4100b. ENFORCEMENT; TRANSPORTATION BOARD

(a) The transportation board established in section 3 of title 19 shall enforce the provisions of this chapter.

(b) The board shall adopt rules to implement the provisions of this chapter.

(c) Except for civil actions filed in superior court pursuant to section 4099 of this title, the board shall have the following exclusive powers:

(1) Any person may file a written protest with the board complaining of conduct governed by and in violation of this chapter. The board shall hold a public hearing in accordance with the rules adopted by the board.

(2) The board shall issue written decisions and may issue orders to any person in violation of this chapter.

(d) The parties to protests shall be permitted to conduct and use the same discovery procedures as are provided in civil actions in the superior court.

(e) The board shall be empowered to determine the location of hearings, appoint persons to serve at the deposition of out-of-state witnesses, administer oaths, and authorize stenographic or recorded transcripts of proceedings before it. Prior to the hearing on any protest, but no later than 45 days after the filing of the protest, the board shall require the parties to the proceeding to attend a prehearing conference in which the chair or designee shall have the parties address the possibility of settlement. If the matter is not resolved through the conference, the matter shall be placed on the board's calendar for hearing. Conference discussions shall remain confidential and shall not be disclosed or used as an admission in any subsequent hearing.

(f) Compliance with the discovery procedures authorized by subsection (d) of this section may be enforced by application to the board. Obedience to subpoenas issued to compel witnesses or documents may be enforced by application to the superior court in the county where the hearing is to take place.

(g) Any party to any proceeding under this chapter who recklessly or knowingly fails, neglects, or refuses to comply with an order issued by the board shall be fined a civil penalty not to exceed \$2,500.00. Each day of noncompliance shall be considered a separate violation of such order.

(h) Within 20 days after any order or decision of the board, any party to the proceeding may apply for a rehearing with respect to any matter determined in the proceeding or covered or included in the order or decision. The application for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable. No appeal from any order or decision of the board shall be taken unless the appellant makes an application for rehearing as provided in this subsection, and when such application for rehearing has been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by the board unless the board for good cause shown allows the appellant to specify additional grounds. Any party to the proceeding may appeal the final order, including all interlocutory orders or decisions, to the superior court within 30 days after the date the board rules on the application for reconsideration of the final order or decision. All findings of the board upon all questions of fact

properly before the court shall be prima facie lawful and reasonable. The order or decision appealed from shall not be set aside or vacated except for errors of law. No additional evidence shall be heard or taken by the superior court on appeals from the board.

(i) In cases where the board finds that a violation of this chapter has occurred or there has been a failure to show good cause under section 4089 or 4098 of this title, the superior court, upon petition, shall determine reasonable attorney's fees and costs and award them to the prevailing party.

§ 4100c. FINANCING; VERMONT TRANSPORTATION BOARD FUND

(a) The transportation board fund is established as a special fund in the state treasury for the sole purpose of enforcing this act. The fund shall be revolving, continually appropriated, and nonlapsing. Except as otherwise provided in this chapter, all fees and civil penalties collected pursuant to this chapter shall be paid into the state treasury immediately upon collection and credited to the transportation board fund.

(b) To fund the transportation board fund and to pay the start-up expenses of administration and enforcement of this chapter, the board shall impose an initial start-up fee upon each new motor vehicle dealer of \$200.00 for each dealer license held by that dealer and an initial start-up fee of \$2,000.00 for each line-make of new motor vehicles that a manufacturer sells or distributes within the state. Upon the filing of a protest under this chapter, the protesting party shall pay into the fund a fee of \$1,500.00.

(c) The secretary of the agency of transportation may draw upon the fund established in subsection (a) of this section to pay the expenses of administration and enforcement of this chapter.

(d) The secretary of the agency of transportation shall have the authority to impose an additional operational fee upon any motor vehicle dealer or manufacturer which sells or distributes new motor vehicles within the state in addition to the initial start-up fee imposed pursuant to this section, if the commissioner determines that the imposition of such fee is necessary to fund the ongoing operations of the board solely related to enforcing this chapter.

§ 4100d. STATUTE OF LIMITATIONS

(a) Actions arising out of any provision of this chapter shall be commenced within four years of the date the cause of action accrues; provided, however, that if a person conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of the cause of action by the person so entitled shall be excluded in determining the time limited for commencement of the action.

(b) Notwithstanding any provision in a franchise agreement, if a dispute covered by this chapter or any other law is submitted to mediation or arbitration, the time for the dealer to file a complaint, action, petition, or protest is tolled until the mediation or arbitration proceeding is completed.

§ 4100e. RIGHT OF FIRST REFUSAL

In the event of a proposed sale or transfer of all or substantially all ownership or transfer of all or substantially all dealership assets, and if the franchise agreement has a right of first refusal in favor of the manufacturer, distributor or franchisor, then notwithstanding the terms of the franchise agreement, the manufacturer, distributor, or franchisor shall be permitted to exercise a right of first refusal to acquire the motor vehicle dealer's assets or ownership only if all of the following requirements are met:

(1) In order to exercise the right of first refusal, the manufacturer or distributor shall notify the motor vehicle dealer in writing of its intent to exercise its right of first refusal within the 60-day notice limit provided in subdivision 4097(11) of this title.

(2) The exercise of the right of first refusal will result in the owner of the dealership receiving the same or greater consideration as the owner has contracted to receive in connection with the proposed change of ownership or transfer.

(3) The proposed change in the dealership's ownership or transfer of assets does not involve the transfer or sale to any of the following members of the family of one or more owners:

(A) A designated family member or members, including any of the following members of one or more dealer owners:

(i) The spouse.

(ii) A child.

(iii) A grandchild.

(iv) The spouse of a child or a grandchild.

(v) A sibling.

(vi) A parent.

(B) A manager:

(i) employed by the dealer in the dealership during the previous two years; and

(ii) who is otherwise qualified as a dealer operator.

(C) A partnership or corporation controlled by any of the family members described in subdivision (A) of this subdivision (3).

(D) A trust arrangement established or to be established:

(i) for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards; or

(ii) to provide for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or its principal owner or owners.

(4) The manufacturer or distributor agrees to pay the reasonable expenses, including attorney fees which do not exceed the usual, customary and reasonable fees charged for similar work done for other clients, incurred by the proposed owner or proposed transferee prior to the manufacturer's or distributor's exercise of its right of first refusal in negotiating and implementing the contract for the proposed sale or transfer of the dealership or dealership assets.

§ 4100f. SEVERABILITY

If any provision in this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provisions and applications, and to this end, the provisions of this chapter are severable.

Sec. 2. 19 V.S.A. § 3 is amended to read:

§ 3. TRANSPORTATION BOARD; CREATION; MEMBERS

A transportation board is formed to be attached to the agency of transportation. There shall be seven members of the board, appointed by the governor with the advice and consent of the senate. The governor shall so far as is possible appoint board members whose interests and expertise lie in various areas of the transportation field. The governor shall appoint the chair. The members of the board shall be appointed for terms of three years. Board members may be appointed for two additional three-year terms but shall not be eligible for further reappointment. No more than four members of the board shall belong to the same political party. No member of the board shall:

(1) Have an ownership interest in or be employed by a manufacturer, factory branch, distributor, or distributor branch as defined in chapter 108 of Title 9.

(2) Have an ownership interest in or be a motor vehicle dealer or an employee of a motor vehicle dealer as defined in chapter 108 of Title 9.

(3) Be employed by an association of motor vehicle dealers, manufacturers, or distributors as defined in chapter 108 of Title 9.

Sec. 3. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

* * *

(d) The board shall:

* * *

(11) enforce all provisions and hear and determine all disputes arising out of 9 V.S.A. chapter 108, the Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act.

And that when so amended the bill ought to pass.

Senator Carris, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Transportation with the following amendments thereto:

First: In Sec. 1, by striking out 9 V.S.A. § 4100c in its entirety and inserting in lieu thereof the following:

§ 4100c. FINANCING; VERMONT TRANSPORTATION BOARD SPECIAL FUND

(a) The transportation board special fund is established in the state treasury and shall be administered by the secretary of transportation in accordance with the provisions of subchapter 5 of chapter 7 of Title 32, except that interest earned on the fund shall be retained in the fund. The fund shall be used only for transportation board costs and for administration and enforcement of the provisions of this chapter. The secretary of the agency of transportation may draw upon the fund for authorized payments.

(b) On July 1, 2010, and every two years thereafter, there is imposed a biennial fee upon each new motor vehicle dealer of \$60.00 for each dealer license held by that dealer, and there is imposed upon each manufacturer a biennial fee of \$600.00 for each line-make of new motor vehicles that the manufacturer sells or distributes within this state.

(c) Upon the filing of a protest under this chapter, the protesting party shall pay to the board a filing fee of \$1,500.00.

(d) The transportation board shall administer the fees imposed under this section, and the fees shall be deposited into the transportation board special fund.

Second: By adding a Sec. 1a to read as follows:

Sec. 1a. START-UP FEES FOR INITIAL FUNDING OF THE VERMONT TRANSPORTATION BOARD SPECIAL FUND

For initial funding of the transportation board special fund created under chapter 108 of Title 9, start-up fees are imposed as follows: On July 1, 2009, there is imposed upon each new motor vehicle dealer a start-up fee of \$200.00 for each dealer license held by that dealer, and there is imposed upon each manufacturer a start-up fee of \$2,000.00 for each line-make of new motor vehicles that the manufacturer sells or distributes within the state. The transportation board shall administer the fees imposed under this section, and the fees shall be deposited into the transportation board special fund.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Senator Racine requested and was granted leave to be excused from voting on this question pursuant to the provisions of Senate Rules 69 and 71 due to a conflict of interest.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Transportation was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Transportation, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Message from the House No. 44

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 86. An act relating to the regulation of professions and occupations.

H. 213. An act to provide fairness to tenants in cases of contested housing security deposit withholding.

H. 249. An act relating to volunteer nonprofit service organizations and casino nights.

H. 438. An act relating to the state's transportation program.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on the March 31, 2009, he approved and signed bill originating in the House of the following title:

H. 166. An act relating to the Vermont Student Assistance Corporation.

Message from the House No. 45

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 17. Joint resolution accepting a Federal Emergency Grant designated as JFO #2371 to repair damage resulting from the December 2008 ice storm.

In the adoption of which the concurrence of the Senate is requested.

Joint Resolution Adopted in Concurrence

J.R.H. 17.

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

Joint resolution accepting a Federal Emergency Grant designated as JFO #2371 to repair damage resulting from the December 2008 ice storm.

Offered by: Representatives Obuchowski of Rockingham, Ancel of Calais, Larson of Burlington and Heath of Westford

Whereas, on December 12, 2008, a severe ice storm struck the southern Vermont counties of Bennington and Windham, causing extensive damage to public facilities belonging to the state, to local governments, and to nonprofit organizations, and

Whereas, the severity of the damage resulted in the governor's declaring these counties as disaster areas in accordance with federal law, thus qualifying them for possible federal financial assistance to help pay for the required repair work, and

Whereas, the Federal Emergency Management Agency has recently awarded the state of Vermont a grant totaling \$825,845.40 to help pay the repair costs, and the Joint Fiscal Office has designated that grant as JFO #2371, and

Whereas, pursuant to 32 V.S.A. § 5(1), the governor has sent his written approval of the state acceptance of the grant to the Joint Fiscal Office, and

Whereas, in accordance with 32 V.S.A. § 5(2), when the general assembly is in session, the governor's acceptance is final after 30 days if a member of the joint fiscal committee does not request that it be held for legislative approval, and

Whereas, the urgency of proceeding with the work for which these funds are intended necessitates ending the statutory waiting period as quickly as possible, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly accepts a Federal Emergency Management Agency grant designated as JFO #2371.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 121, S. 127.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Monday, April 6, 2009, at five o'clock in the afternoon pursuant to J.R.S. 27.

MONDAY, APRIL 6, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

Vanessa J. Davison, Journal Clerk of the Senate, then led the members of the Senate in the pledge of allegiance.

Message from the House No. 46

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 441. An act making appropriations for the support of government.

In the passage of which the concurrence of the Senate is requested.

The House has considered a bill originating in the Senate of the following title:

S. 115. An act relating to civil marriage.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 139.

By Senator Giard,

An act relating to concurrent enrollment opportunities at postsecondary institutions for Vermont secondary students.

To the Committee on Education.

S. 140.

By Senator Giard,

An act relating to providing parents and legal guardians the authority to determine whether it is in a student's best interest to enroll in another school.

To the Committee on Education.

S. 141.

By Senators Giard, Brock and Starr,

An act relating to providing specialized school-based mental health and developmental disability services.

To the Committee on Health and Welfare.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 86.

An act relating to the regulation of professions and occupations.

To the Committee on Government Operations.

H. 213.

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

To the Committee on Finance.

H. 249.

An act relating to volunteer nonprofit service organizations and casino nights.

To the Committee on Economic Development, Housing and General Affairs.

H. 438.

An act relating to the state's transportation program.

To the Committee on Transportation.

H. 441.

An act making appropriations for the support of government.

To the Committee on Appropriations.

Rules Suspended; House Proposal of Amendment Concurred In; Rules Suspended; Bill Delivered**S. 115.**

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to civil marriage.

Was taken up for immediate consideration.

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

Sec. 1. SHORT TITLE

This act may be referred to and cited as "An Act to Protect Religious Freedom and Recognize Equality in Civil Marriage."

Sec. 2. PURPOSE

The purpose of this act is to recognize legal equality in the civil marriage laws and to protect the religious freedom of clergy and religious societies authorized to solemnize civil marriages.

Sec. 3. 15 V.S.A. § 1a is added to read:

§ 1a. PERSON FORBIDDEN TO MARRY A RELATIVE

No person shall marry his or her parent, grandparent, child, grandchild, sibling, sibling's child, or parent's sibling.

Sec. 4. 15 V.S.A. § 4 is amended to read:

§ 4. MARRIAGE CONTRACTED WHILE ONE IN FORCE

Marriages contracted while either party ~~has a living spouse or a living party to a civil union~~ is legally married or joined in civil union to a living person other than the party to that marriage shall be void.

Sec. 5. 15 V.S.A. § 8 is amended to read:

§ 8. MARRIAGE DEFINITION

Marriage is the legally recognized union of ~~one man and one woman~~ two people. When used in this chapter or in any other statute, the word "marriage" shall mean a civil marriage. Terms relating to the marital relationship or familial relationships shall be construed consistently with this section for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law.

Sec. 6. 15 V.S.A. § 1202(2) is amended to read:

(2) Be of the same sex and therefore excluded from the marriage laws of this state.

Sec. 7. 18 V.S.A. § 5131(a) is amended to read:

(a)(1) Upon application in a form prescribed by the department, a town clerk shall issue to a person a civil marriage license in the form prescribed by the department and shall enter thereon the names of the parties to the proposed marriage, fill out the form as far as practicable and retain in the clerk's office a copy thereof.

(2) The department shall prescribe forms that allow each party to a marriage to be designated "bride," "groom," or "spouse," as he or she chooses, and the application shall be in substantially the following form:

VERMONT DEPARTMENT OF HEALTH

APPLICATION FOR VERMONT LICENSE OF CIVIL MARRIAGE

FEE FOR CIVIL MARRIAGE LICENSE: \$45.00, FEE FOR CERTIFIED
COPY \$10.00

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)		
SEX	DATE OF BIRTH (e.g., July 1, 2009)	AGE
BIRTHPLACE		EDUCATION (Circle No. Yrs. Completed)
	GRADES 1-8	GRADES 9-12
		COLLEGE (1-5+)
RESIDENCE (No. and Street)		
CITY OR TOWN	COUNTY	STATE
RACE – White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino (Specify)		
FATHER'S NAME (First, Middle, Last)		
FATHER'S BIRTHPLACE (State or Foreign Country)		MOTHER'S BIRTHPLACE (State or Foreign Country)
MOTHER'S MAIDEN NAME (First, Middle, Maiden Surname)		
NO. OF THIS MARRIAGE (1st, 2nd, etc.)	NO. OF CIVIL UNIONS	IF PREVIOUSLY IN MARRIAGE OR CIVIL UNION, LAST RELATIONSHIP WAS 1. MARRIAGE 2. CIVIL UNION
Date last marriage or civil union ended _____ Month _____ Year		
LAST RELATIONSHIP ENDED BY: 1. <input type="checkbox"/> DEATH 2. <input type="checkbox"/> DISSOLUTION 3. <input type="checkbox"/> ANNULMENT 4. <input type="checkbox"/> PREVIOUS CIVIL UNION DID NOT END. MARRYING CIVIL UNION PARTNER		

Does either party have a legal guardian _____ Yes _____ No

BRIDE/GROOM/SPOUSE (circle one)

NAME (First) (Middle) (Last)			
SEX	DATE OF BIRTH (e.g., July 1, 2009)		AGE
BIRTHPLACE		EDUCATION (Circle No. Yrs. Completed)	
	GRADES 1-8	GRADES 9-12	COLLEGE (1-5+)
RESIDENCE (No. and Street)			
CITY OR TOWN		COUNTY	STATE
RACE – White, Black, Native American, Indian, Chinese, Japanese, Hawaiian, Filipino (Specify)			
FATHER'S NAME (First, Middle, Last)			
FATHER'S BIRTHPLACE (State or Foreign Country)		MOTHER'S BIRTHPLACE (State or Foreign Country)	
MOTHER'S MAIDEN NAME (First, Middle, Maiden Surname)			
NO. OF THIS MARRIAGE (1st, 2nd, etc.)	NO. OF CIVIL UNIONS	IF PREVIOUSLY IN MARRIAGE OR CIVIL UNION, LAST RELATIONSHIP WAS 1. MARRIAGE 2. CIVIL UNION	

Date last marriage or civil union ended _____ Month _____ Year
LAST RELATIONSHIP ENDED BY: 1. <input type="checkbox"/> DEATH 2. <input type="checkbox"/> DISSOLUTION 3. <input type="checkbox"/> ANNULMENT 4. <input type="checkbox"/> PREVIOUS CIVIL UNION DID NOT END. MARRYING CIVIL UNION PARTNER
Does either party have a legal guardian _____ Yes _____ No
APPLICANTS
We hereby certify that the information provided is correct to the best of our knowledge and belief and that we are free to marry under the laws of Vermont.
SIGNATURE _____ SIGNATURE _____ Date signed: _____ Date signed: _____
Planned marriage date _____ Location (City or town) _____ Officiant Name & Address _____ Your mailing address after wedding _____ Do you want a certified copy of your Marriage Certificate? (\$10.00) _____ Yes _____ No

Date License issued _____ Clerk issuing License _____

This worksheet may be destroyed after marriage is registered.

(3) At least one party to the proposed marriage shall sign the certifying application to the accuracy of the facts so stated. The license shall be issued by the clerk of the town where either ~~the bride or groom party~~ resides or, if neither is a resident of the state, by any town clerk in the state.

Sec. 8. 18 V.S.A. § 5142 is amended to read:

§ 5142. RESTRICTIONS AS TO MINORS AND INCOMPETENT PERSONS

A clerk shall not issue a marriage license when either party to the intended marriage is:

(1) A person who has not attained ~~his~~ majority without the consent in writing of one of the parents if there is one competent to act; or the guardian of such minor;

(2) Nor with such consent when either party is under ~~sixteen~~ 16 years of age ~~unless furnished with a certificate of a probate, district or superior judge, of the district or county in which one of the applicants resides, if either applicant is a resident of the state, otherwise of the district or county in which the marriage is sought to be consummated, that the public good requires such license to be issued;~~

(3) Nor when either of the parties to the intended marriage is non compos mentis;

(4) Nor to a person under guardianship without the written consent of such guardian;

~~(5) Nor in any case when either party is under fourteen years of age.~~

Sec. 9. 18 V.S.A. § 5144 is amended to read:

§ 5144. PERSONS AUTHORIZED TO SOLEMNIZE MARRIAGE

(a) Marriages may be solemnized by a supreme court justice, a superior court judge, a district judge, a judge of probate, an assistant judge, a justice of the peace, an individual who has registered as an officiant with the Vermont secretary of state pursuant to section 5144a of this title, a member of the clergy residing in this state and ordained or licensed, or otherwise regularly authorized thereunto by the published laws or discipline of the general conference, convention, or other authority of his or her faith or denomination, or by such a clergy person residing in an adjoining state or country, whose parish, church, temple, mosque, or other religious organization lies wholly or in part in this state, or by a member of the clergy residing in some other state of the United States or in the Dominion of Canada, provided he or she has first secured from the probate court of the district within which the marriage is to be solemnized a special authorization, authorizing him or her to certify the marriage if such probate judge determines that the circumstances make the special authorization desirable. Marriage among the Friends or Quakers, the Christadelphian Ecclesia, and the Baha'i Faith may be solemnized in the manner heretofore used in such societies.

(b) This section does not require a member of the clergy authorized to solemnize a marriage as set forth in subsection (a) of this section, nor societies of Friends or Quakers, the Christadelphian Ecclesia, or the Baha'i Faith to solemnize any marriage, and any refusal to do so shall not create any civil claim or cause of action.

Sec. 10. 8 V.S.A. § 4501 is amended to read:

§ 4501. EXEMPTIONS

(a) Except as herein provided, societies shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

(b) The civil marriage laws shall not be construed to affect the ability of a society to determine the admission of its members as provided in section 4464 of this title, or to determine the scope of beneficiaries in accordance with section 4477 of this title, and shall not require a society that has been established and is operating for charitable and educational purposes and which is operated, supervised, or controlled by or in connection with a religious organization to provide insurance benefits to any person if to do so would violate the society's free exercise of religion, as guaranteed by the First Amendment to the Constitution of United States or by Chapter I, Article 3 of the Constitution of the State of Vermont.

Sec. 11. 9 V.S.A. § 4502 is amended to read:

§ 4502. PUBLIC ACCOMMODATIONS

* * *

(l) Notwithstanding any other provision of law, a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if the request for such services, accommodations, advantages, facilities, goods, or privileges is related to the solemnization of a marriage or celebration of a marriage. Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this subsection shall not create any civil claim or cause of action. This subsection shall not be construed to limit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization from selectively providing services, accommodations, advantages, facilities, goods, or privileges to some individuals with respect to the solemnization or celebration of a marriage but not to others.

Sec. 12. REPEAL

(a) The following sections in Title 15 are repealed:

- (1) § 1 (man forbidden to marry relatives);
- (2) § 2 (woman forbidden to marry relatives);
- (3) § 5 (marriage entered into in another state);
- (4) § 6 (marriage void in state of residence);
- (5) § 1201(4) (definition of marriage).

(b) The following sections in Title 18 are repealed:

- (1) § 5160 (issuance of civil union license; certification; return of civil union certificate);
- (2) § 5161 (issuance of license);
- (3) § 5162 (proof of legal qualifications of parties to a civil union; penalty);
- (4) § 5163 (restrictions as to minors and incompetent persons);
- (5) § 5164 (persons authorized to certify civil unions);
- (6) § 5164a (temporary officiant for civil unions);
- (7) § 5165 (civil union license required for certification; failure to return).

Sec. 12a. STATUTORY REVISIONS

The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words “civil marriage” for the word “marriage.” Such changes shall be made when new legislation is proposed, or there is a republication of a volume of the Vermont Statutes Annotated.

Sec. 13. EFFECTIVE DATE

This act shall take effect September 1, 2009.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended, and the bill was ordered delivered to the Governor forthwith.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 129. An act relating to containing health care costs by decreasing variability in health care spending and utilization.

Proposal of Amendment; Third Reading Ordered**H. 91.**

Senator Nitka, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

Reported recommending that the Senate propose to the House to amend the bill as follows:

In Sec. 2, 33 V.S.A. § 5123 in subsection (a) by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) minimizes physical and psychological trauma;

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate**J.R.S. 28.**

Joint Senate resolution entitled:

Joint resolution designating April as sexual violence awareness month.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Message from the Governor

A message was received from His Excellency, the Governor, by Heidi Tringe, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the sixth day of April, 2009, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 115. An act relating to civil marriage.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 115** to the Senate is as follows:

“April 6, 2009

The Honorable David A. Gibson
Secretary of the Senate
State House
115 State Street, Drawer 33
Montpelier, VT 05633

Dear Mr. Secretary:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.115, *An Act Relating to Civil Marriage*, without my signature because of my objections described herein. I do so recognizing that this is an issue that is intensely personal, with strongly held beliefs and convictions on both sides. But I am charged by our Constitution to act on this legislation and by its return, I have fulfilled that responsibility.

The question of same sex marriage is an issue that does not break cleanly as Republican or Democrat, rural or urban, religious or atheist. The decision to support or oppose is informed by an amalgam of experience, conviction and faith. These beliefs are deeply held, passionately expressed and, for many legislators, infinitely more complex than the ultimate ‘yea’ or ‘nay’ required to fulfill the duty of their office.

On such an intensely personal issue as this, all members must do as their individual conscience dictates, with the best interest of their districts in mind. It is for those reasons that I have not sought to lobby members of my own party, or asked opponents to sustain my veto.

This legislation does not address the inequalities espoused by proponents. Regardless of whether the term marriage is applied, federal benefits will still be denied to same sex couples in Vermont. And states that do not recognize same sex marriage or civil unions will also deny state rights and responsibilities to same sex couples married in Vermont. This bill will not change that fact.

Vermont’s civil union law has afforded the same state rights, responsibilities and benefits of marriage to same sex couples. Our civil union law serves Vermont well and I would support congressional action to extend those benefits at the federal level to states that recognize same sex unions. But I believe that marriage should remain between a man and a woman.

I hope that when the legislature makes its final decision, we can move our state forward, toward a bright future for our children and grandchildren. We still have a great deal of work ahead of us to balance our budget and get our economy going again and Vermonters are counting on us to work together to get the job done.

Sincerely,

/s/ James H. Douglas

James H. Douglas
Governor

JHD/pdc”

Adjournment

On motion of Senator Shumlin, the Senate adjourned until nine o'clock in the morning.

TUESDAY, APRIL 7, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend David Hall of Montpelier.

Message from the House No. 47

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 90. House concurrent resolution congratulating transportation district 7 on earning VOSHA's Green Mountain Voluntary Protection Program's Star certification.

H.C.R. 91. House concurrent resolution congratulating the Journey East Program of Leland & Gray Union Middle and High School on its tenth anniversary.

H.C.R. 92. House concurrent resolution honoring the Vermont Children's Aid Society on its 90th anniversary and its retiring executive director Steve Habif.

H.C.R. 93. House concurrent resolution commemorating the 150th anniversary of the third Vermont State House.

H.C.R. 94. House concurrent resolution congratulating the 2008 Hartford High School Hurricanes Division II championship boys' ice hockey team.

H.C.R. 95. House concurrent resolution congratulating Essex High School on receipt of a 2009 Siemens Award for Advanced Placement.

H.C.R. 96. House concurrent resolution congratulating Janet Medston Perrigo Brown-Wolff of South Burlington on being named the 2009 Vermont Mother of the Year.

H.C.R. 97. House concurrent resolution congratulating the 2009 Hazen Union High School Division III championship boys' basketball team.

H.C.R. 98. House concurrent resolution honoring Roderick Leach of Plainfield for his extraordinary public service at the agency of transportation.

In the adoption of which the concurrence of the Senate is requested.

Third Reading Ordered

S. 136.

Senate committee bill entitled:

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bills Amended; Third Readings Ordered

S. 122.

Senator Ayer, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to recounts in elections for statewide offices.

Reported recommending that the bill be amended in Sec. 1, in the first sentence, by striking out the following: “, divided by the number of persons to be elected.”

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 94.

Senator Choate, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to licensing state forestland for maple sugar production.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec.1. MAPLE SUGAR LICENSES ON STATE FOREST LAND

The commissioner of forests, parks and recreation shall consult with the Vermont maple sugar makers association to develop a procedure under which the commissioner shall issue additional licenses for the use of state forestland for the tapping of maple trees, the collection of maple sap, and the right to transport such sap to a processing site located off state forest land or to sites located on state forest land if approved by the commissioner. In addition, the commissioner of forests, parks and recreation shall consult with the Vermont maple sugar makers association to develop guidelines for tapping maple trees.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Agriculture?, Senator Lyons moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. MAPLE SUGAR LICENSES ON STATE FORESTLAND

(a) The commissioner of forests, parks and recreation shall adopt a procedure under which the commissioner shall issue additional licenses for the use of state forestland for the tapping of maple trees, the collection of maple sap, and the transport of such sap to a processing site located off state forestland or to sites located on state forest land if approved by the commissioner. The procedure shall include guidelines for the tapping of maple trees. In developing the procedure required by this section, the commissioner of forests, parks and recreation shall consult with the Vermont Maple Sugar Makers Association, Inc., the Vermont Forest Products Association, and other interested parties. The commissioner under the authority set forth in 10 V.S.A. § 1603 shall charge a fee per tap for a license granted under the program required by this section.

(b) On or before January 15, 2010, the commissioner shall submit the procedure required under subsection (a) of this section to the senate and house committees on natural resources and energy and the senate and house committees on agriculture.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Agriculture?, Senator Choate requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Lyons?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Third Readings Ordered

H. 31.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the town of Williston.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 95.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the approval of an amendment to the charter of the city of Burlington.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Governor's Veto Overridden; Bill Passed in Concurrence; Bill Messaged

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the Governor's veto on Senate bill entitled:

S. 115. An act relating to civil marriage.

Was taken up for immediate consideration.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the affirmative on a roll call required by the Vermont Constitution, Yeas 23, Nays 5 (the necessary *override* two-thirds vote *having* been attained).

The yeas and nays were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Sears, Shumlin, Snelling, White.

Those Senators who voted in the negative were: Brock, Doyle, Illuzzi, Maynard, Starr.

Those Senators absent and not voting were: Flanagan, Scott.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Bill Amended; Third Reading Ordered**S. 91.**

Senator Nitka, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to operation of vessels on public waters.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 3312a is amended to read:

§ 3312a. OPERATION OF PERSONAL WATERCRAFT

- (a) A person under the age of 16 shall not operate a personal watercraft.
- (b) All persons operating or riding on a personal watercraft shall wear a Type I, II, or III United States Coast Guard approved personal flotation device.
- (c) Personal watercraft shall not be operated at any time ~~during the hours between one-half hour after sunset and one-half hour before sunrise.~~
- (d) Every person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch shall attach the lanyard to his or her wrist, clothing, or personal flotation device as appropriate for the specific craft.

Sec. 2. 23 V.S.A. § 3311 is amended to read:

§ 3311. OPERATION OF VESSELS; PROHIBITED ACTS; AUTHORITY OF LAW ENFORCEMENT OFFICERS

* * *

(h) A law enforcement officer may stop and board any motorized vessel afloat on public waters of the state at any time to:

- (1) inspect its documents;
- (2) inspect the licenses and permits of the operator of the vessel; or
- (3) conduct a safety inspection for required equipment.

(i) A law enforcement officer may make arrests for violations of this subchapter; may direct, control, and regulate vessel traffic; and may make reasonable orders in the enforcement of this subchapter. No person may knowingly fail or refuse to comply with any lawful order or direction of any law enforcement officer.

Sec. 3. 23 V.S.A. § 3317 is amended to read:

§ 3317. PENALTIES

(a) A person who violates any of the following sections of this title shall be subject to a fine of not more than \$50.00 for each violation:

- § 3303 unnumbered boat
- § 3305(a) unregistered boat
- § 3305(d) old registered certificate to be returned
- § 3305(e) compliance with federal motorboat ID system
- § 3305(h) change of address
- § 3305(i) incorrect number displayed on boat
- § 3305(j) temporary registration
- § 3305a(a) qualified person may operate
- § 3305a(c) underage operation
- § 3305(b) operating without boat certificate
- § 3306(a)-(d) lights and equipment
- § 3307a documented boat validation sticker
- § 3308 boat rental records
- § 3309 muffling device
- § 3311(c) distance requirements
- § 3311(d) under water historic preserve area
- § 3311(e) overloaded vessel
- § 3311(h)-(i) authority of law enforcement officer
- § 3312 rules between vessels

- § 3313(b) failing to file report
§ 3315(a) water ski observer
§ 3315(c) improper ski towing
§ 3316 boat races

* * *

Sec. 4. 23 V.S.A. § 3327 is added to read:

§ 3327. RESPONSIBILITY TO FOLLOW LAWFUL ORDER OF LAW ENFORCEMENT OFFICER

(a) A person while operating or in charge of a vessel shall, upon request by a law enforcement officer who reasonably suspects that the person has committed or is committing a violation of this subchapter, give his or her name and address and the name and address of the owner of the vessel.

(b) The operator of the vessel shall identify himself or herself upon request from a law enforcement officer and produce the registration certificate for the vessel if required. A person operating a vessel shall promptly and carefully stop when signaled to stop by a law enforcement officer wearing insignia which identifies the officer.

(c) A person who violates subsection (a) of this section shall be fined not more than \$300.00.

(d) A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than \$250.00.

Sec. 5. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(17) Violations of 23 V.S.A. § 3327(d), relating to obeying a law enforcement officer while operating a vessel.

* * *

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Bill Passed**S. 51.**

Senate bill entitled:

An act relating to Vermont's motor vehicle franchise laws.

Was taken up.

Thereupon, pending third reading of the bill, Senators Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported recommending that the bill be amended as follows:

First: In Sec. 1, in 9 V.S.A. § 4091(a), after the words "cancellation of any franchise", by inserting the following: by the manufacturer, and, after the words "by the franchisee", by striking out the words "or by mutual agreement"

Second: In Sec. 1, in 9 V.S.A. § 4096(6), after "requirements of the manufacturer," by striking out the word "and" and after the words "management of the new motor vehicle dealer", by inserting , and the acquisition is not unreasonable in light of existing circumstances and striking out the words "For the purposes of this act, "reasonable facilities requirements" shall not include a requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel or display spaces."

Third: In Sec. 1, in 9 V.S.A. § 4096(6)(B), after "requirements of the manufacturer," by striking out the word "or" and after "management of the new motor vehicle dealer", by inserting the words , or that the acquisition is not unreasonable in light of existing circumstances

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Illuzzi requested and was granted leave to withdraw the *second* and *third* proposals of amendment.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs in the *first* recommendation of amendment?, was decided in the affirmative.

Thereupon, the bill was read the third time and passed.

Senator Shumlin Assumes the Chair

Consideration Interrupted by Recess**S. 77.**

Senate bill entitled:

An act relating to the disposal of electronic waste.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGSThe general assembly finds:

(1) According to the U.S. Environmental Protection Agency, discarded computers, computer monitors, televisions, and other consumer electronics—collectively referred to as e-waste—are the fastest growing portion of the waste stream, growing by approximately eight percent from 2004 to 2005.

(2) Televisions and computers are prevalent in modern society and contribute significantly to the waste generated in Vermont.

(3) Televisions, computers, laptop computers, and computer monitors contain lead, mercury, and other hazardous substances that pose a threat to human health and the environment if improperly disposed of at the end of the useful life of these products.

(4) The state of Vermont has committed to providing its citizens with a safe and healthy environment and has actively undertaken efforts such as mercury reduction programs to reduce the potential for contamination.

(5) The appropriate recycling of televisions and computers protects public health and the environment by reducing the potential for the release of heavy metals and mercury from landfills into the environment, consistent with other state initiatives, and also conserving valuable landfill space.

(6) The establishment of a system to provide for the collection and recycling of electronic devices in Vermont is consistent with the state's duty to protect the health, safety, and welfare of its citizens; maintain and enhance the quality of the environment; conserve natural resources; prevent pollution of air, water, and land; and stimulate economic growth.

Sec. 2. 10 V.S.A. chapter 166 is added to read:

CHAPTER 166. DISPOSAL OF ELECTRONIC DEVICES

§ 7301. DEFINITIONS

For the purposes of this chapter, the following terms shall have the following meanings:

(1) “Agency” means the agency of natural resources.

(2) “Cathode-ray tube” or “CRT” means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(3) “Collection” means the aggregation of covered electronic devices from covered entities and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

(4) “Collector” means a public or private entity that receives covered electronic devices from covered entities and arranges for the delivery of the devices to a recycler on behalf of a manufacturer for the purpose of fulfilling a manufacturer’s responsibilities under this chapter.

(5) “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable handheld calculator, or other similar device.

(6) “Computer monitor” means a display device without a tuner that can display pictures and sound and is used with a computer. “Computer monitor” includes a laptop computer.

(7) “Covered electronic device” means computers; peripherals; video display devices; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; cell phones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (as used to charge electronic devices) that are sold to a consumer.

(8) “Covered entity” means any household, charity, or school district in the state; a business in the state that employs ten or fewer individuals; or any person giving seven or fewer covered electronic devices to a collector at any one time.

(9) “Delegated solid waste district” means the solid waste district or districts that the agency of natural resources delegates implementation, administration, and enforcement of this chapter under section 7302 of this title.

(10) “Manufacturer” means a person who:

(A) Manufactures or manufactured a video display device or printer under its own brand or label;

(B) Sells under its own brand or label a video display device or printer produced by another supplier;

(C) Owns a brand that it licenses or licensed to another person for use on a video display device or printer; or

(D) Imports or imported a video display device or printer into the United States that is manufactured by a person without a presence in the United States.

(11) “Peripheral” means a keyboard, printer, or any other device sold exclusively for external use with a computer that provides input or output into or from a computer.

(12) “Printer” means desktop printers, multifunction printer copiers, and printer fax combinations taken out of service that are designed to reside on a work surface, and include various print technologies, including without limitation laser and LED (electrographic), ink jet, dot matrix, thermal, and digital sublimation, and “multi-function” or “all-in-one” devices that perform different tasks, including copying, scanning, faxing, and printing. Printers do not include floor-standing printers, printers with an optional floor stand, point of sale (POS) receipt printers, household printers such as a calculator with printing capabilities or label makers, or nonstand-alone printers that are embedded into products that are not covered electronic products.

(13) “Program year” means the period from July 1 through June 30.

(14) “Recycler” means a person who accepts covered electronic devices from covered entities and collectors for the purpose of recycling. A person who takes products solely for refurbishment or repair is not a recycler.

(15) “Recycling” means the process of collecting and preparing video display devices, printers, or covered electronic devices for use in manufacturing processes or for recovery of useable materials followed by delivery of such materials for use. Recycling does not include destruction by incineration, waste-to-energy incineration, or other such processes; land disposal; or reuse, repair, or any other process through which video display devices, printers, or covered electronic devices are returned to use in their original form.

(16) “Recycling credits” means the number of pounds of covered electronic devices recycled by a manufacturer during a program year, less the product of the number of pounds of video display devices or printers sold during the same program year multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 7308 of this title.

(17) “Retailer” means a person who sells, rents, or leases to a household, through sales outlets, catalogues, or the Internet, a video display device or printer that is not for resale in any form.

(18) “Sell” or “sale” means any transfer for consideration of title or of the right to use by lease or sales contract of a video display device or printer to a consumer in the state. “Sell” or “sale” does not include a manufacturer’s or a distributor’s wholesale transaction with a distributor or a retailer.

(19) “Television” means any telecommunications system or device that can broadcast or receive moving pictures and sound over a distance and includes a television tuner or a display device peripheral to a computer that contains a television tuner.

(20) “Transporter” means a person that moves covered electronic devices from a collector to a recycler.

(21) “Video display device” means a unit capable of presenting images electronically on a screen, with a video display greater than four inches when measured diagonally, that is viewed by the user, and includes televisions, computer monitors, laptop computers, cathode ray tubes, plasma displays, liquid crystal displays, rear and front enclosed projection devices, and other similar displays that may be developed. “Video display device” does not include any of the following:

(A) a video display device that is part of a motor vehicle or any component of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(B) a video display device, including a touch-screen display, that is functionally or physically part of a larger piece of equipment or that is designed and intended for use in an industrial, commercial, or retail setting;

(C) a video display device that is contained within a household appliance, including a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, home heating device, dehumidifier, water purifier, or air purifier;
or

(D) a telephone of any type unless it contains a video display greater than nine inches when measured diagonally.

§ 7302. DELEGATION OF ELECTRONIC WASTE RECYCLING PROGRAM

(a)(1) If a solid waste district or districts submits a written request for delegation of statewide implementation, administration, and enforcement of the requirements this chapter, the secretary shall delegate authority to a solid

waste district or districts to implement and administer the requirements of this chapter and the enforcement provisions of chapter 201 of this title relating to the requirements of this chapter, provided that the secretary is satisfied that the solid waste district:

(A) Has established a process for accepting, reviewing, and processing registrations under sections 7304, 7305, and 7306 of this title;

(B) Has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract the necessary employees to: process registrations under sections 7304, 7305, and 7306 of this title; review and audit information submitted by manufacturers, recyclers, collectors, and transporters; and implement the requirements of section 7307 of this title;

(C) Will take timely and appropriate enforcement actions pursuant to the authority of chapter 201 of this title;

(D) Commits to reporting annually to the secretary on a form and date determined by the secretary.

(2) If the secretary receives multiple, competing requests from solid waste districts under subdivision (1) of this subsection, the secretary, in his or her discretion, shall select the most appropriate solid waste district for the implementation, administration, and enforcement of the requirements of this chapter.

(b) A solid waste district or districts delegated under subsection (a) of this section to administer, implement, and enforce the requirements of this chapter may assess and collect the fees required under section 7308 of this title in order to support services necessary to administer, implement, and enforce the requirement of this chapter.

(c) The secretary of natural resources may review administration, implementation, and enforcement of this chapter by a delegated solid waste district or districts on a random basis, or in response to a complaint, or on his or her own motion. This review may include consideration of the solid waste district implementation itself, as well as consideration of the practices, procedures employed, and any work associated with the performance of these tasks.

(d) Within 30 days of receipt of an administratively complete application under subsection (a) of this section for the implementation, administration, and enforcement of the requirements of this chapter, the secretary of natural resources shall approve the application for delegation, approve the application for delegation with conditions, or deny with justification the application for delegation.

§ 7303. PROHIBITIONS; REQUIREMENTS FOR THE SALE OF COVERED ELECTRONIC DEVICES; RETAILER OBLIGATIONS

(a) Sale prohibited. No manufacturer shall sell or offer for sale or deliver to retailers for subsequent sale a new video display device or new printer unless:

(1) the video display device or printer is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the manufacturer has filed a registration required under section 7304 of this title with the delegated solid waste district.

(b) Retailer obligations.

(1) A retailer who sells or offers for sale a new video display device or new printer to a household shall, before the initial offer of sale, review the website specified in section 7304(7) of this title to determine that all new video display devices and all new printers that the retailer is offering for sale are labeled with the manufacturer's brands that are registered with the delegated solid waste district.

(2) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked, the retailer took possession of the video display device or printer prior to the expiration or revocation of the manufacturer's registration, and the unlawful sale occurred within six months after the expiration or revocation.

(3) A retailer who sells new video display devices or new printers shall provide information to customers describing where and how they may recycle video display devices or printers and advising them of opportunities and locations for the convenient collection of video display devices or printers for the purpose of recycling. This requirement may be met by the posting of a clearly visible and easily readable sign at the point of sale that includes a warning that a video display device or printer shall not be disposed of in a solid waste facility and that provides a toll-free number or website address regarding proper disposal of video display devices and printers. Retailers selling through catalogues or the Internet may meet this requirement by including in a prominent location on the retailer's website information regarding the proper disposal of video display devices or printers.

§ 7304. MANUFACTURER'S PROGRAM RESPONSIBILITY

(a) Manufacturer registration and reporting requirements.

(1)(A) No manufacturer shall sell or offer for sale a video display device or printer in this state without first submitting a registration to the delegated

solid waste district. The delegated solid waste district shall provide the registration form to manufacturers. The form shall include:

(i) a list of the manufacturer's brands of video display devices or printers offered for sale by the manufacturer in this state;

(ii) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(iii) a certification that the manufacturer has complied and will continue to comply with the requirements of this chapter.

(B) A renewal of a registration without changes may be accomplished through notifying the delegated solid waste district on a form provided by the district.

(2)(A) Beginning July 1, 2011, each manufacturer shall, by July 1 of each year, report to the delegated solid waste district the aggregate total weight of video display devices or printers sold during the previous program year. This information may be provided by one of the following:

(i) the aggregate total weight of its video display devices or printers sold during the previous program year; or

(ii) an estimate of the aggregate total weight of its video display devices or printers sold during the previous program year based on national sales data. A manufacturer shall submit with the report required under this subsection a description of how the information or estimate was calculated.

(B) By July 1 of each year, beginning July 1, 2011, each manufacturer shall report to the delegated solid waste district the aggregate total weight of covered electronic devices the manufacturer recycled during the preceding program year.

(3) A manufacturer who begins to sell or offer for sale video display devices or printers to households and has not filed a registration under this subsection shall submit a registration to the delegated solid waste district within ten days of beginning to sell or offer for sale video display devices or printers.

(4) A registration shall be amended within ten days after a change to any information included in the registration submitted by the manufacturer under this section.

(5) A registration is effective upon receipt by the delegated solid waste district and shall be valid for a period of five years.

(6) The delegated solid waste district shall notify the manufacturer of any required information required that is omitted from the registration. Upon

receipt of a notification from the delegated solid waste district, the manufacturer shall submit a revised registration providing the information noted by the delegated solid waste district.

(7) The delegated solid waste district shall maintain a website that includes the names of manufacturers and the manufacturers' brands listed in registrations filed with the district. The delegated solid waste district shall update the website information within 10 days of receipt of a complete registration.

(b) Manufacturer's program responsibilities. Manufacturers shall comply with the following:

(1) A manufacturer shall annually recycle or arrange and pay for the collection and recycling of an amount of covered electronic devices equal to the total weight of its video display devices or printers sold during the preceding program year multiplied by the percentage of sales of video display devices or printers required to be recycled as established by the delegated solid waste district under section 7308(a)(3)(B) of this title. Manufacturers or entities with whom they contract may not charge fees at the time of collecting the unwanted covered electronic devices if those devices will be counted toward the manufacturer's recycling requirement.

(2) Manufacturers may only count covered electronic devices received from covered entities toward their recycling requirements listed under subdivision 7308(a)(3)(B) of this title.

(3) A manufacturer shall certify that a facility recycling covered electronic devices in order to meet the manufacturer's obligation under subdivision (1) of this subsection complies with the recycling standards contained in section 7307(9) of this title. A manufacturer is responsible for maintaining, for a period of three years, documentation of the information relied upon as the basis for the certification under this subdivision.

(4) A manufacturer registered under this section or a collector operating on behalf of a manufacturer under this section shall not charge a fee to covered entities for the collection, transportation, or recycling of covered electronic devices.

§ 7305. RECYCLER PROGRAM RESPONSIBILITY

(a)(1) Recycler registration. No person may recycle a covered electronic device unless that person has submitted a registration with the delegated solid waste district on a form prescribed by the district. A registration is effective upon receipt by the delegated solid waste district and is valid for a period not to exceed five years. An electronics recycling facility registered under this

section is not required to obtain a solid waste certification pursuant to chapter 159 of this title. Registration information shall include:

(A) the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive covered electronic devices;

(B) evidence that the financial assurance requirements of section 6611 of this title have been satisfied.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the recycler under this section.

(b) Recycler's reporting requirements. By July 1 of each year, beginning July 1, 2011, a recycler of covered electronic devices shall report to the delegated solid waste district the total weight of covered electronic devices recycled during the preceding program year and shall certify that the recycler has complied with section 7307(8) of this title.

(c) Approved vendors. A recycler of covered electronic devices shall only contract for the transport of, transport to, or disposal of covered electronic devices through a manufacturer mail back or take back program or with a vendor listed by the delegated solid waste district on an approved vendor list.

§ 7306. COLLECTOR AND TRANSPORTER PROGRAM RESPONSIBILITY

(a)(1) Collector and transporter registration. No person may operate as a collector or transporter of covered electronic devices unless that person has submitted a registration with the delegated solid waste district on a form prescribed by the district. A registration is effective upon receipt by the delegated solid waste district and is valid for a period not to exceed five years. An electronics collector or transporter registered under this section shall not be required to obtain a solid waste certification or a solid waste hauler permit pursuant to chapter 159 of this title.

(2) A registration shall be amended within ten days after a change to any information included in the registration submitted by the collector under this section.

(b) Transporter's reporting requirements. By July 1 of each year, beginning July 1, 2011, a transporter of covered electronic devices not destined for recycling in Vermont shall report to the delegated solid waste district the total pounds of covered electronic devices collected and the manufacturer who received credits from the covered electronic devices.

§ 7307. ADMINISTRATION OF ELECTRONIC DEVICE DISPOSAL AND RECYCLING

The delegated solid waste district shall:

(1) Administer the requirements of this chapter.

(2) Establish procedures for:

(A) the registration statements and certifications required under this chapter; and

(B) making the statements and certifications required under this chapter easily available to manufacturers, retailers, and members of the public.

(3) Collect the data submitted annually by each manufacturer on the total aggregate weight of video display devices sold and the total aggregate weight of covered electronic devices collected which are recycled.

(4) Annually review the value of the variables used to calculate a manufacturer's variable recycling fee under section 7308(a)(3) of this title. If the delegated solid waste district determines that any of these values shall be changed in order to improve the efficiency or effectiveness of the activities regulated under this chapter or if the revenues in the account exceed the amount that the delegated solid waste district determines is necessary, the delegated solid waste district shall submit recommended changes to the senate and house committees on natural resources and energy.

(5) Based on the data provided by a manufacturer regarding the sales of video display devices or printers, estimate by July 1 of each year each registered manufacturer's sales of video display devices or printers during the previous year.

(6) Beginning December 1, 2011, report to the senate and house committees on natural resources and energy regarding the implementation of this chapter. For each program year, the report shall provide the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers, collectors, and recyclers under this chapter. The report shall also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report shall include an accounting of the cost of the program. The delegated solid waste district may include in its report other information received by the district regarding the implementation of this chapter and recommended additional incentives to increase the rate of recycling.

(7) Promote public participation in the activities regulated under this chapter through public education and outreach efforts.

(8) Post on a website the contact information provided by each manufacturer under section 7304(a)(1)(A)(ii) of this title.

(9) In consultation with interested parties, establish guidelines for the environmentally sound management of consumer electronics, including specific requirements for collectors, transporters, and recyclers.

(10) Identify approved transporters, collectors, recyclers, and other downstream vendors of covered electronic devices and list such entities on a website.

§ 7308. MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT

(a) Registration fee.

(1) By July 1 of each year, all manufacturers who register under section 7304 of this title shall pay to the delegated solid waste district the annual registration fee established under this section. The delegated solid waste district shall deposit the fee into the account required by subsection (b) of this section.

(2) The annual registration fee for a manufacturer who sells video display devices or printers in the state is \$5,000.00 for the initial program year. In years following the initial program year, the annual registration fee for a manufacturer who sells video display devices or printers in the state is \$5,000.00 plus the variable recycling fee calculated according to the formula in subdivision (3) of this subsection. The annual registration fee for a manufacturer who produces fewer than 100 video display devices or printers for sale is \$1,250.00.

(3) Using quantities from the preceding program year, the variable recycling fee shall be calculated according to the formula—variable recycling fee = $(A \times B) - (C + D) \times E$, where:

(A) A = the number of pounds of a manufacturer's video display device or printers sold during the previous program year, as reported under section 7304 of this title to the delegated solid waste district;

(B) B = the proportion of sales of the video display devices or the printers required to be recycled, set at 0.6 for the first program year and at 0.8 for the second program year and every year thereafter;

(C) C = the number of pounds of covered electronic devices recycled by a manufacturer during the previous program year, as reported under section 7304 of this title to the delegated solid waste district;

(D) D = the number of recycling credits a manufacturer elects to use during the current program year to calculate the variable recycling fee, as reported under section 7304 of this title to the delegated solid waste district;

(E) E = the estimated per-pound cost of recycling used to calculate the variable recycling fee initially set at \$0.50 per pound for manufacturers who recycle less than 50 percent of the product required to be recycled under this chapter ($A \times B$); \$0.40 per pound for manufacturers who recycle at least 50 percent but less than 90 percent of the product required to be recycled under this chapter ($A \times B$); and \$0.30 per pound for manufacturers who recycle at least 90 percent of the product required to be recycled under this chapter ($A \times B$).

(4) For the purpose of calculating a manufacturer's variable recycling fee for a given year, a manufacturer may carry recycling credits forward from any of the three preceding program years to be added, in whole or in part, to the number of pounds reported recycled. Recycling credits are created when the number of pounds reported recycled exceeds the number of pounds required to have been recycled under this chapter according to the formula: $\text{credit} = C - (A \times B)$, where A, B, and C are defined in subdivision (3) of this subsection. A manufacturer may sell any portion of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner and may carry recycling credits forward from any of the three preceding program years.

(b) Creation of electronic waste management fund. The delegated solid waste district shall establish an electronic waste management fund in which fees collected under subsection (a) of this section shall be deposited. The fund shall be used for the costs incurred by the delegated solid waste district in implementing, administering, and enforcing the requirements of this chapter. Gifts or donations for the purposes of implementing, administering, and enforcing the requirements of this chapter may be deposited in the fund. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund and may be used for additional covered electronic device collection activities. Interest earned by the fund shall be deposited in the fund.

(c) The secretary of natural resources, at his or her discretion, shall be allowed to audit the electronic waste management fund established by the delegated solid waste district under this section.

§ 7309. OTHER RECYCLING PROGRAMS

A municipality or other public agency may not require covered entities to use public facilities to recycle their covered electronic devices to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their recycling obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 7304 of this title.

§ 7310. ANTICOMPETITIVE CONDUCT

Manufacturers or industry trade groups may work together and pool resources and collection activities to meet the requirements of this chapter.

§ 7311. MULTISTATE IMPLEMENTATION

The delegated solid waste district is authorized to participate in the establishment of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

§ 7312. LIMITATIONS

If a federal law or combination of federal laws takes effect that is applicable to all video display devices or printers sold in the United States and establishes a program for the collection and recycling or reuse of video display devices or printers that is applicable to all discarded video display devices or discarded printers, the delegated solid waste district shall evaluate whether the laws provide a solution that is equal to or better than the program established under this chapter. The delegated solid waste district shall report its findings to the general assembly.

Sec. 3. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following solid waste in landfills:

* * *

(8) Covered electronic devices, as defined in chapter 166 of this title, after July 1, 2011.

Sec. 4. 10 V.S.A. § 8003(a) is amended to read:

(a) The secretary may take action under this chapter to enforce the following statutes:

* * *

(17) 10 V.S.A. § 2625, relating to heavy cutting of timber; ~~and~~

(18) 10 V.S.A. chapter 164, relating to comprehensive mercury management;

(19) 10 V.S.A. chapter 166, relating to disposal of covered electronic devices.

Sec. 5. EFFECTIVE DATE

(a) This section and Secs. 1 (findings) and 3 (prohibition on disposal of electronic devices in solid waste landfills) of this act shall take effect July 1, 2009.

(b) 10 V.S.A §§ 7301 (findings) and 7302 (delegation of electronic waste recycling program) shall take effect July 1, 2009.

(c) Sec. 4 (enforcement of disposal of covered electronic devices) of this act and 10 V.S.A. §§ 7303 (prohibition on sale of video display devices and printers), 7304 (manufacturer's program responsibility), 7305 (recycler program responsibility), 7306 (collector and transporter program responsibility), 7307 (administration of electronic device disposal and recycling), 7308 (manufacturer's registration fee), 7309 (other recycling programs), 7310 (anticompetitive conduct), 7311 (multistate implementation), 7312 (limitations of federal law) shall take effect 180 days after delegation under 10 V.S.A. § 7302 of the administration, implementation, and enforcement of the requirements of 10 V.S.A. chapter 166.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Lyons?, Senator Campbell moved to amend the recommendation of amendment of Senator Lyons in Sec. 2, 10 V.S.A. § 7301, by striking out subdivision (10) in its entirety and inserting in lieu thereof the following:

(10) "Manufacturer" means a person who:

(A) Manufactures a video display device or printer under its own brand or label or a brand or label it is licensed to use;

(B) Sells under its own brand or label or a brand or label it is licensed to use a video display device or printer produced by another supplier; or

(C) If a brand owner does not do business in the United States, imports a video display device or printer into the United States.

Thereupon, pending the question, Shall the recommendation of amendment of Senator Lyons be amended as recommended by Senator Campbell?, the President *pro tempore* recessed the Senate until the fall of the gavel.

Called to Order

At eleven o'clock and fifteen minutes the Senate was called to order by the President *pro tempore*.

Consideration Resumed; Bill Amended; Bill Passed**S. 77.**

Consideration was resumed on Senate bill entitled:

An act relating to the disposal of electronic waste.

Thereupon, the pending question, Shall the recommendation of amendment of Senator Lyons be amended as recommended by Senator Campbell?, was decided in the negative on a division of the Senate, Yeas 7, Nays 15.

Thereupon, the question, Shall the bill be amended as recommended by Senator Lyons?, was decided in the affirmative.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 23, Nays 4.

Senator Choate having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Racine, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Nitka, Sears.

Those Senators absent or not voting were: Flanagan, Scott, Shumlin (presiding).

Bill Passed in Concurrence with Proposal of Amendment**H. 91.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

Proposals of Amendment; Third Reading Ordered**H. 204.**

Senator Cummings, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to payment of diversion program fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 3 to read as follows:

Sec. 3. REPORT

The attorney general shall report to the senate and house committees on judiciary no later than January 15, 2011 on the impact of Sec. 1 and Sec. 2 of this act on the state's court diversion programs, including the impact on the number of people successfully completing diversion programs.

Second: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. SUNSET

Sec. 1 of this act (juvenile court diversion project) and Sec. 2 of this act (adult court diversion project) shall be repealed on July 1, 2011.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 51, S. 77, H. 91.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, is hereby adopted on the part of the Senate:

By Senators Lyons, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Hartwell, Illuzzi, Kitchel, Kittell, MacDonald,

Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr and White,

S.C.R. 16.

Senate concurrent resolution recognizing the political accomplishments of former Governor Howard Dean.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Peaslee and others,

By Senators Choate, Illuzzi, Kitchel, Maynard, Mazza, Scott, Shumlin and Starr,

H.C.R. 90.

House concurrent resolution congratulating transportation district 7 on earning VOSHA's Green Mountain Voluntary Protection Program's Star certification.

By Representative Hube and others,

By Senators Shumlin and White,

H.C.R. 91.

House concurrent resolution congratulating the Journey East Program of Leland & Gray Union Middle and High School on its tenth anniversary.

By Representative Lorber and others,

H.C.R. 92.

House concurrent resolution honoring the Vermont Children's Aid Society on its 90th anniversary and its retiring executive director Steve Habif.

By Representative Kitzmiller and others,

By Senators Doyle, Cummings and Scott,

H.C.R. 93.

House concurrent resolution commemorating the 150th anniversary of the third Vermont State House.

By Representative Bohi and others,
By Senators Campbell, McCormack and Nitka,

H.C.R. 94.

House concurrent resolution congratulating the 2008 Hartford High School Hurricanes Division II championship boys' ice hockey team.

By Representative Waite-Simpson and others,

H.C.R. 95.

House concurrent resolution congratulating Essex High School on receipt of a 2009 Siemens Award for Advanced Placement.

By Representative Pugh and others,
By Senators Ashe, Lyons, Miller, Racine and Snelling,

H.C.R. 96.

House concurrent resolution congratulating Janet Medston Perrigo Brown-Wolff of South Burlington on being named the 2009 Vermont Mother of the Year.

By Representative Leriche and others,

H.C.R. 97.

House concurrent resolution congratulating the 2009 Hazen Union High School Division III championship boys' basketball team.

By Representative Ancel,
By Senators Doyle, Cummings and Scott,

H.C.R. 98.

House concurrent resolution honoring Roderick Leach of Plainfield for his extraordinary public service at the agency of transportation.

Message from the House No. 48

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 18. Joint resolution relating to certain financial and managerial policies of the University of Vermont.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 16. Senate concurrent resolution recognizing the political accomplishments of former Governor Howard Dean.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eight o'clock and thirty minutes in the forenoon on Friday, April 10, 2009.

FRIDAY, APRIL 10, 2009

The Senate was called to order by the President.

Adjournment

On motion of Senator Mullin, the Senate adjourned until one o'clock in the afternoon.

Called to Order

At one o'clock the Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

Message from the House No. 49

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the Governor's veto on Senate bill of the following title:

S. 115. An act relating to civil marriage.

And has passed the same in concurrence, notwithstanding the refusal of the Governor to approve the bill.

Message from the House No. 50

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 19. Joint resolution authorizing the 2009 Boys' State program to use the state house.

In the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 28. Joint resolution designating April as sexual violence awareness month.

And has adopted the same in concurrence.

Message from the Secretary of the Senate

Pursuant to section 11, chapter II of the Vermont Constitution, the Senate, by a vote of 23 Yeas, 5 Nays, and the House of Representatives, by a vote of 100 Yeas, 49 Nays, voted to override the veto of the Governor to a bill entitled as follows:

S. 115. An act relating to civil marriage.

Accordingly, the bill was delivered on April 8, 2009, to the Secretary of State pursuant to the provisions of title 3, chapter 5 of the Vermont Statutes Annotated.

Message from the House No. 51

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolutions of the following titles:

J.R.H. 16. Joint resolution designating April as Fair Housing Month in Vermont.

J.R.H. 20. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the Senate is requested.

Bills Referred to Committee on Appropriations**S. 97.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to a Vermont state employees' cost-savings incentive program.

H. 431.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to miscellaneous adjustments to the public retirement systems.

House Requested to Return Bill to Custody of Senate**H. 232.**

On motion of Senator Shumlin, the Senate requested the House to return to the custody of the Senate, House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 142.

By Senator White,

An act relating to a single statewide hospital system.

To the Committee on Health and Welfare.

Joint Resolution Adopted in Concurrence**J.R.H. 20.**

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 10, 2009, it be to meet again no later than Tuesday, April 14, 2009.

Joint Resolution Referred**J.R.H. 18.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to certain financial and managerial policies of the University of Vermont.

Whereas, the General Assembly chartered the University of Vermont on November 3, 1791 for providing higher public education, and

Whereas, the Vermont Agricultural College was created in accordance with Act 96 of 1864, and

Whereas, under the authority of Act 71 of 1945, these two institutions of higher education were unified into a single educational entity that has garnered great esteem among the citizens of Vermont, and

Whereas, the University of Vermont, notwithstanding the respect it has earned in this state and notwithstanding its unusual legal status and autonomy that combine attributes of both a legislatively chartered private corporation and an instrumentality of the state, should be a responsible institutional citizen in the conduct of its organizational operations and the management of its financial affairs, and

Whereas, the difficult economic times through which our state and nation are living only magnify the need for financial prudence and responsibility at the university, and

Whereas, under these circumstances, recent managerial and financial decisions at the University of Vermont warrant closer examination by the board of trustees of the university, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges that:

1) The University of Vermont board of trustees affirm and encourage the process it has initiated as a full board and through its governance and audit committee responsibilities and that is guided by the federal Sarbanes–Oxley Act and the recently passed federal Higher Education Act’s reauthorization to continue to examine and thoroughly update the university’s audit process, to continually update the strategic plan and financial plan, to ensure compliance with federal and state law, and to annually evaluate the performance and compensation of the president in accordance with the trustees’ newly adopted protocol for annual review of the compensation of senior officials;

2) Any program or activity at the University of Vermont that is proposed for elimination and that has an annual budget that equals or exceeds a prudent monetary threshold the trustees have set be subject to a vote of the trustees prior to its elimination, and that the trustees endeavor to include a listing of these decisions in the annual financial report of the university;

3) The University of Vermont continue to make every effort to increase the number of Vermonters in the student body who meet admission stands as the university charter directs, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the president of the University of Vermont and to the chair of the University of Vermont board of trustees.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Government Operations.

Rules Suspended; Committee Relieved of Further Consideration; Joint Resolution Placed on Calendar

J.R.S. 26.

On motion of Senator Sears, the rules were suspended, and J.R.S. 26 was taken up for immediate consideration, for the purpose of relieving the Committee on Judiciary from further consideration of the joint resolution. Thereupon, on motion of Senator Sears, the Committee on Judiciary was relieved of joint Senate resolution entitled:

Joint resolution relating to the legalization of industrial hemp,

and the joint resolution was placed on the Calendar for action the next legislative day.

Joint Resolutions Placed on Calendar

J.R.H. 16.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution designating April as Fair Housing Month in Vermont.

Whereas, the right to dwell wherever any individual wishes without regard to race, religion, national origin, gender, or age was not historically enshrined in federal law, and

Whereas, for generations, millions of Americans were denied the housing of their choice because of one of these factors, and

Whereas, despite the United States Supreme Court's prohibition in 1948 of judicial enforcement of restrictive covenants in the case of Shelley v Kraemer, discriminatory housing policies in neighborhoods, or even entire communities, continued to be legal if privately enforced, and

Whereas, by the middle 1960s, following Congress' passage of both the Civil Rights Act of 1964 and the Voting Rights Act of 1965, housing discrimination remained a barrier in both the rental and sales markets, and

Whereas, the open housing marches that the Rev. Dr. Martin Luther King Jr. led in Chicago in 1966, his assassination on April 4, 1968, and the riots that flowed in its wake proved the catalyst that finally persuaded Congress of the necessity to enact federal fair housing legislation, and

Whereas, Congress responded with unusual haste to President Johnson's urgent appeal, and, within days, on April 11, 1968, he signed the Civil Rights Act of 1968, Title VIII of which is known as the Fair Housing Act, and

Whereas, the legislative breakthrough achieved in this act began a process of guaranteeing that individuals could rent or purchase a home without regard to their religion, race, age, or gender, and, as the act was later amended, disability, and

Whereas, in observance of the signing of the Fair Housing Act of 1968, many jurisdictions are designating April as Fair Housing Month in order both to remember the passage of this historic legislation and to renew the commitment to fair and open housing for all Americans, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates April as Fair Housing Month in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Human Rights Commission.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

J.R.H. 19.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the 2009 Boys' State program to use the state house.

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys' State program which provides an opportunity for boys in high school to study the workings of state government in Montpelier, and

Whereas, as part of their visit to the state's capital city, the boys conduct a mock legislative session in the state house, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the state house for the Green Mountain Boys' State program on Thursday, June 25, 2009 from 8:00 a.m. to 5:00 p.m.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Senate Resolution Referred

S.R. 9.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Carris, Ayer, Brock, Cummings, Giard, Maynard, McCormack and Starr,

Senate resolution relating to the treatment of individuals at the United States and Canadian ports of entry along the Vermont-Quebec international border.

Whereas, Vermont and Quebec share a common border, with multiple ports of entry, that stretches from Alburgh to Beecher Falls, and

Whereas, thousands of individuals cross the border weekly, in both directions, for many purposes, including business, family and recreational activities, and

Whereas, everyone recognizes that in the post-9/11 era, international border security has assumed a heightened importance for both the United States and Canada, and

Whereas, despite these legitimate security concerns, the agents of the Canadian Border Security Agency (an agency under the jurisdiction of the Canadian Minister for Public Safety), who staff the ports of entry on the northern side of the Vermont-Quebec border, have routinely demonstrated a courteous and friendly persona toward individuals seeking entry into Canada while still reserving the right to deny entry or to take other law enforcement measures, when a specific situation so warrants, and

Whereas, to the contrary, all too frequently, individuals entering the United States at one of the Vermont ports of entry are subjected to a gruff and harsh reception even when there is no suspicion on the part of a United States

Customs and Border Protection agent of any attempt at illegal entry, the bringing into the United States of unauthorized goods, or criminal activity, and

Whereas, the Senate fully recognizes that the agents of United States Customs and Border Protection (an agency of the United States Department of Homeland Security) are following the protocols established on the national level from which they may not individually deviate, and their dedication to serving our nation is not being questioned, and

Whereas, agents of United States Customs and Border Protection are the first official contact with Americans for visitors to our nation, and the impression that is left can be extremely negative, disconcerting and at times hostile, and

Whereas, the reception that visitors receive at our international borders reflects on our nation as a whole and can lead to personal ill will toward the United States that is neither justified nor necessary, and

Whereas, it is imperative that United States Customs and Border Protection develop new and more diplomatic methods for assessing and screening potentially illegal entrants into the United States without displaying the hostility and rudeness that have unfortunately been all too commonly exhibited toward both visitors to and citizens of the United States, and

Whereas, U.S. Customs and Border Protection should adopt a more friendly and positive approach, similar to the one its Canadian counterpart has adopted, *now therefore be it*

Resolved by the Senate:

That this legislative body urges United States Customs and Border Protection to rethink and redesign its protocols for welcoming and inquiring of entrants to the United States at ports of entry in Vermont and nationwide, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to United States Secretary of Homeland Security Janet Napolitano and Acting Commissioner of United States Customs and Border Protection Jayson Ahern in Washington, D.C., to the Canadian Minister of Public Safety, the Honourable Peter Van Loan P.C., M.P., to the President of the Canada Border Security Agency, Stephen Rigby, in Ottawa, and to the Consulate General of Canada in Boston.

Thereupon, the President, in his discretion, treated the resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Kenney, Frederick S., II of Jericho – Executive Director of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

To the Committee on Economic Development, Housing and General Affairs.

Gentile, Betsy of Guilford – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Keyser, Christopher S. of Rutland – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Lintermann, Mary of Stowe – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Marshall, Karen of Williston – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

To the Committee on Economic Development, Housing and General Affairs.

Morse, Stephan of Newfane – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

To the Committee on Economic Development, Housing and General Affairs.

Port, Nancy of Burlington – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

To the Committee on Economic Development, Housing and General Affairs.

Rosenquist, Carl of Georgia – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

To the Committee on Economic Development, Housing and General Affairs.

Smith, Rachel of St. Albans – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Young, Mark of Orwell – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

Boucher, Patricia A. LaBier of Enosburg Falls - Member of the Parole Board, - from March 27, 2009, to February 29, 2012.

To the Committee on Institutions.

Germain, Maurice of Colchester - Member of the Transportation Board, - from April 9, 2009, to February 28, 2011.

To the Committee on Transportation.

Consideration Postponed

Senate bills entitled:

S. 99.

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

S. 111.

An act relating to legislative apportionment board appointments.

S. 117.

An act relating to the date of the primary election.

S. 134.

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

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Consideration Resumed; Third Reading Ordered**S. 126.**

Consideration was resumed on Senate committee bill entitled:

An act relating to digital forensic specialists.

Thereupon, the pending question, Shall the bill be read the third time?, was decided in the affirmative.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 91. An act relating to operation of vessels on public waters.

S. 94. An act relating to licensing state forestland for maple sugar production.

S. 122. An act relating to recounts in elections for statewide offices.

Bill Amended; Bill Passed**S. 136.**

Senate bill entitled:

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sears and White moved to amend the bill by striking out the words "evidence-based" wherever they appear.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 31. An act relating to approval of amendments to the charter of the town of Williston.

H. 95. An act relating to the approval of an amendment to the charter of the city of Burlington.

Bill Passed in Concurrence with Proposal of Amendment**H. 204.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to payment of diversion program fees.

Bill Called Up**H. 11.**

House bill of the following title was called up by Senator Sears, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 91, S. 94, S. 122, S. 136, H. 31, H. 95, H. 204.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 14, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.H. 20.

TUESDAY, APRIL 14, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kevin Rooney of Northfield.

Pledge of Allegiance

The President *pro tempore* then led the members of the Senate in the pledge of allegiance.

Message from the House No. 52

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 152. An act relating to encouraging biomass energy production.

H. 445. An act relating to capital construction and state bonding.

In the passage of which the concurrence of the Senate is requested.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 143.

By Senator Mullin,

An act relating to a residency requirement for elected planning commission members.

To the Committee on Government Operations.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 152.

An act relating to encouraging biomass energy production.

To the Committee on Natural Resources and Energy.

H. 445.

An act relating to capital construction and state bonding.

To the Committee on Institutions.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 29. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 17, 2009, it be to meet again no later than Tuesday, April 21, 2009.

President Assumes the Chair**Consideration Postponed**

Senate bills entitled:

S. 99.

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

S. 117.

An act relating to the date of the primary election.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Consideration Postponed

House bill entitled:

H. 348.

An act relating to the Interstate Pest Control Compact.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Proposals of Amendment; Bill Referred**H. 11.**

House bill entitled:

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Having been called up, was taken up.

Thereupon, pending third reading of the bill, Senator Campbell moved that the Senate propose to the House to amend the bill in Sec. 2, by striking out 14 V.S.A. § 322 in its entirety and inserting in lieu thereof a new 14 V.S.A. § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent, or otherwise, or stands to benefit under the terms of any trust of a decedent, such individual's share in

the decedent's estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and by doing so stands to inherit under the decedent's will, or otherwise, or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will, or otherwise, or to benefit under the terms of any trust, the record of that individual's conviction of intentionally and unlawfully killing the decedent or other person shall be admissible evidence for purposes of this section.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Campbell moved that the Senate propose to the House to amend the bill by striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATE

(a) Sections 1, 2, and 4 of this act shall take effect upon passage. Sec. 2 of this act shall apply only to the estates of persons dying on or after the effective date of this act.

(b) Sections 3 and 5 of this act shall take effect July 1, 2009.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 1a to read as follows:

Sec. 1a. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE OFFICE OF PROBATE JUDGE

(a) Notwithstanding any law to the contrary, an assistant judge or a candidate for the office of assistant judge may also stand for election to the office of probate judge, and if elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, such assistant judge will be disqualified from sitting on such probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over or sat on the same or related probate matter in the superior court, such probate

judge will be disqualified from sitting on such probate matter in the probate court.

(d) This section shall take effect immediately and shall also be applied retroactively and is intended to validate and authorize any person's contemporaneous election to both offices of assistant judge and probate judge prior to and following the enactment of this law.

Which was agreed to on a division of the Senate, Yeas 14, Nays 14.

There being a tie, the Secretary took the casting vote of the President, who voted "Yea".

Thereupon, pending third reading of the bill, on motion of Senator Shumlin, the bill was referred to the Committee on Government Operations.

Bills Amended; Third Readings Ordered

S. 134.

Senate committee bill entitled:

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

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator White moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. § 653(c) is added to read:

(c)(1) The legislative advisory committee on the state house shall oversee the administration of the art acquisition fund. Specifically, the committee shall:

(A) oversee the administration of chapter 2 of Title 29;

(B) establish guidelines for the selection of works of art; and

(C) establish guidelines for the composition of the art selection panel.

(2) The selection of works of art to be installed under this chapter in facilities of the University of Vermont and State Agricultural College and of the Vermont State Colleges shall be made pursuant to procedures of these institutions for this purpose.

Sec. 2. 2 V.S.A. 902(b) is amended to read:

(b) Nothing in this section shall modify the jurisdiction of the health access oversight committee to monitor Medicaid and Medicaid waiver programs. The commission shall carry on a continuing review of the operation of the Medicaid program and all Medicaid waiver programs that may affect the administration and beneficiaries of these programs. The commission shall work with, assist, and advise other committees of the general assembly, members of the executive branch, and the public on matters relating to the state Medicaid program and other state health care programs. Annually, no later than January 15, the committee shall report to the governor and the general assembly. In conducting its review and in order to fulfill its duties, the commission shall consult the following:

(1) Consumers and advocacy groups regarding their satisfaction and complaints.

(2) Health care providers regarding their satisfaction and complaints.

(3) The office of Vermont health access.

(4) The department of banking, insurance, securities, and health care administration.

(5) The agency of human services.

(6) The attorney general.

(7) The health care ombudsman.

(8) The Vermont program for quality in health care.

(9) Any other person or entity as determined by the commission.

Sec. 3. 16 V.S.A. § 2886 is amended to read:

§ 2886. COMMISSION ON HIGHER EDUCATION FUNDING

* * *

Sec. 4. REPEAL

(a) 2 V.S.A. chapter 24 (health access oversight committee); 10 V.S.A. §§ 425 (scenery preservation council); 2223 (forest resources advisory council); and 2224 (powers and duties of the forest resources advisory council); 29 V.S.A. § 47(advisory committee to oversee the administration of the art acquisition fund); and 30 V.S.A. § 212b (review board on retail sales of electricity) are repealed.

(b) Sec. 28 of No. 43 of the Acts of 2005 (state house committee) is repealed.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

S. 111.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to legislative apportionment board appointments.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1904(a) is amended to read:

(a) There is hereby created the legislative apportionment board, consisting of: a special master designated by the chief justice of the supreme court; ~~one freeman,~~ a resident of the state of Vermont for five years immediately preceding the appointment, appointed by the governor from each political party ~~which polled at least twenty five percent of the votes cast for governor at the last preceding general election,~~ that has had more than three members serve as members of the general assembly, who are not all from the same county, for at least three of the five biennial legislative sessions since the taking of the previous decennial census of the United States; and one ~~freeman,~~ a resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be ~~chairman~~ chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote.

And that when so amended the bill ought to pass.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senators Brock and Doyle moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Government Operations as follows:

That the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1904(a) is amended to read:

(a) There is hereby created the legislative apportionment board, consisting of: a special master designated by the chief justice of the supreme court; ~~one~~

~~freeman~~, a resident of the state of Vermont for five years immediately preceding the appointment, appointed by the governor from each political party which polled at least ~~twenty-five~~ ten percent of the votes cast for governor at the last preceding general election, and one ~~freeman~~, a resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be ~~chairman~~ chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Government Operations be substituted as recommended by Senators Brock and Doyle?, Senator Brock requested and was granted leave to withdraw the substitute recommendation of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 126. An act relating to digital forensic specialists.

Third Readings Ordered

H. 36.

Senator Brock, for the Committee on Education, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 131.

Senator Brock, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Bill Committed

House bill entitled:

H. 145. An act relating to composting.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Lyons moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Agriculture *intact*,

Which was agreed to.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 26.

Joint Senate resolution entitled:

Joint resolution relating to the legalization of industrial hemp.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Joint Resolutions Adopted in Concurrence

Joint House resolutions entitled:

J.R.H. 16. Joint resolution designating April as Fair Housing Month in Vermont .

J.R.H. 19. Joint resolution authorizing the 2009 Boys' State program to use the state house.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were adopted collectively in concurrence.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the Senate:

By All Members of the Senate,

By All Members of the House,

S.C.R. 17.

Senate concurrent resolution in memory of former Representative and Senator George E. Little, Jr. of Burlington.

By Senators Choate and Kitchel,

By Representatives Reis and South,

S.C.R. 18.

Senate concurrent resolution congratulating the organizers of the 2009 St. Johnsbury Maple Sugar Festival.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Morrissey and others,

By Senators Hartwell and Sears,

H.C.R. 99.

House concurrent resolution congratulating Joseph Wassick on completing 50 years of outstanding volunteer service at the Bennington Fire Department.

By Representative Sharpe and others,

By Senators Ayer and Giard,

H.C.R. 100.

House concurrent resolution honoring Dr. David Henderson for his exemplary work as a primary care physician in Bristol and at the Porter Medical Center, Inc.

By Representative Marek and others,

H.C.R. 101.

House concurrent resolution honoring Effie (Bartlett) Chamberlain in recognition of her outstanding nursing and administrative career at the Grace Cottage Hospital.

By Representatives French and Townsend,

By Senators Ayer and Giard,

H.C.R. 102.

House concurrent resolution congratulating Brooke Werner of Granville on winning the 2009 Miss Vermont USA competition.

Message from the House No. 53

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to Senate request, the House returns custody of a bill originating in the House of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until five o'clock and thirty minutes in the afternoon on Wednesday, April 15, 2009.

WEDNESDAY, APRIL 15, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 54

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 99. House concurrent resolution congratulating Joseph Wassick on completing 50 years of outstanding volunteer service at the Bennington Fire Department.

H.C.R. 100. House concurrent resolution honoring Dr. David Henderson for his exemplary work as a primary care physician in Bristol and at the Porter Medical Center, Inc.

H.C.R. 101. House concurrent resolution honoring Effie (Bartlett) Chamberlain in recognition of her outstanding nursing and administrative career at the Grace Cottage Hospital.

H.C.R. 102. House concurrent resolution congratulating Brooke Werner of Granville on winning the 2009 Miss Vermont USA competition.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 17. Senate concurrent resolution in memory of former Representative and Senator George E. Little, Jr. of Burlington.

S.C.R. 18. Senate concurrent resolution congratulating the organizers of the 2009 St. Johnsbury Maple Sugar Festival.

And has adopted the same in concurrence.

Bill Called Up

S. 54.

Senate bill of the following title was called up by Senator Shumlin, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to clean energy assessment districts.

Third Reading Ordered

H. 348.

Senator Giard, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the Interstate Pest Control Compact.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 111.

Senate bill entitled:

An act relating to legislative apportionment board appointments.

Was taken up.

Thereupon, pending third reading of the bill, Senators Choate, Brock, Doyle and Miller moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 1904(a) is amended to read:

(a) There is hereby created the legislative apportionment board, consisting of: ~~a special master designated by the chief justice of the supreme court; one freeman,~~ a resident of the state of Vermont for five years immediately preceding the appointment, appointed by the governor from each political party ~~which polled at least twenty-five percent of the votes cast for governor at the last preceding general election;~~ that has had at least five percent representation in the general assembly in the two preceding biennial legislative sessions; and one ~~freeman,~~ a resident of the state of Vermont for the five years immediately preceding the appointment, elected by the state committee of each of those political parties, a quorum of each committee being present and voting. No member of the board shall serve as a member or employee of the general assembly, or of either house thereof. The special master so designated shall be ~~chairman~~ chair of the board, and shall call such meetings as may be necessary for the accomplishment of the duties of the board hereafter set forth. The secretary of state of Vermont shall be secretary of the board, but shall have no vote.

Which was disagreed to on a division of the Senate, Yeas 10, Nays 14.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill in Sec. 1, 17 V.S.A. § 1904(a), at the end of the subsection by adding a new sentence to read: For the purpose of determining representation of a political party under this section, if a candidate for election to the general assembly accepted a nomination from more than one political party, that candidate's party affiliation shall be only that political party to which he or she filed a petition for nomination.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 22, Nays 5.

Senator Doyle having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons,

MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Sears, Shumlin, Snelling, White.

Those Senators who voted in the negative were: Brock, Choate, Doyle, Maynard, Mullin.

Those Senators absent and not voting were: Flanagan, Scott, Starr.

Rules Suspended; Action Reconsidered; Consideration Postponed

H. 232.

On motion of Senator Shumlin the rules were suspended, and H. 232 was taken up for immediate consideration.

Thereupon, on motion of Senator Shumlin the rules were further suspended to permit the making of a motion to reconsider its vote of April 2, notwithstanding the provisions of Senate Rule 73.

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Shumlin moved that the Senate reconsider its action on House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Which was agreed to.

Thereupon, pending the recurring question, upon reconsideration, Shall the report of the Committee of Conference be adopted by the Senate?, on motion of Senator Shumlin, action on the bill was postponed until the next legislative day.

Bill Amended; Bill Passed

S. 134.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3, to read as follows:

Sec. 3. 16 V.S.A. § 2886 is amended to read:

§ 2886. COMMISSION ON HIGHER EDUCATION ~~FUNDING~~

(a) A commission on higher education ~~funding~~ is created for the purpose of:

* * *

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 36. An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

H. 131. An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

Third Readings Ordered

H. 135.

Senator Carris, for the Committee on Finance, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 160.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 186.

Senator Brock, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 89.

Senator Starr, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to a maximum retail price for milk.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

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

(a) Authority over milk prices. The commission may establish an equitable minimum or maximum price, or both, and the manner of payments, which shall be paid producers or associations of producers by handlers, and the prices charged consumers and others for milk used in dairy products by distributors or handlers. The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of monies collected under this section shall not exceed \$100,000.00 annually, and shall

be collected independently from any assessment imposed under this section. The commission may impose a one-time assessment to cover the initial costs of establishing a pricing order as authorized by this section.

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

* * *

Sec. 3. PREMIUM START-UP FUNDING

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

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

Sec. 4. PRODUCER REFERENDUM

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

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

(c) The commission shall file with the secretary of state and the legislative committee on administrative rules a letter explaining that a qualified cooperative representative vote pursuant to part III, section 8 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to

Establish a Retail Fluid Milk Premium, Or Amendment of Such Order” will not apply to an order adopted under this act. The commission shall also submit a copy of this act to the secretary of state and the legislative committee on administrative rules.

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

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

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

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

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

Sec. 6. EFFECTIVE DATE

This act shall take effect upon passage.

The Committee further recommends that after passage of the bill the title be amended to read as follows:

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

And that when so amended the bill ought to pass.

Senator Maynard, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

**Rules Suspended; Report of Substitute Committee of Conference
Accepted and Adopted on the Part of the Senate**

H. 232.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Was taken up for immediate consideration.

Upon motion by Senator Bartlett the question, Shall the original report of the Committee of Conference considered by the Senate on April 2 be substituted for by the report of the Committee of Conference as submitted today (April 15)?, was decided in the affirmative.

Senator Bartlett, for the Committee of Conference, submitted the following substitute report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 2.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.001. Secretary of administration - secretary's office

Personal services	848,494	803,917
Operating expenses	59,918	59,918
Grants	<u>150,000</u>	<u>150,000</u>
Total	<u>1,058,412</u>	1,013,835
Source of funds		
General fund	829,122	872,208
Global Commitment fund	76,613	70,316
Interdepartmental transfer	<u>152,677</u>	<u>71,311</u>
Total	<u>1,058,412</u>	1,013,835

Sec. 2. Sec. 2.024 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.024. Buildings and general services - fee for space

Personal services	11,993,881	12,332,498
Operating expenses	<u>12,126,545</u>	<u>13,854,846</u>
Total	<u>24,120,426</u>	26,187,344
Source of funds		
Internal service funds	<u>24,120,426</u>	26,187,344

Sec. 3. Sec. 2.027 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.027. Executive office - national and community service

Personal services	202,006	151,504
Operating expenses	122,923	92,378
Grants	<u>1,835,463</u>	<u>1,377,300</u>
Total	<u>2,160,392</u>	1,621,182
Source of funds		
General fund	<u>56,528</u>	43,284
Federal funds	<u>2,103,864</u>	<u>1,577,898</u>
Total	<u>2,160,392</u>	1,621,182

Sec. 4. Sec. 2.034 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.034. Auditor of accounts

Personal services	2,805,929	2,785,632
Operating expenses	<u>142,283</u>	<u>142,283</u>
Total	<u>2,948,212</u>	2,927,915
Source of funds		
General fund	526,254	526,254
Special funds	54,431	54,431
Internal service funds	<u>2,367,527</u>	<u>2,347,230</u>
Total	<u>2,948,212</u>	2,927,915

Sec. 5. Sec. 2.040 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.040. VOSHA review board

Personal services	40,414	40,414
Operating expenses	<u>9,680</u>	<u>9,680</u>
Total	50,094	50,094
Source of funds		
General fund	25,047	25,047
Federal funds	25,047	
<u>Interdepartmental transfer</u>		<u>25,047</u>
Total	50,094	50,094

Sec. 6. Sec. 2.043 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.043. Tax department - reappraisal and listing payments

Grants	3,240,112	3,250,112
Source of funds		
Education fund	3,240,112	3,250,112

Sec. 7. Sec. 2.049 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.049. Total general government	177,473,806	178,946,640
Source of funds		
General fund	70,712,700	70,742,542
Education fund	8,809,208	8,819,208
Special funds	8,436,938	8,436,938
Tobacco fund	58,000	58,000
Global Commitment fund	416,113	409,816
Federal funds	2,952,640	2,401,627
Enterprise funds	2,762,854	2,762,854
Internal service funds	49,185,637	51,232,258
Pension trust funds	29,204,037	29,204,037
Private purpose trust funds	1,018,536	1,018,536
Interdepartmental transfer	3,917,143	<u>3,860,824</u>
Total	177,473,806	178,946,640

Sec. 8. Sec 2.101 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.101. Attorney general

Personal services	7,245,495	7,315,495
Operating expenses	<u>1,066,918</u>	<u>1,066,918</u>
Total	8,312,413	8,382,413
Source of funds		
General fund	4,594,248	4,594,248
Special funds	1,295,235	1,295,235
Tobacco fund	290,000	360,000
Federal funds	643,000	643,000
Interdepartmental transfer	<u>1,489,930</u>	<u>1,489,930</u>
Total	8,312,413	8,382,413

Sec. 9. Sec. 2.110 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.110. Public safety - state police

Personal services	38,966,689	42,378,789
Operating expenses	8,200,082	7,190,140
Grants	<u>582,087</u>	<u>582,087</u>

Total	47,748,858	50,151,016
Source of funds		
General fund	12,281,795	14,681,216
Transportation fund	28,231,384	28,231,384
Special funds	2,073,265	2,076,002
Federal funds	2,777,985	2,777,985
Interdepartmental transfer	<u>2,384,429</u>	<u>2,384,429</u>
Total	47,748,858	50,151,016

Sec. 10. Sec. 2.111 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.111. Public safety - criminal justice services

Personal services	5,708,438	6,008,538
Operating expenses	3,129,222	3,129,222
Grants	<u>3,046,453</u>	<u>3,046,453</u>
Total	11,884,113	12,184,213
Source of funds		
General fund	759,697	1,059,797
Transportation fund	4,429,971	4,429,971
Special funds	1,393,043	1,896,043
Federal funds	4,677,888	4,677,888
Interdepartmental transfer	<u>623,514</u>	<u>120,514</u>
Total	11,884,113	12,184,213

Sec. 11. Sec. 2.121 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.121. Center for crime victims services

Personal services	1,404,168	1,404,168
Operating expenses	318,275	318,275
Grants	<u>9,624,834</u>	<u>9,091,834</u>
Total	11,347,277	10,814,277
Source of funds		
General fund	49,809	49,809
Special funds	7,432,390	6,899,390
Federal funds	<u>3,865,078</u>	<u>3,865,078</u>
Total	11,347,277	10,814,277

Sec. 12. Sec. 2.142 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.142. Liquor control - administration

Personal services	1,476,488	1,476,488
Operating expenses	<u>422,089</u>	<u>428,750</u>
Total	1,898,577	1,905,238
Source of funds		

Enterprise funds	1,694,577	1,694,577
<u>Tobacco fund</u>		6,661
Interdepartmental transfer	<u>204,000</u>	<u>204,000</u>
Total	<u>1,898,577</u>	1,905,238

Sec. 13. Sec. 2.145 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.145. Total protection to persons and property

	<u>256,999,660</u>	259,245,579
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Source of funds		
General fund	<u>90,404,831</u>	93,104,352
Transportation fund	32,725,324	32,725,324
Special funds	<u>66,951,903</u>	66,924,640
Tobacco fund	<u>619,645</u>	696,306
Global Commitment fund	1,898,824	1,898,824
Federal funds	49,775,682	49,775,682
Enterprise funds	4,735,317	4,735,317
Interdepartmental transfer	<u>9,888,134</u>	<u>9,385,134</u>
Total	<u>256,999,660</u>	259,245,579

Sec. 14. Sec. 2.201 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.201. Agency of human services - secretary's office

Personal services	<u>6,977,471</u>	7,174,248
Operating expenses	<u>3,004,134</u>	3,023,587
Grants	<u>3,671,153</u>	<u>4,142,977</u>
Total	<u>13,652,758</u>	14,340,812
Source of funds		
General fund	<u>4,360,112</u>	4,554,264
Special funds	7,517	7,517
<u>Global Commitment fund</u>		415,000
Tobacco funds	397,021	397,021
Federal funds	<u>5,183,280</u>	5,443,891
Interdepartmental transfer	<u>3,704,828</u>	<u>3,523,119</u>
Total	<u>13,652,758</u>	14,340,812

Sec. 15. Sec. 2.202 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.202. Secretary's office - Global Commitment

Grants	<u>909,022,731</u>	928,583,437
Source of funds		
General fund	<u>132,807,629</u>	85,896,217
Special fund	<u>16,261,307</u>	16,045,307
Tobacco fund	39,487,801	39,487,801

State health care resources fund	147,623,246	148,261,016
Catamount fund	8,186,672	8,229,295
Federal funds	564,293,422	570,987,388
<u>Federal ARRA funds</u>		59,313,759
Interdepartmental transfer	<u>362,654</u>	<u>362,654</u>
Total	909,022,731	928,583,437

Sec. 16. Sec. 2.205 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.205. Human services board

Personal services	284,719	284,719
Operating expenses	<u>65,106</u>	<u>65,106</u>
Total	349,825	349,825
Source of funds		
General fund	50,030	50,030
Federal funds	12,254	149,897
Interdepartmental transfer	<u>287,541</u>	<u>149,898</u>
Total	349,825	349,825

Sec. 17. Sec. 2.206 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.206. Office of Vermont health access - administration

Personal services	32,033,668	36,514,151
Operating expenses	2,724,407	2,724,407
Grants	<u>1,196,000</u>	<u>1,010,700</u>
Total	35,954,075	40,249,258
Source of funds		
General fund	75,246	228,241
Global Commitment fund	34,428,247	38,597,284
Catamount fund	750,582	351,627
Federal funds	700,000	<u>1,072,106</u>
Total	35,954,075	40,249,258

Sec. 18. Sec. 2.207 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.207. Office of Vermont health access - Medicaid program - Global Commitment

Grants	461,385,056	467,778,316
Source of funds		
Global Commitment fund	461,385,056	467,778,316

Sec. 19. Sec. 2.208 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.208. Office of Vermont health access - Medicaid program - long-term care waiver

Grants	194,755,729	200,956,746
Source of funds		
General fund	79,168,224	68,589,966
Federal funds	<u>115,587,505</u>	119,267,829
<u>Federal ARRA funds</u>		<u>13,098,951</u>
Total	194,755,729	200,956,746

Sec. 20. Sec. 2.209 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.209. Office of Vermont health access - Medicaid program - state only

Grants	55,086,870	39,357,551
Source of funds		
General funds	35,376,640	28,509,473
Global Commitment fund	1,383,714	1,316,718
Catamount fund	<u>18,326,516</u>	<u>9,531,360</u>
Total	55,086,870	39,357,551

Sec. 21. Sec. 2.210 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.210. Office of Vermont health access - Medicaid non-waiver matched

Grants	44,448,317	44,176,458
Source of funds		
General funds	16,068,046	15,970,521
Federal funds	<u>28,380,271</u>	<u>28,205,937</u>
Total	44,448,317	44,176,458

Sec. 22. Sec. 2.211 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211. Health - administration and support

Personal services	6,409,341	6,447,115
Operating expenses	2,582,888	2,582,888
Grants	<u>2,902,000</u>	<u>2,877,000</u>
Total	11,894,229	11,907,003
Source of funds		
General funds	651,479	651,479
Special funds	24,743	24,743
Global Commitment fund	4,860,720	4,873,494
Federal funds	6,285,287	6,285,287
Interdepartmental transfer	<u>72,000</u>	<u>72,000</u>
Total	11,894,229	11,907,003

Sec. 23. Sec. 2.211.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211.1. Health - public health

Personal services	36,310,118	37,855,081
Operating expenses	7,326,174	7,326,174
Grants	<u>34,895,747</u>	<u>35,073,747</u>
Total	<u>78,532,039</u>	80,255,002
Source of funds		
General fund	5,090,652	5,479,402
Special funds	6,362,319	4,515,606
Tobacco fund	2,780,225	2,780,225
Global Commitment fund	24,048,864	25,383,077
Catamount fund	3,250,000	5,096,713
Federal funds	36,397,848	36,397,848
Permanent trust funds	10,000	10,000
Interdepartmental transfer	<u>592,131</u>	<u>592,131</u>
Total	<u>78,532,039</u>	80,255,002

Sec. 24. Sec. 2.217 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.217. Health - alcohol and drug abuse programs

Personal services	3,372,335	3,385,862
Operating expenses	811,106	708,263
Grants	<u>27,528,671</u>	<u>27,528,671</u>
Total	<u>31,712,112</u>	31,622,796
Source of funds		
General fund	3,413,874	3,311,031
Special funds	236,210	236,210
Tobacco funds	2,382,834	2,382,834
Global Commitment fund	16,840,983	16,854,510
Federal funds	8,688,211	8,688,211
Interdepartmental transfer	<u>150,000</u>	<u>150,000</u>
Total	<u>31,712,112</u>	31,622,796

Sec. 25. Sec. 2.219 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.219. Mental health - mental health

Personal services	4,963,769	4,753,680
Operating expenses	614,618	614,618
Grants	<u>132,073,344</u>	<u>131,967,443</u>
Total	<u>137,651,731</u>	137,335,741
Source of funds		
General fund	703,540	703,540
Global Commitment fund	132,849,352	132,533,362
Federal funds	4,078,839	4,078,839
Interdepartmental transfer	<u>20,000</u>	<u>20,000</u>
Total	<u>137,651,731</u>	137,335,741

Sec. 26. Sec. 2.220 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.220. Mental health - Vermont state hospital

Personal services	19,922,915	20,285,503
Operating expenses	1,821,721	1,821,721
Grants	<u>3,000</u>	<u>3,000</u>
Total	21,747,636	22,110,224
Source of funds		
General fund	14,227,636	21,140,224
Special funds	170,000	170,000
Global Commitment fund	7,000,000	450,000
Federal funds	50,000	50,000
Interdepartmental transfer	<u>300,000</u>	<u>300,000</u>
Total	21,747,636	22,110,224

Sec. 27. Sec. 2.221 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.221. Department for children and families - administration & support services

Personal services	33,227,280	34,954,219
Operating expenses	6,655,247	7,370,900
Grants	<u>1,450,215</u>	<u>1,450,215</u>
Total	41,332,742	43,775,334
Source of funds		
General fund	12,422,107	13,627,359
Global Commitment fund	14,698,891	14,799,359
Catamount fund	560,036	560,036
Federal funds	13,651,708	14,484,506
<u>Federal ARRA funds</u>		<u>304,074</u>
Total	41,332,742	43,775,334

Sec. 28. Sec. 2.222 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.222. Department for children and families - family services

Personal services	21,476,718	21,618,703
Operating expenses	3,330,327	3,162,879
Grants	<u>64,337,283</u>	<u>65,678,018</u>
Total	89,144,328	90,459,600
Source of funds		
General fund	17,308,746	18,273,249
Special funds	1,938,367	1,938,367
Tobacco funds	275,000	275,000
Global Commitment fund	43,690,692	43,224,231
Federal funds	25,669,650	26,486,880

Interdepartmental transfer	<u>261,873</u>	<u>261,873</u>
Total	<u>89,144,328</u>	<u>90,459,600</u>

Sec. 29. Sec. 2.223 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.223. Department for children and families - child development

Personal services	3,338,891	3,338,891
Operating expenses	843,660	520,557
Grants	<u>51,064,583</u>	<u>54,940,903</u>
Total	<u>55,247,134</u>	<u>58,800,351</u>
Source of funds		
General fund	<u>23,228,747</u>	25,621,964
Special funds	865,000	865,000
Global Commitment fund	4,289,469	5,365,469
Federal funds	26,724,411	26,808,411
Interdepartmental transfer	<u>139,507</u>	<u>139,507</u>
Total	<u>55,247,134</u>	<u>58,800,351</u>

Sec. 30. Sec. 2.224 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.224. Department for children and families - office of child support

Personal services	8,768,046	8,558,676
Operating expenses	<u>3,890,320</u>	<u>4,170,838</u>
Total	<u>12,658,366</u>	<u>12,729,514</u>
Source of funds		
General fund	<u>2,690,872</u>	2,559,002
Special funds	455,718	455,718
Federal funds	9,124,176	8,868,194
Federal ARRA funds		459,000
Interdepartmental transfer	<u>387,600</u>	<u>387,600</u>
Total	<u>12,658,366</u>	<u>12,729,514</u>

Sec. 31. Sec. 2.225 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.225. Department for children and families - aid to aged, blind and disabled

Personal services	1,801,009	1,801,009
Grants	<u>9,989,580</u>	<u>10,145,700</u>
Total	<u>11,790,589</u>	<u>11,946,709</u>
Source of funds		
General fund	8,040,589	8,196,709
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	<u>11,790,589</u>	<u>11,946,709</u>

Sec. 32. Sec. 2.226 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.226. Department for children and families - general assistance

Grants	4,401,516	6,301,516
Source of funds		
General fund	2,950,196	4,850,196
Global Commitment fund	340,000	340,000
Federal funds	<u>1,111,320</u>	<u>1,111,320</u>
Total	4,401,516	6,301,516

Sec. 33. Sec. 2.227 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.227. Department for children and families - food stamp cash out

Grants	10,710,133	15,285,013
Source of funds		
Federal funds	10,710,133	15,285,013

Sec. 34. Sec. 2.228 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.228. Department for children and families - reach up

Grants	40,298,530	45,437,952
Source of funds		
General fund	13,815,723	15,950,049
<u>Global Commitment fund</u>		390,000
Special funds	18,200,000	18,200,000
Federal funds	8,282,807	8,582,807
<u>Federal ARRA funds</u>		<u>2,315,096</u>
Total	40,298,530	45,437,952

Sec. 35. Sec. 2.230 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.230. Department for children and families - office of economic opportunity

Personal services	235,441	235,441
Operating expenses	81,555	77,055
Grants	<u>4,952,562</u>	<u>5,202,562</u>
Total	5,269,558	5,515,058
Source of funds		
General fund	1,372,103	1,372,103
Special funds	57,340	307,340
Federal funds	3,797,615	3,793,115
Interdepartmental transfer	<u>42,500</u>	<u>42,500</u>
Total	5,269,558	5,515,058

Sec. 36. Sec. 2.232 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.232. Department for children and families - Woodside rehabilitation center

Personal services	<u>2,899,574</u>	3,132,974
Operating expenses	<u>649,151</u>	<u>599,151</u>
Total	<u>3,548,725</u>	3,732,125
Source of funds		
General fund	<u>3,493,833</u>	3,677,233
Interdepartmental transfer	<u>54,892</u>	<u>54,892</u>
Total	<u>3,548,725</u>	3,732,125

Sec. 37. Sec. 2.235 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.235. Disabilities, aging, and independent living - administration & support

Personal services	<u>24,187,650</u>	24,096,125
Operating expenses	<u>3,732,463</u>	<u>3,732,463</u>
Total	<u>27,920,113</u>	27,828,588
Source of funds		
General fund	<u>6,709,033</u>	6,557,508
Special funds	941,685	941,685
Global Commitment fund	<u>6,254,872</u>	6,314,872
Federal funds	11,524,001	11,524,001
Interdepartmental transfer	<u>2,490,522</u>	<u>2,490,522</u>
Total	<u>27,920,113</u>	27,828,588

Sec. 38. Sec. 2.236 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.236. Disabilities, aging, and independent living - advocacy and independent living

Grants	<u>21,455,103</u>	21,779,103
Source of funds		
General fund	<u>10,006,493</u>	10,330,493
Global Commitment fund	3,355,319	3,355,319
Federal funds	7,655,791	7,655,791
Interdepartmental transfer	<u>437,500</u>	<u>437,500</u>
Total	<u>21,455,103</u>	21,779,103

Sec. 39. Sec. 2.238 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.238. Disabilities, aging, and independent living - vocational rehabilitation

Grants	5,921,471	5,968,971
Source of funds		
General fund	1,495,695	1,535,695
<u>Global Commitment fund</u>		7,500
Federal funds	4,132,389	4,132,389
Interdepartmental transfer	<u>293,387</u>	<u>293,387</u>
Total	5,921,471	5,968,971

Sec. 40. Sec. 2.239 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.239. Disabilities, aging and independent living - developmental services

Grants	138,705,970	139,846,155
Source of funds		
General fund	185,693	185,693
Special funds	185,463	185,463
Global Commitment fund	137,964,074	139,104,259
Federal funds	<u>370,740</u>	<u>370,740</u>
Total	138,705,970	139,846,155

Sec. 41. Sec. 2.241 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.241. Corrections - administration

Personal services	2,022,147	2,126,692
Operating expenses	<u>315,394</u>	<u>315,394</u>
Total	2,337,541	2,442,086
Source of funds		
General fund	2,337,541	2,442,086

Sec. 42. Sec. 2.242 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.242. Corrections - parole board

Personal services	317,373	319,240
Operating expenses	<u>62,076</u>	<u>62,076</u>
Total	379,449	381,316
Source of funds		
General fund	379,449	381,316

Sec. 43. Sec. 2.243 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.243. Corrections - correctional education

Personal services	4,032,390	3,915,100
Operating expenses	<u>342,079</u>	<u>342,079</u>
Total	4,374,469	4,257,179
Source of funds		
General fund	3,476,001	3,358,711

Special funds	500,000	500,000
Interdepartmental transfer	<u>398,468</u>	<u>398,468</u>
Total	4,374,469	4,257,179

Sec. 44. Sec. 2.244 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.244. Corrections - correctional services

Personal services	77,382,681	77,922,980
Operating expenses	32,273,859	32,637,551
Grants	<u>1,695,800</u>	<u>1,895,800</u>
Total	111,352,340	112,456,331
Source of funds		
General fund	106,870,826	108,024,817
Special funds	633,963	583,963
Tobacco fund	87,500	87,500
Global Commitment fund	3,094,144	3,094,144
Federal funds	584,861	584,861
Interdepartmental transfer	<u>81,046</u>	<u>81,046</u>
Total	111,352,340	112,456,331

Sec. 45. Sec. 2.245 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.245. Corrections - correctional services - out-of-state beds

Operating expenses	12,158,493	11,457,276
Source of funds		
General fund	12,158,493	11,457,276

Sec. 46. Sec. 2.251 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.251. Total human services	2,649,379,658	2,693,603,326
Source of funds		
General fund	521,931,597	474,482,196
Special funds	66,707,178	64,844,465
Tobacco fund	45,410,381	45,410,381
Global Commitment fund	906,593,258	914,305,775
State health care resources fund	147,623,246	148,261,016
Catamount fund	31,073,806	23,769,031
Federal funds	916,671,195	933,989,937
<u>Federal ARRA funds</u>		75,490,880
Permanent trust funds	10,000	10,000
Internal service funds	3,282,548	3,282,548
Interdepartmental transfer	<u>10,076,449</u>	<u>9,757,097</u>
Total	2,649,379,658	2,693,603,326

Sec. 47. Sec. 2.303 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.303. Labor - domestic and sexual violence survivors' transitional employment program

Grants	15,000	30,000
Source of funds		
Special fund	15,000	30,000

Sec. 48. Sec. 2.304 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.304. Total labor	29,020,561	29,035,561
Source of funds		
General fund	2,307,673	2,307,673
Special funds	3,301,108	3,316,108
Catamount fund	394,072	394,072
Federal funds	20,613,870	20,613,870
Interdepartmental transfer	<u>2,403,838</u>	<u>2,403,838</u>
Total	29,020,561	29,035,561

Sec. 49. Sec. 2.305 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.305. Education - finance and administration

Personal services	5,161,711	5,161,711
Operating expenses	1,713,880	1,813,880
Grants	<u>10,757,117</u>	<u>10,757,117</u>
Total	17,632,708	17,732,708
Source of funds		
General fund	3,506,583	3,606,583
Special funds	11,383,118	11,383,118
Global Commitment fund	845,143	845,143
Federal funds	1,890,747	1,890,747
Interdepartmental transfer	<u>7,117</u>	<u>7,117</u>
Total	17,632,708	17,732,708

Sec. 50. Sec. 2.306 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.306. Education - education services

Personal services	12,608,878	12,608,878
Operating expenses	1,889,869	1,889,869
Grants	111,549,873	<u>111,437,175</u>
Total	126,048,620	125,935,922
Source of funds		
General fund	7,766,318	7,781,103
Transportation fund	127,483	

Special funds	1,985,599	1,985,599
Federal funds	116,144,125	116,144,125
Interdepartmental transfer	<u>25,095</u>	<u>25,095</u>
Total	126,048,620	125,935,922
Sec. 51. Sec. 2.308 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.308. Education - state-placed students		
Grants	15,767,500	16,367,500
Source of funds		
Education fund	15,767,500	16,367,500
Sec. 52. Sec. 2.309 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.309. Education - adult education and literacy		
Grants	5,315,885	5,821,268
Source of funds		
General fund	2,690,224	2,690,224
Education fund	1,750,000	2,250,000
Federal funds	<u>875,661</u>	<u>881,044</u>
Total	5,315,885	5,821,268
Sec. 53. Sec. 2.310 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.310. Education - adjusted education payment		
Grants	1,115,355,604	1,111,968,302
Source of funds		
Education fund	1,115,355,604	1,111,968,302
Sec. 54. Sec. 2.314 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.314. Education - tobacco litigation		
Personal services	142,152	142,152
Operating expenses	18,114	11,453
Grants	<u>835,402</u>	<u>835,402</u>
Total	995,668	989,007
Source of funds		
Tobacco fund	995,668	989,007
Sec. 55. Sec. 2.320 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.320. Total general education		
	1,814,547,027	1,812,245,749
Source of funds		
General fund	338,640,022	338,754,807
Transportation fund	<u>127,483</u>	
Education fund	1,315,047,726	1,312,760,424

Special funds	14,699,439	14,699,439
Tobacco fund	995,668	989,007
Global Commitment fund	1,075,143	1,075,143
Federal funds	118,910,533	118,915,916
Pension trust funds	25,018,801	25,018,801
Interdepartmental transfer	<u>32,212</u>	<u>32,212</u>
Total	1,814,547,027	1,812,245,749

Sec. 56. Sec. 2.327 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.327. Vermont student assistance corporation

Grants	19,153,758	19,129,758
Source of funds		
General fund	19,153,758	19,129,758

Sec. 57. Sec. 2.329 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.329. Total higher education and other	88,256,776	88,232,776
Source of funds		
General fund	83,845,213	83,821,213
Global Commitment fund	<u>4,411,563</u>	<u>4,411,563</u>
Total	88,256,776	88,232,776

Sec. 58. Sec. 2.601 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.601. Transportation - finance and administration

Personal services	9,314,503	9,194,503
Operating expenses	<u>2,560,917</u>	<u>2,560,917</u>
Total	11,875,420	11,755,420
Source of funds		
Transportation fund	11,375,420	11,255,420
Federal funds	<u>500,000</u>	<u>500,000</u>
Total	11,875,420	11,755,420

Sec. 59. Sec. 2.604 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.604. Transportation - program development

Personal services	35,192,941	35,192,941
Operating expenses	106,514,171	159,788,137
Grants	<u>23,370,050</u>	<u>23,370,050</u>
Total	165,077,162	218,351,128
Source of funds		
Transportation fund	28,465,101	27,499,067
Local match	1,476,992	1,476,992
Federal funds	131,223,819	131,463,819

<u>Federal ARRA funds</u>		54,000,000
Interdepartmental transfer	<u>3,911,250</u>	<u>3,911,250</u>
Total	165,077,162	218,351,128

Sec. 60. Sec. 2.609 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.609. Transportation - bridge maintenance

Operating expenses	12,448,348	10,798,348
Source of funds		
Transportation fund	<u>3,008,456</u>	1,358,456
Federal funds	<u>9,439,892</u>	<u>9,439,892</u>
Total	12,448,348	10,798,348

Sec. 60a. Sec. 2.610 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.610. Transportation – public transit

Personal services	646,295	646,295
Operating expenses	58,784	58,784
Grants	19,014,142	<u>24,694,142</u>
Total	19,719,221	25,399,221
Source of funds		
Transportation fund	6,677,897	6,677,897
Federal funds	13,041,324	13,041,324
<u>Federal ARRA funds</u>		<u>5,680,000</u>
Total	19,719,221	25,399,221

Sec. 61. Sec. 2.611 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.611. Transportation - central garage

Personal services	3,305,508	3,305,508
Operating expenses	11,625,266	<u>10,922,675</u>
Total	14,930,774	14,228,183
Source of funds		
Internal service funds	14,930,774	14,228,183

Sec. 62. Sec. 2.612 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.612. Department of motor vehicles

Personal services	17,549,186	16,549,186
Operating expenses	8,037,725	8,037,725
Grants	<u>339,000</u>	<u>339,000</u>
Total	25,925,911	24,925,911
Source of funds		
Transportation fund	23,854,657	22,854,657

Federal funds	<u>2,071,254</u>	<u>2,071,254</u>
Total	25,925,911	24,925,911

Sec. 62a. Sec. 2.613 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.613. Transportation - town highway structures

Grants	3,833,500	3,494,500
Source of funds		
Transportation fund	3,833,500	3,494,500

Sec. 62b. Sec. 2.615 of No. 102 of the Acts of 2008 is amended to read:

Sec. 2.615. Transportation - town highway class 2 roadway

Grants	6,448,750	5,748,750
Source of funds		
Transportation fund	6,448,750	5,748,750

Sec. 63. Sec. 2.618.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.618.1. Transportation - town highway emergency fund

Grants	250,000	880,000
Source of funds		
Transportation fund	250,000	880,000

Sec. 64. Sec. 2.622. of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.622. Total transportation	412,801,007	467,873,382
Source of funds		
Transportation fund	187,152,506	183,007,472
Local match	2,553,311	2,553,311
Federal funds	203,753,166	203,993,166
<u>Federal ARRA funds</u>		59,680,000
Internal service funds	14,930,774	14,228,183
Interdepartmental transfer	4,411,250	4,411,250
Total	412,801,007	467,873,382

Sec. 65. APPROPRIATION ADJUSTMENTS

(a) To reflect adjustments to budgets due to savings in budgeted benefit rates (dental plan, medical plan, and employee assistance plan), personal service appropriations are reduced by \$1,260,463 in general funds in accordance with the schedule entitled "FY 2009 Appropriation Reductions Due to Budgeted Benefit Rate Savings," filed with the joint fiscal committee.

(b) In addition to the pay act appropriations made to the secretary of administration in Sec. 3(a)(1) of No. 206 of the Acts of the 2007 Adj. Sess. (2008), there is hereby appropriated from the general fund to the secretary of

administration in fiscal year 2009 \$54,624 for transfer to the department for children and families, \$616,912 for transfer to the department of corrections, and \$588,927 for transfer to the department of human resources for the non-salary items entailed by the VSEA/state bargaining agreement in effect for fiscal year 2009.

Sec. 65a. Sec. 2.802(a) of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.802. FISCAL YEAR 2009 ONE-TIME APPROPRIATIONS

* * *

(6) to the treasurer for the cost of short term borrowing in fiscal year 2009 \$100,000

(7) to the Vermont Economic Development Authority to be used by the Vermont Agricultural Credit Corporation for a loan or grant program to assist Vermont farmers with short-term cash flow and capital to meet spring 2009 operating and related needs \$1,000,000

Sec. 66. Sec. 3(a)(1)(B) of No. 206 of the Acts of 2008 is amended to read:

(B) Transportation fund. The amount of ~~\$1,210,258.00~~ \$841,078.00 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation and the department of public safety to fund the fiscal year 2009 collective bargaining agreement and the requirements of this act.

Sec. 67. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>21005 FMS System Development Fund</u>	<u>600,000</u>
<u>21030 Exxon Settlement Fund</u>	<u>3,631 Approx.</u>
<u>21045 Getty Oil Company Settlement</u>	<u>63,343 Approx.</u>
<u>21170 EO School Interest Program</u>	<u>15,634 Approx.</u>
<u>21705 PSD-HydroQuebec Power</u>	<u>64,426</u>
<u>21405 Fidelity\interest earnings</u>	<u>450,000 Approx.</u>
<u>62100 Abandoned property</u>	<u>2,055,517 Approx.</u>
<u>Amortization of W.R. Grace</u>	<u>5,452</u>
<u>Caledonia Fair</u>	<u>5,000</u>
<u>North Country Hospital Loan</u>	<u>24,250</u>

<u>50300 Liquor Control</u>	<u>836,519</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>1,400,000</u>
<u>21782 Vermont Veterans' Home</u>	<u>1,090,000</u>
<u>21110 Employee Leasing Companies</u>	<u>3,303</u>
<u>21520 Treasurer's Retirement Admin. Cost</u>	<u>440</u>
<u>21585 Pers-Human Resource Development</u>	<u>42,000</u>
<u>21638 Attny. Gen. Fees- Reimbursements</u>	<u>1,659,234</u>
<u>21669 AF&M Pesticide Monitoring</u>	<u>50,000</u>
<u>21686 AF&M Pesticide Control</u>	<u>75,000</u>
<u>21844 PERS - Recruitment Services</u>	<u>33,152</u>
<u>21845 Chittenden COPS Grant</u>	<u>19,492</u>
<u>21848 ED-Private Sector Grants</u>	<u>3,889</u>
<u>21870 Misc. Special Revenue Fund- Liquor Control (Bus Unit #2300)</u>	<u>1,420</u>
<u>21884 Emergency Personnel Survivors' Benefit Fund</u>	<u>50,000</u>
<u>Bond Premium</u>	<u>388,239</u>
<u>59500 Single Audit Internal Service Fund</u>	<u>20,297</u>
<u>21260 Act 250 Permit Fund</u>	<u>100,000</u>
<u>21698 PSD Regulation/Energy Efficiency</u>	<u>345,000</u>
<u>21709 PSB Special Fund</u>	<u>328,000</u>
<u>21991 VEDA - Food & Fuel</u>	<u>100,000</u>

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$16,035,260, shall be transferred to the general fund, provided that on or before July 1, 2009, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2010 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amounts shall be transferred from the general fund to the funds indicated:

<u>58800 Facilities Operations Fund</u>	<u>2,318,763</u>
<u>21035 Stripper Well Settlement Special Fund</u>	<u>6,511 Approx.</u>
<u>21175 Palo Pinto Special Fund</u>	<u>661 Approx.</u>
<u>21714 VT Racing Commission Special Fund</u>	<u>5,206</u>
<u>21911 Sarcoidosis Fund</u>	<u>419,688</u>
<u>21555 Emergency Relief and Assistance Fund (ERAF)</u>	<u>1,692,096</u>

(4) The following amount shall be transferred between special funds as indicated:

From the Unemployment Compensation Administration fund # 21360 to the Workers' Compensation Administration fund # 21105 703,171

(5)(A) The following amount shall be transferred to the transportation fund from the fund indicated:

<u>57100 Central Garage Fund</u>	<u>1,485,111</u>
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Sec. 68. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall revert to the general fund from the accounts indicated:

<u>2270001000 Vermont Racing Commission</u>	<u>477</u>
<u>3440090000 LIHEAP</u>	<u>1,383,336</u>
<u>1100010000 Secretary of Admin.</u>	<u>27,065</u>
<u>1120060000 Human Resources - Workforce Planning</u>	<u>45,493</u>
<u>1140040000 Homeowner Rebates</u>	<u>45,104</u>
<u>1140070000 Use Tax Reimbursement Program</u>	<u>58,171</u>
<u>1140330000 Renter Rebates</u>	<u>40,333</u>
<u>1210890505 Dairy Policy Cont Consult Services</u>	<u>226</u>
<u>1210890803 Leg. Council - Current Use Tax Study</u>	<u>712</u>
<u>1250010000 Auditor of Accounts</u>	<u>23,606</u>

<u>2100890802 Legal Costs Comp. Legal Actions –</u>	
<u>Attny. Gen.</u>	<u>5,000</u>
<u>2130100000 State’s Attorneys</u>	<u>66,788</u>
<u>2230010000 Secretary of State</u>	<u>11,288</u>
<u>3420890508 Health - Pilot Program</u>	<u>15,000</u>
<u>3420890701 Methamphetamine Precursor Program</u>	<u>20,000</u>
<u>6140880005 152/00 St. Asst. Munic. Poll Cont.</u>	<u>381</u>
<u>1110890901 VEDA FY 2009 One-Time Appropriation: Targeted Emergency Financing Assistance</u>	<u>500,000</u>

(2) The following amounts shall revert to the education fund from the accounts indicated:

<u>1140050000 Homestead Prop. Tax Assistance</u>	<u>970,497</u>
<u>1140330000 Renter Rebates</u>	<u>856,574</u>
<u>5100090000 Education Grant</u>	<u>1,083,408</u>
<u>5100190000 Essential Early Educ. Grant</u>	<u>104,082</u>
<u>5100200000 Education-Technical Education</u>	<u>570,327</u>
<u>5100890601 Cncl. on Ed. Governance Grants</u>	<u>4,823</u>

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund appropriations remaining unexpended on June 30, 2009 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general and transportation fund appropriations remaining unexpended on June 30, 2009 in the legislative and judicial branch of state government shall be carried forward and shall be designated for expenditure.

Sec. 70. FY 2009 RESCISSIONS; JOINT FISCAL COMMITTEE ACTIONS PURSUANT TO 32 V.S.A. § 704(f)

(a) The fiscal year 2009 appropriations passed in No. 192 of the Acts of the 2007 Adj. Sess. (2008) have been adjusted by actions of the joint fiscal committee on August 27, 2008 and December 19, 2008, pursuant to 32 V.S.A. § 704(f). In order to provide public access to the fiscal year 2009 expenditure reduction plans duly adopted by the joint fiscal committee, the approved plans

and schedules of specific appropriation reductions are on file with the clerk of the house and the secretary of the senate, and posted on the legislative website. The appropriation changes and other actions in the fiscal year 2009 budget adjustment act and other acts of the 2009 legislative session are separate from and in addition to the actions of the joint fiscal committee pursuant to 32 V.S.A. § 704(f).

Sec. 71. Sec. 4.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 4.001. APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues. Notwithstanding Sec. 266(a)(4) of No. 65 of the Acts of 2007:

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$13,383,258~~ \$12,464,095 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$13,383,258~~ \$12,464,095 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of ~~\$4,302,105~~ \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above ~~\$4,302,105~~ \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The ~~\$4,302,105~~ \$3,449,427 shall be allocated as follows:

(A) ~~\$3,011,473~~ \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) ~~\$860,421~~ \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) ~~\$430,210~~ \$408,700 to the Vermont center for geographic information.

(4) It is the intent of the general assembly that in fiscal year 2010, the appropriations in this subsection shall increase by at least 4.5 percent.

Sec. 72. Sec. 5.006(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$150,000~~ \$75,000 is made available for grants to be awarded on a competitive basis among the 11 existing regional marketing programs (RMP). In addition to these funds, any prior fiscal year RMP grant funds not awarded shall carry forward into the current fiscal year unrestricted by prior year requirements and shall be used to meet current year obligations. Any unobligated balance residing in the crossroads regional marketing program grant, as appropriated in Sec. 233a(a)(9) of No. 65 of the Acts of 2007, is hereby relieved of any prior year restrictions and may be used to meet the current year obligations of the RMP as appropriated in this section.

Sec. 73. Sec. 5.013(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this general fund appropriation, ~~\$30,000~~ \$6,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. 74. Sec. 5.101.1(b) of No. 192 of the Acts of 2008 is amended to read:

~~(b) \$30,000 of this appropriation shall be used for the Vermont sentencing commission recidivism rate analysis by the center for justice research.~~

Sec. 75. Sec. 111b of No. 65 of the Acts of 2007, as amended by Sec. 5.203.1 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 111b. CHIROPRACTIC COVERAGE UNDER MEDICAID AND VHAP

(a) Effective on July 1, 2008 through January 31, 2009, the agency of human services shall reinstate chiropractic coverage for adults in the Medicaid and VHAP programs consistent with section 4088a of Title 8 and at rates comparable to payments for care or services by other health care providers not to exceed Medicare rates. ~~The fiscal year 2009 Medicaid expenditure forecast adopted by the emergency board shall include the reinstatement of chiropractic coverage.~~

Sec. 76. Sec. 5.310(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$396,115~~ \$380,326 shall be transferred to EPSCoR (Experimental Program To Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds, or both.

Sec. 77. Sec. 5.311(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$446,652~~ \$428,786 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. 78. Sec. 5.313(c) of No. 192 of the Acts of 2008 is amended to read:

(c) ~~\$350,000~~ \$342,500 of state funds available to the Vermont student assistance corporation pursuant to Sec. 5.107(a) and 5.801(a)(3)(B) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

Sec. 79. Sec. 5.801 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.801. FISCAL YEAR 2009 NEXT GENERATION FUND ALLOCATIONS (Sec. 2.801)

(a) The ~~\$8,000,000~~ \$7,293,000 appropriated in Sec. 2.801(a)(1) of this act from the next generation initiative fund, created in 16 V.S.A. § 2887, shall be as follows:

(1) Workforce development ~~\$3,450,000~~ \$3,220,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of ~~\$1,550,000~~ \$1,472,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent (7%) of the funds may be used for administration of the program.

(B) Vermont Training Program. The sum of ~~\$750,000~~ \$712,500 is appropriated to the agency of commerce and community development. This appropriation is for the Vermont training program for the issuance of grants pursuant to 10 V.S.A. § 531.

(C) Career and Alternative Workforce Education. The amount of ~~\$450,000~~ \$387,500 is appropriated to the department of labor. This appropriation shall be to support out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education as follows:

(i) ~~Forty-five~~ Fifty-two and three-tenths percent (~~45%~~) (52.3%) shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12.

(ii) ~~Fifty-five~~ Forty-seven and seven-tenths percent (~~55%~~) (47.7%) shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and ~~non-profit~~ nonprofit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

(D) Adult Technical Education Programs. The amount of ~~\$450,000~~ \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A.

§ 1522, to unemployed and underemployed Vermont adults.

(E) UVM Technology Transfer Program. The amount of ~~\$250,000~~ \$237,500 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(2) Loan repayment ~~\$500,000~~ \$475,000 as follows:

(A) The sum of ~~\$500,000~~ \$475,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants ~~\$4,050,000~~ \$3,597,500 as follows:

(A) Non-degree VSAC Grants. The amount of ~~\$750,000~~ \$712,500 is appropriated to the Vermont student assistance corporation. This appropriation shall be for the purpose of providing non-degree grants to Vermonters to improve job skills and increase overall employability enabling them to enroll in a post-secondary education or training program, including adult-technical education that is not part of a degree or accredited certificate program. A portion of this appropriation shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of this appropriation shall be used for administrative overhead.

(B) The sum of ~~\$3,000,000~~ \$2,600,000 is appropriated for awarding need-based scholarships to Vermont residents. The first ~~\$150,000~~ \$142,500 shall be distributed to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856. ~~\$950,000~~ \$819,166 shall be distributed to the University of Vermont, ~~\$950,000~~ \$819,166 to the Vermont state colleges, and ~~\$950,000~~ \$819,166 to the Vermont student assistance corporation. The Vermont student assistance corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont state colleges. None of the

~~\$3,000,000~~ \$2,600,000 appropriation shall be used for administrative overhead.

(C) Dual Enrollment Programs. The sum of ~~\$300,000~~ \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

Sec. 80. Sec. 5.802 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.802. SETTLEMENT CONTINGENT APPROPRIATIONS (Sec. 2.803)

(a) The first ~~\$5,566,045~~ \$2,300,000 of any amount of bank franchise tax, and associated penalty and interest, due to the general fund resulting from a court decision and received ~~after May 1, 2008 in fiscal year 2008 or in fiscal year 2009~~ shall be reserved and is hereby appropriated ~~or transferred~~ as follows:

~~(1) First, \$1,000,000 is appropriated to the Vermont housing and conservation board;~~

~~(2) Second, \$2,266,045 is appropriated to the higher education entities as follows:~~

~~(A) \$1,056,796 to the University of Vermont.~~

~~(B) \$730,405 to the Vermont state colleges of which \$100,000 is for use as the state's fiscal year 2009 contribution toward the growth of the endowment fund for the Vermont state colleges. The state's funds are to serve as a challenge match to enhance the state colleges' ability to secure endowment contributions from alumni and other interested parties. The intent is that the fiscal year 2009 appropriation will be the first of five annual appropriations through fiscal year 2013 totaling \$500,000. The conditions of this challenge match are that the state colleges are required to raise three dollars for each dollar appropriated by the state. A method for accounting for the state colleges' share has been agreed to between the state colleges and the commissioner of finance and management. Transfers to the state colleges' endowment fund shall be under the condition that only the interest accruing to the fund will be available for purposes as designated by the board of trustees of the state colleges. By June 30, 2014, any remaining state appropriations designated for the state colleges' endowment fund that have not been matched by the state colleges shall revert to the general fund.~~

~~(C) \$478,844 to the Vermont student assistance corporation.~~

~~(3) Third, \$2,300,000 is appropriated to the teachers' retirement fund.~~

~~(b) In the event that settlement funds as specified in subsection (a) are not received by January 1, 2009, the administration shall consider funding the above appropriations and transfers in the fiscal year 2009 adjustment process.~~

Sec. 81. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

* * *

(h) The commissioner shall make all payments required by subchapter 5 of chapter 23 of this title.

(i) Annually, by October 1, the commissioner shall send to school boards for inclusion in town reports and publish on the department website the following information:

(1) the statewide average district spending per equalized pupil for the current fiscal year; and 125 percent of that average spending; and

(2) a statewide comparison of student-teacher ratios among schools which are similar in number of students and number of grades.

Sec. 82. SALARY REDUCTIONS; EXEMPT EXECUTIVE BRANCH EMPLOYEES

(a) Notwithstanding statutory salaries to the contrary, in fiscal years 2009 and 2010, exempt executive branch employees may decline to accept their full statutory salaries.

Sec. 83. Sec. 5.003 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.003. FEDERAL FUNDS

* * *

(c) During fiscal year 2009, any federal funds received and to be expended in the fiscal year from the American Recovery and Reinvestment Act of 2009 shall be accepted in accordance with the provisions of subsection (a) of this section. Federal funds from the American Recovery and Reinvestment Act of 2009, other than competitive grants, for expenditure in the following fiscal years shall be appropriated through the budget process including grants under Title V – State Fiscal Relief. Receipts from competitive grants shall be accepted through the statutory grant process in accordance with 32 V.S.A. § 5.

Sec. 83a. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation related projects. The allocation is subject to a requirement that 50% of a portion of the allocation be obligated by the state within a 120 day time period. The

secretary of transportation is authorized in fiscal year 2009 to obligate ARRA funds to the projects listed below as necessary to satisfy such requirements. The total amount obligated may exceed the 50% minimum to the extent the secretary determines the obligation of such additional amounts are necessary to ensure compliance with federal requirements after taking into account project readiness and other factors relevant to obtaining obligation approval.

<u>Project Name</u>	<u>Project Number</u>	<u>Type of Work</u>
Barre City	BHF 6000(15)	Bridge Rehabilitation
Bennington	NH 019-1(51)	Roadway on New Location
Brownington	BRO 1449(28)	Bridge Replacement
Burlington	NH 2726(1)	Resurfacing
Burlington	STP 2727(1)	Resurfacing
Colchester-Essex	STP 2616(1)	Resurfacing
Colchester-Georgia	IM 089-3(64)	Resurfacing
East Montpelier	BRF 028-3(36)	Bridge Replacement
Fair Haven	STP 2615(1)	Resurfacing
Fair Haven-Castleton	STP HES 2614(1)	Resurfacing
Fairlee	STP CULV(13)	Culvert Replacement
Hardwick	BHF 030-2(18)	Bridge Rehabilitation
Hartford	STP 2701(1)	Resurfacing
Hartford-Norwich	STP 2206(1)S	Resurfacing
Hartford-Sharon	IM 089-1(55)	Line Culverts
Hartford-Sharon	IM MEMB(15)	Replace Bridge Membranes
Montpelier	NH 2604(1) & STP 2618(1)	Resurfacing
Norton-Canaan	STP SURF(13)	Resurfacing
Norwich	STP 2602(1)	Resurfacing
Richmond	BHF 0209(6)	Bridge Rehabilitation
Richmond-Highgate	IM MEMB(13)	Replace Bridge Membranes
Rockingham-Chester	NH 2628(1)	Resurfacing
Royalton-Bethel	IM 089-1(54)	Resurfacing
Springfield	STP 0136(1)	Rehab. Existing Roadway

St. Johnsbury-Lyndon	IM MEMB(18)	Replace Bridge Membranes
Statewide	STP CRAK(27)	Resurfacing
Statewide -Southwest	BHF MEMB(20)	Replace Bridge Membranes
Statewide-Northeast	BHF MEMB(19)	Replace Bridge Membranes
Waterbury-Moretown	BHF MEMB(12)	Replace Bridge Membranes
Winooski	STP 2617(1)	Resurfacing
Woodford-Searsburg	NH ST 2630(1)	Resurfacing

(b) The secretary of transportation is authorized in fiscal year 2009 to obligate for the purchase of public transit vehicles up to 100 percent of all Federal Transit Administration funds made available to the state by the American Recovery and Reinvestment Act of 2009.

(c) The secretary of transportation is authorized to request additional federal funds through any discretionary or competitive grant transportation program in the American Recovery and Reinvestment Act of 2009 with respect to projects in the state's approved transportation program.

Sec. 83b. ENHANCEMENTS

(a) Notwithstanding 19 V.S.A. §38, enhancement grants in the fiscal year 2009 program shall be awarded prior to April 30, 2009. No grants in the fiscal year 2009 program shall be made with respect to federal funds made available to the state under the American Recovery and Reinvestment Act of 2009.

Sec. 83c. TOWN HIGHWAY AID PAYMENTS

(a) For the purpose of retaining adequate flexibility to react to the expected forecast downgrade on April 24, 2009, the town highway aid payments to towns scheduled to take place on April 15, 2009 shall be reduced by 50 percent, with the balance to be paid to towns before the end of fiscal year 2009 to the extent possible without impacting the transportation stabilization reserve.

(b) The general assembly and the administration recognize that the expected revenue forecast downgrade for fiscal year 2009 and 2010 may result in the lower appropriations for town highway programs than those currently proposed in H.438 for fiscal year 2010. Any increase to town highway programs will need to be reviewed in the context of available revenue.

Sec. 83d. Sec. 51(d) of No. 164 of the acts of 2008 is amended to read:

(d) ~~Any funding not needed to maintain existing services shall remain in the capital program.~~ To the extent the funding provided in this section is not needed to maintain existing services, the agency is authorized to make grants

of the unneeded funds to cover unanticipated shortfalls in the funding of elder and persons with disabilities (E&D) program services and critical medical care transportation services incurred by transit agencies with grant agreements to provide such services.

Sec. 83e. Sec. 16 of No. 164 of the Acts of 2008 is amended to read:

Sec. 16. Town Highway Class 2 Roadway

The following modifications are made to the town highway class 2 roadway program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	5,748,750	6,448,750	5,748,750	700,000	0
Total	5,748,750	6,448,750	5,748,750	700,000	0
Sources of funds					
State	5,748,750	6,448,750	5,748,750	700,000	0
Federal	0		0		0
Local	0		0		0
Total	5,748,750	6,448,750	5,748,750	700,000	0

Sec. 83f. Sec. 17 of No. 164 of the Acts of 2008 is amended to read:

Sec. 17. Town Highway Structures

The following modifications are made to the town highway structures program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	3,494,500	3,833,500	3,494,500	339,000	0
Total	3,494,500	3,833,500	3,494,500	339,000	0
Sources of funds					
State	3,494,500	3,833,500	3,404,500	339,000	0
Federal	0		0		0
Local	0		0		0
Total	3,494,500	3,833,500	3,494,500	339,000	0

Sec. 84. Sec. 5.009 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.009. Finance and management – financial operations (Sec. 2.005; #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed ~~\$5,853,981~~ \$6,042,587, plus the costs of fiscal year 2009 salary increases bargained as part of the state/VSEA agreement, are hereby approved. Of this amount, \$1,305,490, plus the costs of fiscal year 2009 salary increases bargained as part of the state/VSEA agreement, will be used to

support the HCM system that is operated by the department of human resources technical services division.

Sec. 85. Sec. 5.110 of No. 192 of the Acts of 2008 is added to read:

Sec. 5.110. Criminal justice training council (Sec. 2.122. #2170010000)

(a) The establishment of one (1) classified position – Domestic Violence Trainer – is authorized in fiscal year 2009. This position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 86. 16 V.S.A. § 2856(a) is amended to read:

(a) An active member of the Vermont army national guard or the air national guard may be eligible for an interest-free loan in an academic year for financial assistance to pay for tuition and fees for courses taken at a Vermont colleges, university, ~~or~~ regional technical center or other programs approved pursuant to policies adopted in accordance with subsection (f) of this section. Academic year awards may be up to the in-state tuition rate at the University of Vermont for that year. ~~Traditional airmen may receive academic year awards up to \$9,500.00 per year.~~

Sec. 87. 16 V.S.A. § 2179 is amended to read:

§ 2179. NONAPPLICABILITY OF CERTAIN STATUTES

Except as expressly provided in this chapter, the corporation, its officers and employees shall not be governed by: (1) chapter 9 of Title 3, dealing with administrative departments; (2) chapter 13 of Title 3, dealing with classification of state personnel; (3) chapter 16 of Title 3, dealing with state employees retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (4) chapter 55 of this title, dealing with the state teachers retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (5) chapter 7 of Title 32, dealing with public moneys; (6) chapters 3 and 5 of this title, dealing with the state board of education and the commissioner of education; (7) chapter 49 of Title 29, dealing with supplies, duties of commissioner of buildings and general services as to purchases of material, supplies or equipment except upon request of the corporation; ~~or~~ (8) chapter 5 of Title 29, dealing with the department of buildings and general services, except that any contracts awarded for the construction of buildings by the corporation shall continue to be subject to the provisions of 29 V.S.A.

§ 161(b); or (9) subsection 342(d) of Title 21, dealing with required written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the state.

Sec. 88. Sec. 5.005(d) of No. 192 of the Acts of 2008 is amended to read:

(d) The secretary of administration is directed to reduce ~~travel~~ budgets throughout the executive branch of state government, thereby reducing operating expense, including travel, appropriations by \$998,627 in general funds and \$222,724 in Global Commitment funds. This shall be accomplished through a combination of general fund reductions and direct applications to the general fund from alternative fund reductions. The secretary shall provide an update to the joint fiscal committee in November 2008 on these reductions.

Sec. 89. Sec. 6(b)(1) of No. 206 of the Acts of 2008 is amended to read:

(1) The allocation by department and section from the fiscal year ~~2008~~ 2009 pay act appropriation and the appropriations for pay act needs of this act and any other offsets to meet pay act needs;

Sec. 90. REPEAL

(a) Secs. 21 and 28(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (transfers from the transportation fund to the central garage fund) are repealed.

Sec. 91. Sec. 5.600(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$5,657,375~~ \$2,959,855 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. 92. REPEAL

(a) Sec. 406(c) of No. 65 of the Acts of 2007 (sunset on \$5,000 grant review threshold) is repealed.

Sec. 93. 32 V.S.A. § 305a(c) is amended to read:

(c) The January estimates shall include estimated caseloads and estimated per member per month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the agency and the joint fiscal office for state health care assistance programs or premium assistance programs supported by the state health care resources and Global Commitment funds, for VermontRx, and for the programs under the Choices for Care Medicaid Section 1115 waiver. For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category. The January estimates shall include the expenditures for the current

and next succeeding fiscal years for the Medicare Part D phased-down state contribution payment and for the disproportionate share hospital payments. In July, the administration and the joint fiscal office shall make a report to the emergency board on the most recently ended fiscal year for all Medicaid and Medicaid related programs including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the emergency board may adopt revised estimates for the current and next succeeding fiscal year.

Sec. 94. Sec. 5.112(b) of No. 192 of the Acts of 2008 is amended to read:

(b) The secretary of state is authorized to spend, in addition to its appropriation in this ~~act~~ section, up to \$450,000 for the purpose of conducting the 2008 primary and general elections, and it is the intent of the general assembly to provide an additional appropriation in this amount in the fiscal year 2009 budget adjustment act if funding is not available through Sec. 5.803 of this act.

Sec. 95. Sec. 26(a) of No. 174 of the Acts of 2008 is amended to read:

(a) The amount of ~~\$883,000.00~~ \$500,000 from the victims' compensation fund created by 13 V.S.A. § 5359 ~~shall be available~~ is appropriated in FY 2009 for the center for crime victim services for the Vermont network against domestic and sexual violence. This amount shall be used to fund domestic violence prevention programs and services in order to break the generational cycle of domestic violence and to support the victims of domestic and sexual violence. Additional expenditures may be authorized pursuant to 32 V.S.A. § 511 if the revenues collected in fiscal year 2009 from the \$10 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A., § 7282(a)(8)(B), and from the \$20 authorized by Sec. 21 of No. 174 of 2008 applied to the fee in 32 V.S.A. § 1712(1), exceed the \$500,000 appropriation.

Sec. 96. 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND SURPLUS RESERVES

(a) There is hereby created within the general fund a general fund surplus reserve. After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year general fund surplus not to exceed one percent of the appropriations from the general fund for the prior fiscal year shall be reserved in the general fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

(b) There is hereby created within the transportation fund a transportation fund surplus reserve. After satisfying the requirements of section 308a of this title, and after other reserve requirements have been met, any remaining

unreserved and undesignated end of fiscal year transportation fund surplus shall be reserved in the transportation fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

~~(e) The general fund surplus reserve created in subsection (a) of this section shall supersede and replace the general fund surplus reserve established in Sec. 277(5) of No. 147 of the Acts of the 1997 Adj. Sess. (1998), as amended by Sec. 88 of No. 1 of the Acts of 1999.~~

Sec. 97. 32 V.S.A. § 308d is amended to read:

§ 308d. REVENUE SHORTFALL RESERVE; CREATION AND PURPOSE

(a) It is the purpose of this section to create a revenue shortfall reserve to be used in times of economic or fiscal stress.

(b) There is hereby created a revenue shortfall reserve administered by the commissioner of finance and management. Any budgetary basis unreserved and undesignated general fund surplus ~~in excess of one percent~~ occurring at the close of a fiscal year after the general fund budget stabilization reserve established by ~~See: section~~ section 308 of this title has been brought to its authorized level and after any deposits to the general fund surplus reserve established by subsection 308c(a) of this title, and any additional amounts as may be authorized by the general assembly, shall be reserved in the revenue shortfall reserve created by this section.

(c) In any fiscal year, if the general assembly determines there are insufficient revenues to fund expenditures for the operation of state government at a level the general assembly finds prudent and required, it may specifically appropriate the use of the revenue shortfall reserve to compensate for a reduction of revenues or fund such needs as the general assembly may determine.

(d) Determination of the amount of the revenue shortfall reserve shall be made by the commissioner of finance and management ~~with the approval of~~ and reported to the legislative joint fiscal committee at its first meeting following September 1 of each year.

Sec. 98. Sec. 23(e) of No. 203 of the Acts of 2008 is amended to read:

(e) The sum of \$100,000.00 is appropriated from the general fund to the UVM College of Medicine in fiscal year 2009 to support the Vermont academic detailing program, ~~provided that such appropriation shall expire upon collection of the first dollar of the manufacturer fee established in section 2004 of Title 33 and all funds remaining from this appropriation shall be redeposited in the general fund.~~

Sec. 99. 30 V.S.A. § 7052 is amended to read:

§ 7052. VERMONT ENHANCED 911 BOARD

* * *

(b) The board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont state sheriff's association; one municipal law enforcement officer elected by the chiefs of police association of Vermont; one official of a municipality ~~not currently receiving 911 service~~; a firefighter; an emergency medical services provider; a department of public safety representative; and three members of the public. Board members shall be appointed by the governor to three-year terms, except that the governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing board members, the governor shall give due consideration to the different geographical regions of the state, and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the governor.

* * *

Sec. 100. 32 V.S.A. § 464 is amended to read:

§ 464. ITEMIZED STATEMENTS AND RECEIPTS REQUIRED

When required by the commissioner of finance and management and before payment therefor is made by the state, all claimants for compensation for services rendered or expense incurred for the state shall furnish the commissioner of finance and management itemized statements in such form as the commissioner of finance and management may from time to time prescribe and shall be verified by written declarations or, if specifically authorized by the commissioner of finance and management, by electronic signature as defined at 9 V.S.A. § 271(9) that they are made under the pains and penalties of perjury, and a person who wilfully makes a false statement shall be guilty of perjury and be punished accordingly.

Sec. 101. Sec. 5.005(k) of No. 192 of the Acts of 2008 is amended to read:

(k) ~~The secretary of administration is directed to initiate a program by September 30, 2008 which requires all state employees to receive paperless notification of their direct deposit payroll advice. The secretary and representatives of the Vermont state employees' association are encouraged to meet to determine the most expeditious and efficient means of implementing this section~~ Beginning in fiscal year 2009, all persons who are paid through the state payroll system must be paid by direct deposit and receive electronic notification of pay information unless excused for good cause by the commissioner of finance

and management or designee, or in the legislative and judicial branches, the presiding officers or the chief justice of the supreme court or their designees. Their decisions on excusal shall be final.

Sec. 101a. STATE EMPLOYEE POSITIONS; CURRENT COLLECTIVE BARGAINING AGREEMENT

The general assembly urges the administration and the Vermont State Employees' Association to explore options for achieving savings for fiscal year 2010, including a limited reopener of the current collective bargaining agreement as soon as possible. The general assembly also urges the administration to wait until the completion of the fiscal year 2010 budget process before implementing further layoffs, reductions in force, or the elimination of state employee positions or programs.

Sec. 102. OFFICE OF VERMONT HEALTH ACCESS; DEPUTY DIRECTOR

(a) An exempt position – deputy director for health care reform – is authorized in the office of Vermont health access in fiscal year 2009. This position shall be transferred and converted from existing positions in the executive branch.

Sec. 103. Sec. 2(c) of No. 71 of the Acts of 2007 as amended by Sec. 5.903 of No. 192 of the Acts of 2008 is further amended to read:

(c) After submission of the application, the agency shall determine if the applicant meets full eligibility requirements. Beginning October 1, ~~2009~~ 2011, if the individual is found eligible for the Vermont health access plan, the agency shall, subject to approval from the center for Medicare and Medicaid services, provide payment for any services received by the individual beginning with the date the application was received by the agency.

Sec. 103a. GLOBAL COMMITMENT WAIVER AMENDMENT

(a) Upon passage of this act, the secretary of the agency of human services or designee shall seek a Global Commitment to Health Section 1115 waiver amendment from the Centers for Medicare and Medicaid Services to:

(1) include the Catamount Health Assistance program under subchapter 3A of Chapter 19 of Title 33 for individuals with incomes above 200 percent of the federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(2) include the employer-sponsored premium assistance program under section 1974 of Title 33 for individuals with incomes above 200 percent of the federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(3) include the entire VPharm program described in subchapter 8 of Chapter 19 of Title 33, including individuals with incomes up to 225 percent of FPL and the cost-sharing benefits described in section 2073 of Title 33 in the premium amount paid to the office of Vermont health access under Global Commitment; and

(4) modify the definition of “uninsured” to:

(A) add the loss of insurance due to domestic violence as an exclusion from the 12-month waiting period as required by Sec. 22 of No. 174 of the Acts of the 2007 Adj. Sess. (2008); and

(B) reduce the waiting period from 12 months to six months as provided for in Sec. 5 of No. 203 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 103b. TEMPORARY SUSPENSION OF 2008 PREMIUM INCREASES; GLOBAL COMMITMENT TO HEALTH

(a) The general assembly finds that the state should maximize the federal economic stimulus money available for Medicaid provided in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, by complying with the maintenance of eligibility requirements in section 5001(f). It is the intent of this section to comply with Section 5001(f) for the duration of the recession adjustment period as defined in Section 5001(h)(3) of Public Law 111-5, which ends December 31, 2010, by reverting to the premiums due on June 15, 2008 for individuals with incomes less than or equal to 200% of the federal poverty level (FPL) receiving Catamount Health Premium Assistance, individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance, and individuals with incomes no greater than 175% of FPL enrolled in VPharm and VermontRx. By reinstating the premiums for programs included in Global Commitment to Health no later than July 1, 2009, the state will remain eligible for the full amount of stimulus funds available for Medicaid and Medicaid-waiver programs.

(b)(1) Notwithstanding the premium amounts listed in sections 1974(j)(2)(A) and (B), 1984(c)(1)(A) and (B), 2073(d)(2), and 2074(c) of Title 33, the agency of human services shall reinstate premiums to the amounts due on June 15, 2008 for :

(A) individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance;

(B) individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance; and

(C) individuals with incomes no greater than 175% of FPL in VPharm and VermontRx.

(2) The agency shall maintain the premium amounts established in subdivision (1) of this subsection through December 31, 2010. Notwithstanding 33 V.S.A. §1984(b), individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance shall not have the premiums indexed until January 1, 2011.

(3) Only if required by the Centers on Medicare and Medicaid Services (CMS) as a condition of receiving the federal stimulus funds, the agency may reimburse individuals described in subdivision (1) of this subsection for the increase in premiums paid prior to the time of suspension.

(c)(1) Immediately upon passage through December 31, 2010, this section of the Act shall supersede any agency rules establishing premium amounts above the amounts due on June 15, 2008 from the individuals described in subsection (b) of this section. The agency shall issue policy guidance to clarify that there is a temporary suspension of increases in premium amounts through December 31, 2010 and indicate the appropriate premium amounts for affected individuals.

(2) At its discretion, the agency may adopt emergency rules as provided for in section 844 of Title 3 to reinstate the premium amounts to amounts due on June 15, 2008, and also may adopt emergency rules to raise the premium amounts to the amounts indicated in statute effective January 1, 2011. The general assembly deems the temporary suspension of premium increases to meet the public health, safety, or welfare requirement in subsection 844(a) of Title 3.

Sec. 104. NO. 80 OF THE ACTS OF 2007; DELAYED IMPLEMENTATION OF CERTAIN PROVISIONS

(a) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services may delay collection of the manufacturer fee established in 33 V.S.A. § 2004 pending a final decision by the U.S. District Court in the pending lawsuit captioned PhRMA v. Sorrell, Docket No. 1:07-cv-00220. Any decision by the secretary to delay collection shall not affect the obligation of a pharmaceutical manufacturer or labeler to pay the required fee, once collection begins, for each calendar year beginning with 2007. Pharmaceutical manufacturers and labelers shall not be required to pay interest on the fee amounts for any period of time before the secretary begins collection of the fee.

(b) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services, the

director of the office of Vermont health access, and the commissioner of health may delay implementation of the following statutory provisions until the secretary begins collection of the manufacturer fee as described in subsection (a) of this section and the funds are appropriated :

(1) 18 V.S.A. § 4622 (evidence-based education program; generic drug voucher program) and the related requirements in Sec. 15 (generic drug pilot program) of No. 80 of the Acts of 2007 and Sec. 15a (generic drug voucher pilot; report) of No. 80 of the Acts of 2007; and

(2) 33 V.S.A. § 2004a (evidence-based education and advertising fund).

Sec. 104a. 26 V.S.A. § 2032(g) is amended to read:

(g)(1) The board may develop procedures to permit it to oversee, at no more than three locations and for no more than two years each in duration, pilot experiments for remote pharmacies. In addition, the board may develop a pilot experiment, for no more than two years in duration, to use telepharmacy to dispense prescriptions from secure automatic dispensing units at locations in Vermont recognized as a covered entity under Section 340B of the Public Health Service Act.

(2) On December 1 of each year, the board shall report to the house committee on health care and senate ~~committees~~ committee on government operations health and welfare its findings with regard to pilot experiments initiated in the previous calendar year. If the board determines that the pilot experiments should be extended statewide, the board shall include in its final report proposed rules governing remote pharmacy and telepharmacy practice.

Sec. 105. REACH AHEAD IMPLEMENTATION STATUS REPORT

(a) No later than February 1, 2010, the department for children and families shall provide a status report on the Reach Ahead post-employment program to the house committees on appropriations and on human services and the senate committees on appropriations and on health and welfare. The status report shall include:

(1) information by month on caseloads, spending, and cost estimates, including:

(A) actual caseload data and trends since implementation;

(B) actual spending for the program; and

(C) a revised cost estimate for maintaining the program based on actual caseload and the take-up rate for the program;

(2) an analysis of improved employment stability and child well-being of families in Reach Ahead, including:

(A) the impact of food assistance in providing additional financial resources to the family;

(B) the number of families in Reach Ahead who are employed as of December 31, 2009 and the length of time each family was employed; and

(C) an estimate of the reduction in the number of individuals who return to the Reach Up program after participating in Reach Ahead and an estimate of the resulting savings to the Reach Up program;

(3) the impact on the state's work participation rate in federal fiscal years 2009 and 2010, including the impact on avoiding federal fiscal sanctions.

Sec. 106. REACH AHEAD SUNSET

(a) 33 V.S.A. chapter 12 (Reach Ahead) shall expire on June 30, 2010, and sections of chapters 10 and 11 of Title 33 shall be amended to strike references to the Reach Ahead program.

Sec. 106a. Sec. 26 of No. 30 of the Acts of 2007, as amended by Sec. 5.902 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 26. EFFECTIVE DATES; IMPLEMENTATION

* * *

(b) The amendments to 33 V.S.A. chapter 11 contained in Secs. 2-13 (Reach Up), 14 (solely state-funded programs), and 16 (Reach Up transitions) of this act shall take effect immediately when the rule changes necessary to implement the sections become final, but no later than April 1, 2008. Until the time that the rule modifications are final, the Reach Up program shall operate under current law. Any provisions in these sections relating to Reach Ahead shall take effect ~~on April 1, 2009~~ as provided for in subsection (d) of this section.

* * *

(d) Reach First established in Sec. 1 of this act shall be implemented no later than April 1, 2008. Reach Ahead established in Sec. 18 shall be implemented as soon as possible and no later than July 1, 2009 for families, who leave Reach Up or the Postsecondary Education Program on or after ~~April 1, 2009~~ the actual implementation date, as provided for in 33 V.S.A. § 1203(1). Subject to appropriation, Reach Ahead shall be implemented for all other families as provided for in 33 V.S.A. § 1203 no later than ~~July 1, 2009~~ October 1, 2010.

* * *

Sec. 107. HOME WEATHERIZATION TRUST FUND; HOMELESSNESS

(a) Notwithstanding the provisions of chapter 25 (home weatherization assistance program) of Title 33 of the Vermont Statutes Annotated, in fiscal year 2009 the agency of human services may use up to \$250,000 of state funds from the home weatherization assistance trust fund for the purpose of reducing homelessness. Funds unspent for this purpose in fiscal year 2009 may be carried forward into fiscal year 2010 and spent for the same purpose.

Sec. 108. 33 V.S.A. § 2604(a) is amended to read:

(a) Household income eligibility requirements. The secretary, by rule, shall establish household income and asset eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income and assets of all residents of the household.

(1) The income eligibility requirements shall require that households have a net household income no greater than 125 percent of the federal poverty level in order to be potentially eligible for benefits. Net income shall be derived by making the following deductions from gross income: 20 percent of household members' gross earned income; 100 percent of federal or state earned income credits received by household members; dependent care expenses that are within an allowable maximum, paid by a household member, and necessary to support a household member's employment or training for employment, according to criteria established by the secretary by rule; child support or alimony payments made by a household member on behalf of a nonhousehold member that meet criteria established by the secretary by rule; ~~\$150.00~~ \$250.00 for each household member who is 60 years of age or older or disabled according to criteria established by the secretary by rule; any deductions or exclusions required by federal law or regulations; and any other deduction or exclusion established by the secretary by rule.

(2) In order to be eligible, a household shall have net household assets no greater than \$5,000.00, or \$10,000.00 one member of the household is 60 years of age or older. The secretary shall establish exclusions from the asset limit by rule.

Sec. 109. 33 V.S.A. § 2603 is amended to read:

§ 2603. HOME HEATING FUEL ASSISTANCE ~~TRUST FUND~~

(a) There is created in the state treasury a fund to be known as the home heating fuel assistance ~~trust fund to be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.~~

(b) The fund shall ~~be composed of~~ consist of the receipts from any taxes dedicated to the fund; and such other state funds as may be appropriated to it

by the general assembly, ~~including funds from the federal Low Income Home Energy Assistance Program (LIHEAP).~~ Funds from the home heating fuel assistance fund and the federal Low Income Home Energy Assistance Program (LIHEAP) shall be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.

(c) All balances in the home heating fuel assistance fund at the end of any fiscal year shall ~~be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. Disbursements from the fund shall be made by the state treasurer on warrants drawn by the commissioner of finance and management remain in the fund for future disbursements.~~

(d) The secretary may spend, in anticipation of federal receipts into the home heating fuel assistance ~~trust~~ fund established under this section, a sum no greater than 75 percent of the federal block grant funds allocated to Vermont for the current federal fiscal year under the Low Income Home Energy Assistance Program (LIHEAP), for the purpose of permitting preseason purchases of fuel and other cost-effective purchasing practices authorized by subsection 2602(c) of this title, in accordance with rules adopted by the secretary.

Sec. 110. Sec. 5.224(f) of No. 192 of the Acts of 2008 is added to read:

(f) In fiscal year 2009, the secretary of administration may upon recommendation of commissioner of corrections transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 111. VERMONT COMMISSION ON NATIONAL AND COMMUNITY SERVICE; POSITIONS

(a) The exempt positions in the Vermont Commission on National and Community Service shall be transferred to the agency of human services.

Sec. 112. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2009, the secretary of the agency of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside of the agency of human services. At least three business days prior to any transfer, the agency shall submit to the joint fiscal office a proposal of transfers to be made pursuant to this section. A final

report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2009 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 113. Sec. 5.206(c) of No. 192 of the Acts of 2008 is added to read:

(c) The agency of human services secretary's office – Global Commitment appropriation (Section 2.202) shall be reduced by \$813,000 in general funds and by \$1,187,000 federal funds and the office of Vermont health access – Medicaid program – long-term care waiver (Section 2.208) shall be increased by the same amounts to accomplish the intent of using \$2,000,000 of Global Commitment funds specified in Section 5.206(b)(2)(E).

Sec. 114. Sec. 5.202(b)(6) of No. 192 of the Acts of 2008 is added to read:

(6) Notwithstanding 16 V.S.A. § 2959a, any additional federal funds received as a result of an enhanced FMAP that are associated with the certified expenditures specified in subdivisions (1) through (5) of this subsection shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

Sec. 115. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

(1) “Claimant agency” means any unit of state government, including agencies, departments, boards, commissions, authorities or public corporations, including the Vermont student assistance corporation and a collection agency under contract with the court administrator pursuant to 4 V.S.A. § 1109(d) or 13 V.S.A. § 7171. Notwithstanding the foregoing, the department of taxes shall not be considered a claimant agency and shall not be subject to the limitations contained in this chapter when it applies a refund to the outstanding Vermont state tax liability of a taxpayer, including a taxpayer's liability for interest, penalties and fees.

* * *

Sec. 116. 32 V.S.A. § 5941 is amended to read:

§ 5941. PROCEDURE FOR SETOFF OF COURT JUDGMENTS

* * *

(e) The court administrator may contract with one or more collection agencies to serve as a claimant agency on behalf of a court for purposes of this subchapter.

Sec. 117. 13 V.S.A. § 7171 is amended to read:

§ 7171. COLLECTION BY COMPLAINT, INFORMATION, OR INDICTMENT

* * *

(b) The court administrator is authorized to contract with private collection agencies for collection of penalties, fines, surcharges, court costs, and any other assessment authorized by law incurred or imposed by statute on persons who ~~have failed fail~~ to pay, ~~at or after reasonable notification of the debt, and the risk that the debt may be~~ time of judgment, after notice that failure to pay the debt will result in the debt being referred to a collection agency and that the debtor will be liable for the collection agency's fee. The court administrator may agree to pay collection agencies a fee based on a fixed rate for services rendered or a percentage of the amount actually collected by such agencies and remitted to the state. The debtor shall be liable for the collection agency's fee, in addition to the judgment amount. The collection agency shall deduct its fee from the collected amount and remit the balance to the judiciary. All collection agency fees shall be governed by the contract with the court administrator and shall be clearly disclosed in all notices sent by the collection agency to the debtor.

Sec. 118. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

(a) The counties of Addison, ~~Bennington,~~ Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, and Washington shall each constitute a probate district, which shall be designated by the name of the county.

(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster, or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321.00 for the Windham probate district and \$75,859.00 for the Rutland and Windsor probate districts.

Sec. 119. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	Annual Salary as of July 8, 2007
(1) Addison	\$59,321
(2) Bennington	51,559 <u>59,321</u>
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8) Grand Isle	28,853
(9) Hartford	59,321
(10) Lamoille	43,594
(11) Manchester	43,594
(12) Marlboro	51,559
(13) <u>(12)</u> Orange	51,559
(14) <u>(13)</u> Orleans	51,559
(15) <u>(14)</u> Rutland	75,859
(16) <u>(15)</u> Washington	75,859
(17) <u>(16)</u> Westminster	43,594
(18) <u>(17)</u> Windsor	51,559

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 120. REPEAL

(a) 4 V.S.A. § 273 (Bennington and Manchester probate districts) is repealed.

Sec. 121. TRANSITIONAL PROVISIONS

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The records of the probate courts of the probate districts of Bennington and Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 122. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

~~(a) The counties of Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans and Washington shall each constitute a probate district, which shall be designated by the name of the county.~~

~~(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321~~

for the ~~Windham probate district and \$75,859 for the Rutland and Windsor probate districts.~~

There shall be one probate district in each county, which shall be designated by the name of the county.

Sec. 123. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

Annual Salary as of July 8, 2007

(1) Addison	\$59,321
(2) Bennington	59,321
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8)(7) Grand Isle	28,853
(9) Hartford	59,321
(10)(8) Lamoille	43,594
(11) Marlboro	51,559
(12)(9) Orange	51,559
(13)(10) Orleans	51,559
(14)(11) Rutland	75,859
(15)(12) Washington	75,859
(16)(13) Westminster <u>Windham</u>	43,594 <u>59,321</u>
(17)(14) Windsor	51,559 <u>75,859</u>

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 124. REPEALS

(a) 4 V.S.A. §§ 275 (Fair Haven and Rutland probate districts), 276 (Hartford and Windsor probate districts), and 277 (Marlboro and Westminster probate districts) are repealed.

Sec. 125. TRANSITIONAL PROVISIONS

(a) On the effective date of this section, the newly consolidated probate court district within each county is deemed to be a continuation of the prior probate court districts within the county. The newly consolidated court shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the prior probate districts within the county, including all pending matters and appeals. The records of the prior probate court districts shall become the records of the probate court of the newly consolidated probate district. The newly consolidated probate court district shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The probate judge for the newly consolidated district shall be elected on the first Tuesday of November of 2010. The current probate registers of the prior probate districts shall be allowed to maintain their employment status that was in effect on January 31, 2011 for six months, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The assistant judges of these counties shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 126. MUNICIPAL TICKET REPAYMENT REVOLVING FUND

(a) Notwithstanding the provisions of 4 V.S.A. § 28(a)(2), the Town of Rutland may receive additional loans from the Municipal Ticket Repayment Revolving Fund for payments received from the Judicial Bureau between June 30, 2001 and June 30, 2004 in an amount not to exceed \$97,687.48.

Sec. 127. 10 V.S.A. § 1942(a) and (b) are amended to read:

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this state, which will be assessed against every distributor, dealer or user as defined in 23 V.S.A. chapters 27 and 28, and which will be deposited into the petroleum cleanup fund. ~~The~~ After analysis of the projected unencumbered fund balance, ~~the~~ secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. ~~shall annually determine~~ may make a recommendation to the legislature as to whether or not to assess the one-cent

licensing fee for the upcoming year. ~~If the unencumbered balance of the motor fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$7,000,000.00, then the one-cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$7,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the commissioner of motor vehicles and deposited into the petroleum cleanup fund. This fee requirement shall terminate on April 1, 2011.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil or kerosene, sold in this state and not used to propel a motor vehicle, a licensing fee of one-half cent per gallon of such heating oil or kerosene. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund. ~~The~~ After analysis of the projected unencumbered fund balance, the secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. ~~shall annually determine~~ may make a recommendation to the legislature as to whether or not to assess the one-half cent licensing fee for the upcoming year. ~~If the unencumbered balance of heating fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$3,000,000.00, then the one-half cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$3,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee provision shall terminate April 1, 2011.

Sec. 128. Sec. 16 (2) of Act No. 200 of the Acts of 2008 is amended to read`:

(2) For the agricultural buffer program, to install water quality conservation buffers, and for the capital equipment assistance program established in 6 V.S.A. §4828. Up to \$225,000 shall be for the Farmers Water Shed Alliances and up to \$40,000 shall be for the Southern Vermont Nutrient Management Program for the purchase of aerators. ~~Up to \$250,000~~ \$200,000 of this appropriation shall be for the capital equipment assistance program, provided that the state's share shall not exceed \$50,000 or 50 percent of a project.

Sec. 129.. Sec. 4 of No. 206 of the Acts of 2008 is amended to read:

Sec. 4. APPROPRIATION REDUCTIONS

(a) Position reductions. The secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$3,670,000.00~~ \$2,456,393.00 consistent with reductions in positions in the executive branch. In addition, the secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$250,000.00~~ \$161,046.00 by not filling up to four exempt positions, not including attorneys and clerical personnel. In order to maintain direct services to Vermonters, the secretary shall give preference to reducing those positions which do not provide those direct services. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ March 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

(b) ~~Reductions in contractual services and temporary positions.~~ The secretary of administration shall reduce fiscal year 2009 general fund appropriations budgeted ~~for contractual services and temporary positions~~ in the executive branch of state government by \$2,300,000.00. The secretary of administration may substitute appropriation reductions in other funds, and in fund transfers to the general fund, to achieve this amount, and may reduce Global Commitment appropriations correspondingly. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ February 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

Sec. 130. EFFECTIVE DATES

(a) This act shall take effect upon passage, except Sec. 75 (Medicaid chiropractic coverage) of this act shall apply retroactively beginning February 1, 2009.

(b) Sec. 87 of this act (Vermont State Colleges payment of employee wages through direct deposit) shall take effect May 1, 2009.

(c) Secs. 122, 123, 124, and 125 shall take effect on February 1, 2011.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

SUSAN J. BARTLETT
M. JANE KITCHEL
DIANE B. SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
MARK LARSON
ROBERT G. HELM

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Bill Amended; Consideration Postponed

S. 54.

Pending entry on the Calendar for action, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to clean energy assessment districts.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill in Sec. 6 by striking out § 3268 in its entirety and inserting in lieu thereof a new § 3268 to read as follows:

§ 3268. RESERVE FUND

(a) When bonds are used as the funding mechanism, or whenever otherwise required to secure funding for the program, a participating municipality shall create a reserve fund for use in the event of a foreclosure upon an assessed and participating property. The reserve fund shall be funded by participating property owners in the municipality at a level sufficient to provide for the payment of any past due balances on assessments on any property in the program which is the subject of a foreclosure.

(b) Upon demand from a party to a foreclosure action on an assessed and participating property, the municipality shall pay from the reserve fund any past due balances of the participating property relating to the assessment.

(c) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures based on good lending practice experience.

(d) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the reserve fund. Once disclosed, the amount of the reserve fund payment will not change over the life of the assessment.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Illuzzi, Senator Cummings moved that the bill be

ordered to lie. Thereupon, pending the question, Shall the bill be ordered to lie?, Senator Cummings requested and was granted leave to withdraw the motion.

Thereupon, the pending question, Shall the bill be amended as recommended by Senator Illuzzi?, was agreed to on a roll call, Yeas 17, Nays 10.

Senator Snelling having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Campbell, Carris, Giard, Hartwell, Illuzzi, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Shumlin, Starr, White.

Those Senators who voted in the negative were: Bartlett, Brock, Choate, Cummings, Doyle, Kitchel, Maynard, Mazza, Mullin, Snelling.

Those Senators absent and not voting were: Flanagan, Scott, Sears.

Thereupon, the bill was read the third time, and pending the question, Shall the bill pass?, Senator Doyle moved that the bill be ordered to lie. Pending the question, Shall the bill be ordered to lie?, Senator Doyle requested and was granted leave to withdraw the motion.

Thereupon, on motion of Senator Shumlin action on the bill was postponed until the next legislative day.

Rules Suspended; Bill Committed

S. 137.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to the Vermont recovery and reinvestment act of 2009.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Shumlin moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Finance *intact*,

Which was agreed to.

Proposal of Amendment; Third Reading Ordered**H. 34.**

Senator Mullin, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to automated external defibrillators.

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

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 111, S. 134, H. 36, H. 131, H. 232.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o’clock and thirty minutes in the forenoon on Friday, April 17, 2009.

FRIDAY, APRIL 17, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mark Pitton of Montpelier.

Message from the House No. 55

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 93. An act relating to leasing state forestland for maple sugar production.

H. 331. An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

H. 430. An act relating to approval of an amendment to the charter of the town of St. Johnsbury.

H. 433. An act relating to approval of amendments to the charter of the town of Berlin.

In the passage of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 11. Joint resolution urging Vermonters and public and private organizations in the state to institute a voluntary 20 percent reduction in energy use.

In the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 29. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 56

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 147. An act relating to the operation of a motor vehicle by junior operators and primary safety belt enforcement.

H. 192. An act relating to electronic benefit machines for farmers' markets.

H. 405. An act relating to K-12 and higher education partnerships.

H. 447. An act relating to wetlands protection.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 91. An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

And has severally concurred therein with a further proposal of amendment thereto, in the passage of which the concurrence of the Senate is requested.

Message from the House No. 57

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 442. An act relating to miscellaneous tax provisions.

In the passage of which the concurrence of the Senate is requested.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 93.

An act relating to leasing state forestland for maple sugar production .

To the Committee on Rules.

H. 147.

An act relating to the operation of a motor vehicle by junior operators and primary safety belt enforcement.

To the Committee on Rules.

H. 192.

An act relating to electronic benefit machines for farmers' markets.

To the Committee on Rules.

H. 331.

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

To the Committee on Rules.

H. 405.

An act relating to K-12 and higher education partnerships.

To the Committee on Rules.

H. 430.

An act relating to approval of an amendment to the charter of the town of St. Johnsbury .

To the Committee on Government Operations.

H. 433.

An act relating to approval of amendments to the charter of the town of Berlin.

To the Committee on Government Operations.

H. 442.

An act relating to miscellaneous tax provisions.

To the Committee on Finance.

H. 447.

An act relating to wetlands protection.

To the Committee on Rules.

Joint Resolution Referred

J.R.H. 11.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution urging Vermonters and public and private organizations in the state to institute a voluntary 20 percent reduction in energy use.

Whereas, energy costs in Vermont are continuing to rise dramatically, and

Whereas, at present, the overwhelming majority of Vermont's electrical generation is derived from fossil fuels, many of which are imported from unreliable overseas sources, and

Whereas, not only are energy costs rising, but the burning of fossil fuels increases the emission of greenhouse gases that contribute to the planet's increasingly severe global warming problems, and

Whereas, although switching to renewable energy sources will reduce the problems that imported fossil fuels cause, Vermont will remain largely dependent on fossil fuels for energy sources for the short term, and

Whereas, a concerted voluntary effort on the part of all individuals and institutions in this state to reduce would serve as a major step forward to

achieving a 20 percent electric power reduction in Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges all individual Vermonters and all nonprofit organizations, educational institutions and hospitals, farms, for-profit businesses, schools and colleges, and levels of government to work to institute a voluntary 20 percent reduction in energy use by shutting off lights whenever walking out of a room that will be empty and by lowering thermostats by five degrees.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Natural Resources and Energy.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

Goldstein, Joan of South Royalton - Member of the Sustainable Jobs Fund Board of Directors, - from March 20, 2009, to August 31, 2013.

To the Committee on Economic Development, Housing and General Affairs.

**Rules Suspended; Proposals of Amendment; Third Reading Ordered;
Rules Suspended; Bill Passed in Concurrence with Proposals of
Amendment**

H. 11.

Appearing on the Calendar for notice tomorrow, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as follows:

First: By adding a new section to be numbered Sec. 1a to read as follows:

Sec. 1a. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE OFFICE OF PROBATE JUDGE

(a) Notwithstanding any law to the contrary, an assistant judge or a candidate for the office of assistant judge may also stand for election to the office of probate judge, and if elected to both offices, may serve as both an assistant judge and a probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge will be disqualified from sitting on the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over or sat on the same or related probate matter in the superior court, the probate judge will be disqualified from sitting on the probate matter in the probate court.

(d) This section shall take effect immediately and shall also be applied retroactively and is intended to validate and authorize any person's contemporaneous election to both offices of assistant judge and probate judge as it pertains to subsection (a) of this section prior to and following the enactment of this law.

Second: In Sec. 2, 14 V.S.A. § 314, in subdivision (b)(2), by striking out the word "or" and inserting in lieu thereof the word and

Third: In Sec. 2, 14 V.S.A. § 322, by striking out § 322 in its entirety and inserting in lieu thereof a new § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent or otherwise or stands to benefit under the terms of any trust of a decedent, the individual's share in the decedent's estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and, by doing so, stands to inherit under the decedent's will or otherwise or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will or otherwise or to benefit under the terms of any trust, the record of that individual's conviction of intentionally and unlawfully killing

the decedent or other person shall be admissible evidence for purposes of this section.

Fourth: In Sec. 2, 14 V.S.A. § 336, by striking out the last sentence in its entirety and inserting in lieu thereof a new sentence to read: Before an order is made for the payment or distribution of any money or estate as authorized in this section, notice shall be given as provided by the Vermont Rules of Probate Procedure.

Fifth: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. EFFECTIVE DATE

(a) Secs. 1, 1a, 2, 4, and 6 of this act shall take effect upon passage. Sec. 2 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 2 of this act.

(b) Secs. 3 and 5 of this act shall take effect July 1, 2009.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senator Illuzzi moved to amend the proposal of amendment of the Committee on Government Operations as follows:

By striking out Sec. 1a in its entirety and inserting in lieu thereof a new Sec. 1a to read as follows:

Sec. 1a. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE OFFICE OF PROBATE JUDGE

(a) Notwithstanding any provision of law to the contrary, an assistant judge or a candidate for the office of assistant judge may also seek election to the office of probate judge, and if elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge shall be disqualified from hearing and deciding the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over the

same or related probate matter in the superior court, the probate judge shall be disqualified from hearing and deciding the probate matter in the probate court.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator Sears moved to amend the proposal of amendment of the Committee on Government Operations, as amended, as follows:

In Sec. 2, 14 V.S.A. § 322, by striking out § 322 in its entirety and inserting in lieu thereof a new § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

(a) Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent or otherwise or stands to benefit under the terms of any trust of a decedent, the individual's share in the decedent's estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and, by doing so, stands to inherit under the decedent's will or otherwise or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will or otherwise or to benefit under the terms of any trust, the record of that individual's conviction of intentionally and unlawfully killing the decedent or other person shall be admissible evidence for purposes of this section.

(b) This section shall apply retroactively to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms of any trust as the result of committing an intentional and unlawful killing prior to or after the effective date of this section.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations, as amended?, Senator Sears moved to amend the proposal of amendment of the Committee on Government Operations, as amended, as follows:

First: By adding a new section to be numbered Sec. 7 to read as follows:

Sec. 7. 27 V.S.A. § 1270 is amended to read:

§ 1270. DECEASED OWNERS; MULTIPLE CLAIMANTS

(a) If the treasurer holds unclaimed property in the name of a deceased owner, the treasurer may deliver the property as follows:

(1) In the case of an open estate, to the administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00, in accordance with the probate court decree of distribution.

(3) In the absence of an open estate or probate court decree of distribution, and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to section 551 of Title 14.

(4) In all other cases where the treasurer holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the probate court may waive any filing fees.

(b) If the treasurer holds unclaimed property valued at ~~\$100.00~~ \$250.00 or less which more than one person owns, the treasurer may deliver the property as follows:

(1) If the property has been listed on the treasurer's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the treasurer's website for a year or more, to the first person who files a claim and who owns at least a share of the property.

Second: By adding a new section to be numbered Sec. 8 to read as follows:

Sec. 8. REPEAL

Sec. 2a of No. 161 of the Acts of the 2005 Adj. Sess. (2006) is repealed.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposals of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Consideration Postponed

Senate bills entitled:

S. 54.

An act relating to clean energy assessment districts.

S. 99.

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

S. 117.

An act relating to the date of the primary election.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

Proposal of Amendment; Third Reading Ordered

H. 287.

Senator Ayer, for the Committee on Finance, to which was referred House bill entitled:

An act relating to Uniform Prudent Management of Institutional Funds Act.

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

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

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

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 89. An act relating to a maximum retail price for milk.

Bill Passed in Concurrence with Proposal of Amendment**H. 34.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to automated external defibrillators.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 135. An act relating to wireless communication facilities and project approvals for municipal and cooperative utilities.

H. 160. An act relating to approval of the charter of the Town of Hartford.

H. 348. An act relating to the Interstate Pest Control Compact.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 186.**

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill in Sec. 1, 21 V.S.A. § 494b(1), by inserting after the following: "for applicants for law enforcement positions;" the following: "the department of liquor control and the liquor control board for applicants for investigator positions;

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 89, H. 11, H. 34, H. 135, H. 160, H. 186, H. 348.

Recess

On motion of Senator Shumlin the Senate recessed until three o'clock and thirty minutes in the afternoon.

Called to Order

At three o'clock and forty minutes the Senate was called to order by the President *pro tempore*.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 144.

By Senators Lyons, Snelling, Ashe, Ayer, Bartlett, Choate, Flanagan, MacDonald, McCormack, Miller, Racine, Shumlin and White,

An act relating to patient choice and control at end of life.

To the Committee on Health and Welfare.

**Committee Bill Introduced; Rules Suspended; Third Reading Ordered;
Rules Suspended; Bill Passed; Rules Suspended; Bill Messaged**

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 145.

By the Committee on Transportation,

An act relating to town highway aid payments in April 2009.

Thereupon, pending entry of the bill on the Calendar for notice tomorrow, on motion of Senator Mazza, the rules were suspended and the bill taken up for immediate consideration.

Senator Campbell Assumes the Chair

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered on a roll call, Yeas 26, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, *Brock, Carris, Choate, Cummings, Doyle, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Maynard, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Campbell (presiding), Flanagan, MacDonald, Mullin.

*Senator Brock explained his vote as follows:

“I am 100% in favor of meeting the state’s obligations to our towns and cities. I know how important this is, but I have great concerns about how we’ve done it. I am concerned that we’ve solved this problem by simply passing the buck to the Secretary of Administration, without an adequate explanation of a plan to implement it. Nowhere is it explained where the money is coming from.”

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

****During debate of the measure, Senator Shumlin addressed the Chair and on motion of Senator Sears, his remarks were ordered enter in the Journal, and are as follows:

“Mr. President:

“The bill before us restores the legislature’s commitment to the cities and towns by fully funding the town highway aid payments in April 2009. It is unfortunate that misinformation distorted the Senate’s original intent to fully fund the towns. We are rectifying this distortion by putting forward our original proposal to fully fund the April town highway aid payments.”

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 21, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 29.

TUESDAY, APRIL 21, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rebecca Clark of Montpelier.

Pledge of Allegiance

Pages Rhea Constantino and Ashlynn Doyon then led the members of the Senate in the pledge of allegiance.

Message from the House No. 58

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 92. An act relating to rent-to-own agreements.

In the passage of which the concurrence of the Senate is requested.

Message from the House No. 59

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 171. An act relating to home mortgage protection for Vermonters.

H. 313. An act relating to near-term and long-term economic development.

H. 444. An act relating to health care reform.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to the following House bill:

H. 204. An act relating to payment of diversion program fees.

And has severally concurred therein.

The House has adopted joint resolution of the following title:

J.R.H. 22. Joint resolution honoring municipal public works employees and designating May 17-23 as Public Works Week in Vermont.

In the adoption of which the concurrence of the Senate is requested.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 92.

An act relating to rent-to-own agreements.

To the Committee on Rules.

H. 171.

An act relating to home mortgage protection for Vermonters.

To the Committee on Finance.

H. 313.

An act relating to near-term and long-term economic development.

To the Committee on Economic Development, Housing and General Affairs.

H. 444.

An act relating to health care reform.

To the Committee on Health and Welfare.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 30. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 24, 2009, it be to meet again no later than Tuesday, April 28, 2009.

House Requested to Return Bill to Custody of Senate**H. 232.**

On motion of Senator Shumlin, the Senate requested the House to return to the custody of the Senate, House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Joint Resolution Placed on Calendar**J.R.H. 22.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution honoring municipal public works employees and designating May 17–23 as Public Works Week in Vermont.

Whereas, much of the highway and bridge network in Vermont is municipally owned, and the responsibility for its maintenance is assigned to local public works departments, and

Whereas, the regular duties of city and town public works departments' employees encompass general roadway and bridge maintenance on a year-round basis, and

Whereas, when extremely inclement weather strikes, such as a severe snowstorm or a thunderstorm whose elements include high velocity winds, municipal public works department crews are called upon to perform near-heroic tasks under the worst possible climatic conditions and not infrequently in the middle of the night, and

Whereas, these special but essential jobs can range from removing snow from the highway while blowing drifts are inhibiting steady progress to supporting utility crews removing trees entangled in dangerously electrified cables, and

Whereas, on May 13, the Vermont Municipal Highway Association will hold its annual field day and expo at the Barre Auditorium, and

Whereas, local public works crews from many communities will attend this much-anticipated event, and

Whereas, the Vermont Municipal Highway Association event also serves as a showcase for vendors to exhibit new products that public works staff can examine and consider purchasing, and

Whereas, May is also an important month for these dedicated municipal employees as the week of May 17–23 is being observed as Public Works Week in order to recognize these all-too-often unsung heroes who maintain

highways, bridges, and other essential municipal infrastructure 365 days a year, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly honors Vermont's outstanding municipal public works employees and designates May 17–23 as Public Works Week in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Barre Town Engineer and Municipal Highway Association Secretary-Treasurer Harry Hinrichsen.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Consideration Postponed

Senate bill entitled:

S. 99.

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

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Consideration Resumed; Leave Granted to Offer Amendment After Third Reading; Bill Amended; Bill Passed

S. 54.

Consideration was resumed on Senate bill entitled:

An act relating to clean energy assessment districts.

Thereupon, pending the question, Shall the bill pass?, Senator Cumming, on behalf of the Committee on Finance, requested and was granted leave to offer an amendment after third reading.

Thereupon, pending the question, Shall the bill pass?, Senator Cummings, on behalf of the Committee on Finance, moved to amend the bill as follows:

First: In Sec. 6, by striking out 24 V.S.A. § 3265 in its entirety and inserting in lieu thereof a new 24 V.S.A. § 3265 to read as follows:

§ 3265. LIABILITY OF MUNICIPALITY

(a) A municipality that incurs indebtedness for or otherwise finances projects under this subchapter shall not be liable for the failure of performance of a project.

(b) A municipality that incurs indebtedness for bonding under this subchapter shall pledge the full faith and credit of the municipality.

Second: In Sec. 6, by striking out 24 V.S.A. § 3268 in its entirety and inserting in lieu thereof two new sections 24 V.S.A. § 3268 and § 3269 to read as follows:

§ 3268. RELEASE OF LIEN

(a) A municipality shall release a participating property owner of the lien on the property against which the assessment under this subchapter is made upon:

(1) Full payment of the value of the assessment; or

(2) Demand from a party who has filed an action for foreclosure on a participating property.

(b) If a municipality releases a participating property owner of a lien upon demand from a party who has filed an action for foreclosure and the participating property owner redeems the property, the municipality shall reinstate the lien on the property against which the assessment under this subchapter is made.

(c) Notice of the release or reinstatement of the lien shall be filed with the clerk of the municipality for recording in the land records of the municipality.

§ 3269. RESERVE FUND

(a) A participating municipality may create a reserve fund for use in the event of a foreclosure upon an assessed property. The reserve fund shall be funded by participating property owners at a level sufficient to provide for the payment of any past due balances on assessments under this subchapter and any remaining principal balances on those assessments in the event of a foreclosure upon a participating property.

(b) The reserve fund shall be capitalized in accordance with standards and procedures approved by the commissioner of banking, insurance, securities, and health care administration to cover expected foreclosures based on good lending practice experience.

(c) The municipality shall disclose in advance to each interested property owner the amount of that property owner's required payment into the reserve

fund. Once disclosed, the amount of the reserve fund payment shall not change over the life of the assessment.

Which was agreed to.

Thereupon, the pending question, Shall the bill pass?, was decided in the affirmative on a roll call, Yeas 28, Nays 2.

Senator Snelling having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard.

Bill Amended; Third Reading Ordered

S. 117.

Senator Ayer, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the date of the primary election.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 2351. PRIMARY ELECTION

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

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to on a roll call, Yeas 21, Nays 9.

Senator Doyle having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, White.

Those Senators who voted in the negative were: Ashe, Brock, Doyle, Maynard, Mazza, Mullin, Scott, Snelling, Starr.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 21, Nays 9.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, White.

Those Senators who voted in the negative were: Ashe, Brock, Doyle, Maynard, Mazza, Mullin, Scott, Snelling, Starr.

Bill Passed in Concurrence with Proposal of Amendment**H. 287.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to Uniform Prudent Management of Institutional Funds Act.

Recess

On motion of Senator Shumlin the Senate recessed until three o'clock and twenty minutes in the afternoon.

Called to Order

At four o'clock and fifty minutes in the afternoon the Senate was called to order by the President.

Message from the House No. 60

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to Senate request, the House returns custody of a bill originating in the House of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Rules Suspended; Action Reconsidered; Rules Suspended; Second Substitute Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 232.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Shumlin the rules were further suspended to permit the making of a motion to reconsider its vote of April 15, notwithstanding the provisions of Senate Rule 73.

Assuring the Chair that he voted with the majority whereby a substitute report of the Committee of Conference was agreed to and adopted by the Senate, Senator Shumlin moved that the Senate reconsider its action on the bill, which was agreed to.

Senator Bartlett moved that the report of the Committee of Conference considered by the Senate on April 15 be substituted for by the second substitute report of the Committee of Conference as submitted today (April 21), which was agreed to.

Senator Bartlett, for the Committee of Conference, submitted the following second substitute report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Sec. 2.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.001. Secretary of administration - secretary's office

Personal services	848,494	803,917
Operating expenses	59,918	59,918

Grants	<u>150,000</u>	<u>150,000</u>
Total	<u>1,058,412</u>	1,013,835
Source of funds		
General fund	<u>829,122</u>	872,208
Global Commitment fund	<u>76,613</u>	70,316
Interdepartmental transfer	<u>152,677</u>	<u>71,311</u>
Total	<u>1,058,412</u>	1,013,835

Sec. 2. Sec. 2.024 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.024. Buildings and general services - fee for space

Personal services	<u>11,993,881</u>	12,332,498
Operating expenses	<u>12,126,545</u>	<u>13,854,846</u>
Total	<u>24,120,426</u>	26,187,344
Source of funds		
Internal service funds	<u>24,120,426</u>	26,187,344

Sec. 3. Sec. 2.027 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.027. Executive office - national and community service

Personal services	<u>202,006</u>	151,504
Operating expenses	<u>122,923</u>	92,378
Grants	<u>1,835,463</u>	<u>1,377,300</u>
Total	<u>2,160,392</u>	1,621,182
Source of funds		
General fund	<u>56,528</u>	43,284
Federal funds	<u>2,103,864</u>	<u>1,577,898</u>
Total	<u>2,160,392</u>	1,621,182

Sec. 4. Sec. 2.034 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.034. Auditor of accounts

Personal services	<u>2,805,929</u>	2,785,632
Operating expenses	<u>142,283</u>	<u>142,283</u>
Total	<u>2,948,212</u>	2,927,915
Source of funds		
General fund	<u>526,254</u>	526,254
Special funds	<u>54,431</u>	54,431
Internal service funds	<u>2,367,527</u>	<u>2,347,230</u>
Total	<u>2,948,212</u>	2,927,915

Sec. 5. Sec. 2.040 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.040. VOSHA review board

Personal services	40,414	40,414
Operating expenses	<u>9,680</u>	<u>9,680</u>
Total	50,094	50,094
Source of funds		
General fund	25,047	25,047
Federal funds	25,047	
<u>Interdepartmental transfer</u>		<u>25,047</u>
Total	50,094	50,094

Sec. 6. Sec. 2.043 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.043. Tax department - reappraisal and listing payments

Grants	3,240,112	3,250,112
Source of funds		
Education fund	3,240,112	3,250,112

Sec. 7. Sec. 2.049 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.049. Total general government	177,473,806	178,946,640
Source of funds		
General fund	70,712,700	70,742,542
Education fund	8,809,208	8,819,208
Special funds	8,436,938	8,436,938
Tobacco fund	58,000	58,000
Global Commitment fund	416,113	409,816
Federal funds	2,952,640	2,401,627
Enterprise funds	2,762,854	2,762,854
Internal service funds	49,185,637	51,232,258
Pension trust funds	29,204,037	29,204,037
Private purpose trust funds	1,018,536	1,018,536
Interdepartmental transfer	<u>3,917,143</u>	<u>3,860,824</u>
Total	177,473,806	178,946,640

Sec. 8. Sec 2.101 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.101. Attorney general

Personal services	7,245,495	7,315,495
Operating expenses	<u>1,066,918</u>	<u>1,066,918</u>
Total	8,312,413	8,382,413
Source of funds		
General fund	4,594,248	4,594,248
Special funds	1,295,235	1,295,235
Tobacco fund	290,000	360,000
Federal funds	643,000	643,000

Interdepartmental transfer	<u>1,489,930</u>	<u>1,489,930</u>
Total	<u>8,312,413</u>	8,382,413

Sec. 9. Sec. 2.110 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.110. Public safety - state police

Personal services	38,966,689	42,378,789
Operating expenses	8,200,082	7,190,140
Grants	<u>582,087</u>	<u>582,087</u>
Total	47,748,858	50,151,016
Source of funds		
General fund	12,281,795	14,681,216
Transportation fund	28,231,384	28,231,384
Special funds	2,073,265	2,076,002
Federal funds	2,777,985	2,777,985
Interdepartmental transfer	<u>2,384,429</u>	<u>2,384,429</u>
Total	47,748,858	50,151,016

Sec. 10. Sec. 2.111 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.111. Public safety - criminal justice services

Personal services	5,708,438	6,008,538
Operating expenses	3,129,222	3,129,222
Grants	<u>3,046,453</u>	<u>3,046,453</u>
Total	11,884,113	12,184,213
Source of funds		
General fund	759,697	1,059,797
Transportation fund	4,429,971	4,429,971
Special funds	1,393,043	1,896,043
Federal funds	4,677,888	4,677,888
Interdepartmental transfer	<u>623,514</u>	<u>120,514</u>
Total	11,884,113	12,184,213

Sec. 11. Sec. 2.121 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.121. Center for crime victims services

Personal services	1,404,168	1,404,168
Operating expenses	318,275	318,275
Grants	<u>9,624,834</u>	<u>9,091,834</u>
Total	11,347,277	10,814,277
Source of funds		
General fund	49,809	49,809
Special funds	7,432,390	6,899,390

Federal funds	<u>3,865,078</u>	<u>3,865,078</u>
Total	41,347,277	10,814,277

Sec. 12. Sec. 2.142 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.142. Liquor control - administration

Personal services	1,476,488	1,476,488
Operating expenses	<u>422,089</u>	<u>428,750</u>
Total	1,898,577	1,905,238
Source of funds		
Enterprise funds	1,694,577	1,694,577
<u>Tobacco fund</u>		6,661
Interdepartmental transfer	<u>204,000</u>	<u>204,000</u>
Total	1,898,577	1,905,238

Sec. 13. Sec. 2.145 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.145. Total protection to persons and property

	256,999,660	259,245,579
Source of funds		
General fund	90,404,831	93,104,352
Transportation fund	32,725,324	32,725,324
Special funds	66,951,903	66,924,640
Tobacco fund	619,645	696,306
Global Commitment fund	1,898,824	1,898,824
Federal funds	49,775,682	49,775,682
Enterprise funds	4,735,317	4,735,317
Interdepartmental transfer	<u>9,888,134</u>	<u>9,385,134</u>
Total	256,999,660	259,245,579

Sec. 14. Sec. 2.201 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.201. Agency of human services - secretary's office

Personal services	6,977,471	7,174,248
Operating expenses	3,004,134	3,023,587
Grants	<u>3,671,153</u>	<u>4,142,977</u>
Total	13,652,758	14,340,812
Source of funds		
General fund	4,360,112	4,554,264
Special funds	7,517	7,517
<u>Global Commitment fund</u>		415,000
Tobacco funds	397,021	397,021
Federal funds	5,183,280	5,443,891

Interdepartmental transfer	<u>3,704,828</u>	<u>3,523,119</u>
Total	<u>13,652,758</u>	14,340,812

Sec. 15. Sec. 2.202 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.202. Secretary's office - Global Commitment

Grants	909,022,731	928,583,437
Source of funds		
General fund	132,807,629	85,896,217
Special fund	16,261,307	16,045,307
Tobacco fund	39,487,801	39,487,801
State health care resources fund	147,623,246	148,261,016
Catamount fund	8,186,672	8,229,295
Federal funds	564,293,422	570,987,388
<u>Federal ARRA funds</u>		59,313,759
Interdepartmental transfer	<u>362,654</u>	<u>362,654</u>
Total	909,022,731	928,583,437

Sec. 16. Sec. 2.205 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.205. Human services board

Personal services	284,719	284,719
Operating expenses	<u>65,106</u>	<u>65,106</u>
Total	349,825	349,825
Source of funds		
General fund	50,030	50,030
Federal funds	12,254	149,897
Interdepartmental transfer	<u>287,541</u>	<u>149,898</u>
Total	349,825	349,825

Sec. 17. Sec. 2.206 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.206. Office of Vermont health access - administration

Personal services	32,033,668	36,514,151
Operating expenses	2,724,407	2,724,407
Grants	<u>1,196,000</u>	<u>1,010,700</u>
Total	35,954,075	40,249,258
Source of funds		
General fund	75,246	228,241
Global Commitment fund	34,428,247	38,597,284
Catamount fund	750,582	351,627
Federal funds	<u>700,000</u>	<u>1,072,106</u>
Total	35,954,075	40,249,258

Sec. 18. Sec. 2.207 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.207. Office of Vermont health access - Medicaid program - Global Commitment

Grants	461,385,056	467,778,316
Source of funds		
Global Commitment fund	461,385,056	467,778,316

Sec. 19. Sec. 2.208 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.208. Office of Vermont health access - Medicaid program - long-term care waiver

Grants	194,755,729	200,956,746
Source of funds		
General fund	79,168,224	68,589,966
Federal funds	<u>115,587,505</u>	119,267,829
<u>Federal ARRA funds</u>		<u>13,098,951</u>
Total	<u>194,755,729</u>	200,956,746

Sec. 20. Sec. 2.209 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.209. Office of Vermont health access - Medicaid program - state only

Grants	55,086,870	39,357,551
Source of funds		
General funds	35,376,640	28,509,473
Global Commitment fund	1,383,714	1,316,718
Catamount fund	<u>18,326,516</u>	<u>9,531,360</u>
Total	<u>55,086,870</u>	39,357,551

Sec. 21. Sec. 2.210 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.210. Office of Vermont health access - Medicaid non-waiver matched

Grants	44,448,317	44,176,458
Source of funds		
General funds	16,068,046	15,970,521
Federal funds	<u>28,380,271</u>	<u>28,205,937</u>
Total	<u>44,448,317</u>	44,176,458

Sec. 22. Sec. 2.211 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211. Health - administration and support

Personal services	6,409,341	6,447,115
Operating expenses	2,582,888	2,582,888
Grants	<u>2,902,000</u>	<u>2,877,000</u>
Total	<u>11,894,229</u>	11,907,003

Source of funds		
General funds	651,479	651,479
Special funds	24,743	24,743
Global Commitment fund	4,860,720	4,873,494
Federal funds	6,285,287	6,285,287
Interdepartmental transfer	<u>72,000</u>	<u>72,000</u>
Total	11,894,229	11,907,003

Sec. 23. Sec. 2.211.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.211.1. Health - public health

Personal services	36,310,118	37,855,081
Operating expenses	7,326,174	7,326,174
Grants	<u>34,895,747</u>	<u>35,073,747</u>
Total	78,532,039	80,255,002
Source of funds		
General fund	5,090,652	5,479,402
Special funds	6,362,319	4,515,606
Tobacco fund	2,780,225	2,780,225
Global Commitment fund	24,048,864	25,383,077
Catamount fund	<u>3,250,000</u>	5,096,713
Federal funds	36,397,848	36,397,848
Permanent trust funds	10,000	10,000
Interdepartmental transfer	<u>592,131</u>	<u>592,131</u>
Total	78,532,039	80,255,002

Sec. 24. Sec. 2.217 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.217. Health - alcohol and drug abuse programs

Personal services	3,372,335	3,385,862
Operating expenses	811,106	708,263
Grants	<u>27,528,671</u>	<u>27,528,671</u>
Total	31,712,112	31,622,796
Source of funds		
General fund	3,413,874	3,311,031
Special funds	236,210	236,210
Tobacco funds	2,382,834	2,382,834
Global Commitment fund	16,840,983	16,854,510
Federal funds	8,688,211	8,688,211
Interdepartmental transfer	<u>150,000</u>	<u>150,000</u>
Total	31,712,112	31,622,796

Sec. 25. Sec. 2.219 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.219. Mental health - mental health

Personal services	4,963,769	4,753,680
Operating expenses	614,618	614,618
Grants	<u>132,073,344</u>	<u>131,967,443</u>
Total	<u>137,651,731</u>	137,335,741
Source of funds		
General fund	703,540	703,540
Global Commitment fund	<u>132,849,352</u>	132,533,362
Federal funds	4,078,839	4,078,839
Interdepartmental transfer	<u>20,000</u>	<u>20,000</u>
Total	<u>137,651,731</u>	137,335,741

Sec. 26. Sec. 2.220 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.220. Mental health - Vermont state hospital

Personal services	<u>19,922,915</u>	20,285,503
Operating expenses	1,821,721	1,821,721
Grants	<u>3,000</u>	<u>3,000</u>
Total	<u>21,747,636</u>	22,110,224
Source of funds		
General fund	<u>14,227,636</u>	21,140,224
Special funds	170,000	170,000
Global Commitment fund	<u>7,000,000</u>	450,000
Federal funds	50,000	50,000
Interdepartmental transfer	<u>300,000</u>	<u>300,000</u>
Total	<u>21,747,636</u>	22,110,224

Sec. 27. Sec. 2.221 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.221. Department for children and families - administration & support services

Personal services	<u>33,227,280</u>	34,954,219
Operating expenses	<u>6,655,247</u>	7,370,900
Grants	<u>1,450,215</u>	<u>1,450,215</u>
Total	<u>41,332,742</u>	43,775,334
Source of funds		
General fund	<u>12,422,107</u>	13,627,359
Global Commitment fund	<u>14,698,891</u>	14,799,359
Catamount fund	560,036	560,036
Federal funds	<u>13,651,708</u>	14,484,506
<u>Federal ARRA funds</u>		<u>304,074</u>
Total	<u>41,332,742</u>	43,775,334

Sec. 28. Sec. 2.222 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.222. Department for children and families - family services

Personal services	21,476,718	21,618,703
Operating expenses	3,330,327	3,162,879
Grants	<u>64,337,283</u>	<u>65,678,018</u>
Total	89,144,328	90,459,600
Source of funds		
General fund	17,308,746	18,273,249
Special funds	1,938,367	1,938,367
Tobacco funds	275,000	275,000
Global Commitment fund	43,690,692	43,224,231
Federal funds	25,669,650	26,486,880
Interdepartmental transfer	<u>261,873</u>	<u>261,873</u>
Total	89,144,328	90,459,600

Sec. 29. Sec. 2.223 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.223. Department for children and families - child development

Personal services	3,338,891	3,338,891
Operating expenses	843,660	520,557
Grants	<u>51,064,583</u>	<u>54,940,903</u>
Total	55,247,134	58,800,351
Source of funds		
General fund	23,228,747	25,621,964
Special funds	865,000	865,000
Global Commitment fund	4,289,469	5,365,469
Federal funds	26,724,411	26,808,411
Interdepartmental transfer	<u>139,507</u>	<u>139,507</u>
Total	55,247,134	58,800,351

Sec. 30. Sec. 2.224 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.224. Department for children and families - office of child support

Personal services	8,768,046	8,558,676
Operating expenses	<u>3,890,320</u>	<u>4,170,838</u>
Total	12,658,366	12,729,514
Source of funds		
General fund	<u>2,690,872</u>	2,559,002
Special funds	455,718	455,718
Federal funds	9,124,176	8,868,194
Federal ARRA funds		459,000
Interdepartmental transfer	<u>387,600</u>	<u>387,600</u>
Total	12,658,366	12,729,514

Sec. 31. Sec. 2.225 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.225. Department for children and families - aid to aged, blind and disabled

Personal services	1,801,009	1,801,009
Grants	<u>9,989,580</u>	<u>10,145,700</u>
Total	11,790,589	11,946,709
Source of funds		
General fund	8,040,589	8,196,709
Global Commitment fund	<u>3,750,000</u>	<u>3,750,000</u>
Total	11,790,589	11,946,709

Sec. 32. Sec. 2.226 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.226. Department for children and families - general assistance

Grants	4,401,516	6,301,516
Source of funds		
General fund	2,950,196	4,850,196
Global Commitment fund	340,000	340,000
Federal funds	<u>1,111,320</u>	<u>1,111,320</u>
Total	4,401,516	6,301,516

Sec. 33. Sec. 2.227 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.227. Department for children and families - food stamp cash out

Grants	10,710,133	15,285,013
Source of funds		
Federal funds	10,710,133	15,285,013

Sec. 34. Sec. 2.228 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.228. Department for children and families - reach up

Grants	40,298,530	45,437,952
Source of funds		
General fund	13,815,723	15,950,049
<u>Global Commitment fund</u>		390,000
Special funds	18,200,000	18,200,000
Federal funds	8,282,807	8,582,807
<u>Federal ARRA funds</u>		<u>2,315,096</u>
Total	40,298,530	45,437,952

Sec. 35. Sec. 2.230 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.230. Department for children and families - office of economic opportunity

Personal services	235,441	235,441
Operating expenses	81,555	77,055
Grants	<u>4,952,562</u>	<u>5,202,562</u>
Total	<u>5,269,558</u>	5,515,058
Source of funds		
General fund	1,372,103	1,372,103
Special funds	<u>57,340</u>	307,340
Federal funds	<u>3,797,615</u>	3,793,115
Interdepartmental transfer	<u>42,500</u>	<u>42,500</u>
Total	<u>5,269,558</u>	5,515,058

Sec. 36. Sec. 2.232 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.232. Department for children and families - Woodside rehabilitation center

Personal services	<u>2,899,574</u>	3,132,974
Operating expenses	<u>649,151</u>	<u>599,151</u>
Total	<u>3,548,725</u>	3,732,125
Source of funds		
General fund	<u>3,493,833</u>	3,677,233
Interdepartmental transfer	<u>54,892</u>	<u>54,892</u>
Total	<u>3,548,725</u>	3,732,125

Sec. 37. Sec. 2.235 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.235. Disabilities, aging, and independent living - administration & support

Personal services	<u>24,187,650</u>	24,096,125
Operating expenses	<u>3,732,463</u>	<u>3,732,463</u>
Total	<u>27,920,113</u>	27,828,588
Source of funds		
General fund	<u>6,709,033</u>	6,557,508
Special funds	941,685	941,685
Global Commitment fund	<u>6,254,872</u>	6,314,872
Federal funds	11,524,001	11,524,001
Interdepartmental transfer	<u>2,490,522</u>	<u>2,490,522</u>
Total	<u>27,920,113</u>	27,828,588

Sec. 38. Sec. 2.236 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.236. Disabilities, aging, and independent living - advocacy and independent living

Grants	<u>21,455,103</u>	21,779,103
Source of funds		

General fund	10,006,493	10,330,493
Global Commitment fund	3,355,319	3,355,319
Federal funds	7,655,791	7,655,791
Interdepartmental transfer	<u>437,500</u>	<u>437,500</u>
Total	21,455,103	21,779,103

Sec. 39. Sec. 2.238 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.238. Disabilities, aging, and independent living - vocational rehabilitation

Grants	5,921,471	5,968,971
Source of funds		
General fund	1,495,695	1,535,695
<u>Global Commitment fund</u>		7,500
Federal funds	4,132,389	4,132,389
Interdepartmental transfer	<u>293,387</u>	<u>293,387</u>
Total	5,921,471	5,968,971

Sec. 40. Sec. 2.239 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.239. Disabilities, aging and independent living - developmental services

Grants	138,705,970	139,846,155
Source of funds		
General fund	185,693	185,693
Special funds	185,463	185,463
Global Commitment fund	137,964,074	139,104,259
Federal funds	<u>370,740</u>	<u>370,740</u>
Total	138,705,970	139,846,155

Sec. 41. Sec. 2.241 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.241. Corrections - administration

Personal services	2,022,147	2,126,692
Operating expenses	<u>315,394</u>	<u>315,394</u>
Total	2,337,541	2,442,086
Source of funds		
General fund	2,337,541	2,442,086

Sec. 42. Sec. 2.242 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.242. Corrections - parole board

Personal services	317,373	319,240
Operating expenses	<u>62,076</u>	<u>62,076</u>
Total	379,449	381,316

Source of funds		
General fund	379,449	381,316
Sec. 43. Sec. 2.243 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.243. Corrections - correctional education		
Personal services	4,032,390	3,915,100
Operating expenses	<u>342,079</u>	<u>342,079</u>
Total	4,374,469	4,257,179
Source of funds		
General fund	3,476,001	3,358,711
Special funds	500,000	500,000
Interdepartmental transfer	<u>398,468</u>	<u>398,468</u>
Total	4,374,469	4,257,179
Sec. 44. Sec. 2.244 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.244. Corrections - correctional services		
Personal services	77,382,681	77,922,980
Operating expenses	32,273,859	32,637,551
Grants	<u>1,695,800</u>	<u>1,895,800</u>
Total	111,352,340	112,456,331
Source of funds		
General fund	106,870,826	108,024,817
Special funds	633,963	583,963
Tobacco fund	87,500	87,500
Global Commitment fund	3,094,144	3,094,144
Federal funds	584,861	584,861
Interdepartmental transfer	<u>81,046</u>	<u>81,046</u>
Total	111,352,340	112,456,331
Sec. 45. Sec. 2.245 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.245. Corrections - correctional services - out-of-state beds		
Operating expenses	12,158,493	11,457,276
Source of funds		
General fund	12,158,493	11,457,276
Sec. 46. Sec. 2.251 of No. 192 of the Acts of 2008 is amended to read:		
Sec. 2.251. Total human services	2,649,379,658	2,693,603,326
Source of funds		
General fund	521,931,597	474,482,196
Special funds	66,707,178	64,844,465
Tobacco fund	45,410,381	45,410,381

Global Commitment fund	906,593,258	914,305,775
State health care resources fund	147,623,246	148,261,016
Catamount fund	31,073,806	23,769,031
Federal funds	916,671,195	933,989,937
<u>Federal ARRA funds</u>		75,490,880
Permanent trust funds	10,000	10,000
Internal service funds	3,282,548	3,282,548
Interdepartmental transfer	10,076,449	9,757,097
Total	2,649,379,658	2,693,603,326

Sec. 47. Sec. 2.303 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.303. Labor - domestic and sexual violence survivors' transitional employment program

Grants	15,000	30,000
Source of funds		
Special fund	15,000	30,000

Sec. 48. Sec. 2.304 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.304. Total labor	29,020,561	29,035,561
Source of funds		
General fund	2,307,673	2,307,673
Special funds	3,301,108	3,316,108
Catamount fund	394,072	394,072
Federal funds	20,613,870	20,613,870
Interdepartmental transfer	2,403,838	2,403,838
Total	29,020,561	29,035,561

Sec. 49. Sec. 2.305 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.305. Education - finance and administration

Personal services	5,161,711	5,161,711
Operating expenses	1,713,880	1,813,880
Grants	10,757,117	10,757,117
Total	17,632,708	17,732,708
Source of funds		
General fund	3,506,583	3,606,583
Special funds	11,383,118	11,383,118
Global Commitment fund	845,143	845,143
Federal funds	1,890,747	1,890,747
Interdepartmental transfer	7,117	7,117
Total	17,632,708	17,732,708

Sec. 50. Sec. 2.306 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.306. Education - education services

Personal services	12,608,878	12,608,878
Operating expenses	1,889,869	1,889,869
Grants	<u>111,549,873</u>	<u>111,437,175</u>
Total	<u>126,048,620</u>	125,935,922
Source of funds		
General fund	7,766,318	7,781,103
Transportation fund	<u>127,483</u>	
Special funds	1,985,599	1,985,599
Federal funds	116,144,125	116,144,125
Interdepartmental transfer	<u>25,095</u>	<u>25,095</u>
Total	<u>126,048,620</u>	125,935,922

Sec. 51. Sec. 2.308 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.308. Education - state-placed students

Grants	15,767,500	16,367,500
Source of funds		
Education fund	15,767,500	16,367,500

Sec. 52. Sec. 2.309 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.309. Education - adult education and literacy

Grants	5,315,885	5,821,268
Source of funds		
General fund	2,690,224	2,690,224
Education fund	1,750,000	2,250,000
Federal funds	<u>875,661</u>	<u>881,044</u>
Total	<u>5,315,885</u>	5,821,268

Sec. 53. Sec. 2.310 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.310. Education - adjusted education payment

Grants	1,115,355,604	1,111,968,302
Source of funds		
Education fund	1,115,355,604	1,111,968,302

Sec. 54. Sec. 2.314 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.314. Education - tobacco litigation

Personal services	142,152	142,152
Operating expenses	<u>18,114</u>	11,453
Grants	<u>835,402</u>	<u>835,402</u>

Total	995,668	989,007
Source of funds		
Tobacco fund	995,668	989,007

Sec. 55. Sec. 2.320 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.320. Total general education	1,814,547,027	1,812,245,749
Source of funds		
General fund	338,640,022	338,754,807
Transportation fund	127,483	
Education fund	1,315,047,726	1,312,760,424
Special funds	14,699,439	14,699,439
Tobacco fund	995,668	989,007
Global Commitment fund	1,075,143	1,075,143
Federal funds	118,910,533	118,915,916
Pension trust funds	25,018,801	25,018,801
Interdepartmental transfer	<u>32,212</u>	<u>32,212</u>
Total	1,814,547,027	1,812,245,749

Sec. 56. Sec. 2.327 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.327. Vermont student assistance corporation

Grants	19,153,758	19,129,758
Source of funds		
General fund	19,153,758	19,129,758

Sec. 57. Sec. 2.329 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.329. Total higher education and other	88,256,776	88,232,776
Source of funds		
General fund	83,845,213	83,821,213
Global Commitment fund	<u>4,411,563</u>	<u>4,411,563</u>
Total	88,256,776	88,232,776

Sec. 58. Sec. 2.601 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.601. Transportation - finance and administration

Personal services	9,314,503	9,194,503
Operating expenses	<u>2,560,917</u>	<u>2,560,917</u>
Total	11,875,420	11,755,420
Source of funds		
Transportation fund	11,375,420	11,255,420
Federal funds	<u>500,000</u>	<u>500,000</u>
Total	11,875,420	11,755,420

Sec. 59. Sec. 2.604 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.604. Transportation - program development

Personal services	35,192,941	35,192,941
Operating expenses	106,514,171	159,788,137
Grants	<u>23,370,050</u>	<u>23,370,050</u>
Total	165,077,162	218,351,128
Source of funds		
Transportation fund	28,465,101	27,499,067
Local match	1,476,992	1,476,992
Federal funds	131,223,819	131,463,819
<u>Federal ARRA funds</u>		54,000,000
Interdepartmental transfer	<u>3,911,250</u>	<u>3,911,250</u>
Total	165,077,162	218,351,128

Sec. 60. Sec. 2.609 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.609. Transportation - bridge maintenance

Operating expenses	12,448,348	10,798,348
Source of funds		
Transportation fund	3,008,456	1,358,456
Federal funds	<u>9,439,892</u>	<u>9,439,892</u>
Total	12,448,348	10,798,348

Sec. 60a. Sec. 2.610 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.610. Transportation – public transit

Personal services	646,295	646,295
Operating expenses	58,784	58,784
Grants	<u>19,014,142</u>	<u>24,694,142</u>
Total	19,719,221	25,399,221
Source of funds		
Transportation fund	6,677,897	6,677,897
Federal funds	13,041,324	13,041,324
<u>Federal ARRA funds</u>		<u>5,680,000</u>
Total	19,719,221	25,399,221

Sec. 61. Sec. 2.611 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.611. Transportation - central garage

Personal services	3,305,508	3,305,508
Operating expenses	<u>11,625,266</u>	<u>10,922,675</u>
Total	14,930,774	14,228,183
Source of funds		
Internal service funds	14,930,774	14,228,183

Sec. 62. Sec. 2.612 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.612. Department of motor vehicles

Personal services	17,549,186	16,549,186
Operating expenses	8,037,725	8,037,725
Grants	<u>339,000</u>	<u>339,000</u>
Total	25,925,911	24,925,911
Source of funds		
Transportation fund	23,854,657	22,854,657
Federal funds	<u>2,071,254</u>	<u>2,071,254</u>
Total	25,925,911	24,925,911

Sec. 62a. Sec. 2.613 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.613. Transportation - town highway structures

Grants	3,833,500	3,494,500
Source of funds		
Transportation fund	3,833,500	3,494,500

Sec. 62b. Sec. 2.615 of No. 102 of the Acts of 2008 is amended to read:

Sec. 2.615. Transportation - town highway class 2 roadway

Grants	6,448,750	5,748,750
Source of funds		
Transportation fund	6,448,750	5,748,750

Sec. 63. Sec. 2.618.1 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.618.1. Transportation - town highway emergency fund

Grants	250,000	880,000
Source of funds		
Transportation fund	250,000	880,000

Sec. 64. Sec. 2.622. of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.622. Total transportation	412,801,007	467,873,382
Source of funds		
Transportation fund	187,152,506	183,007,472
Local match	2,553,311	2,553,311
Federal funds	203,753,166	203,993,166
<u>Federal ARRA funds</u>		59,680,000
Internal service funds	14,930,774	14,228,183
Interdepartmental transfer	<u>4,411,250</u>	<u>4,411,250</u>
Total	412,801,007	467,873,382

 Sec. 65. APPROPRIATION ADJUSTMENTS

(a) To reflect adjustments to budgets due to savings in budgeted benefit rates (dental plan, medical plan, and employee assistance plan), personal service appropriations are reduced by \$1,260,463 in general funds in accordance with the schedule entitled "FY 2009 Appropriation Reductions Due to Budgeted Benefit Rate Savings," filed with the joint fiscal committee.

(b) In addition to the pay act appropriations made to the secretary of administration in Sec. 3(a)(1) of No. 206 of the Acts of the 2007 Adj. Sess. (2008), there is hereby appropriated from the general fund to the secretary of administration in fiscal year 2009 \$54,624 for transfer to the department for children and families, \$616,912 for transfer to the department of corrections, and \$588,927 for transfer to the department of human resources for the non-salary items entailed by the VSEA/state bargaining agreement in effect for fiscal year 2009.

Sec. 65a. Sec. 2.802(a) of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.802. FISCAL YEAR 2009 ONE-TIME APPROPRIATIONS

* * *

(6) to the treasurer for the cost of short term borrowing in fiscal year 2009:

\$100,000

(7) to the Vermont Economic Development Authority to be used by the Vermont Agricultural Credit Corporation for a loan or grant program to assist Vermont farmers with short-term cash flow and capital to meet spring 2009 operating and related needs:

\$1,000,000

Sec. 66. Sec. 3(a)(1)(B) of No. 206 of the Acts of 2008 is amended to read:

(B) Transportation fund. The amount of ~~\$1,210,258.00~~ \$841,078.00 is appropriated from the transportation fund to the secretary of administration for distribution to the agency of transportation and the department of public safety to fund the fiscal year 2009 collective bargaining agreement and the requirements of this act.

Sec. 67. FUND TRANSFERS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall be transferred to the general fund from the funds indicated:

<u>21005 FMS System Development Fund</u>	<u>600,000</u>
<u>21030 Exxon Settlement Fund</u>	<u>3,631 Approx.</u>
<u>21045 Getty Oil Company Settlement</u>	<u>63,343 Approx.</u>

<u>21170 EO School Interest Program</u>	<u>15,634</u> <u>Approx.</u>
<u>21705 PSD-HydroQuebec Power</u>	<u>64,426</u>
<u>21405 Fidelity\interest earnings</u>	<u>450,000</u> <u>Approx.</u>
<u>62100 Abandoned property</u>	<u>2,055,517</u> <u>Approx.</u>
<u>Amortization of W.R. Grace</u>	<u>5,452</u>
<u>Caledonia Fair</u>	<u>5,000</u>
<u>North Country Hospital Loan</u>	<u>24,250</u>
<u>50300 Liquor Control</u>	<u>836,519</u>
<u>22005 AHS Central Office earned federal receipts</u>	<u>1,400,000</u>
<u>21782 Vermont Veterans' Home</u>	<u>1,090,000</u>
<u>21110 Employee Leasing Companies</u>	<u>3,303</u>
<u>21520 Treasurer's Retirement Admin. Cost</u>	<u>440</u>
<u>21585 Pers-Human Resource Development</u>	<u>42,000</u>
<u>21638 Attny. Gen. Fees- Reimbursements</u>	<u>1,659,234</u>
<u>21669 AF&M Pesticide Monitoring</u>	<u>50,000</u>
<u>21686 AF&M Pesticide Control</u>	<u>75,000</u>
<u>21844 PERS - Recruitment Services</u>	<u>33,152</u>
<u>21845 Chittenden COPS Grant</u>	<u>19,492</u>
<u>21848 ED-Private Sector Grants</u>	<u>3,889</u>
<u>21870 Misc. Special Revenue Fund- Liquor</u> <u>Control (Bus Unit #2300)</u>	<u>1,420</u>
<u>21884 Emergency Personnel Survivors' Benefit Fund</u>	<u>50,000</u>
<u>Bond Premium</u>	<u>388,239</u>
<u>59500 Single Audit Internal Service Fund</u>	<u>20,297</u>
<u>21260 Act 250 Permit Fund</u>	<u>100,000</u>
<u>21698 PSD Regulation/Energy Efficiency</u>	<u>345,000</u>
<u>21709 PSB Special Fund</u>	<u>328,000</u>
<u>21991 VEDA - Food & Fuel</u>	<u>100,000</u>

(2) All or a portion of the unencumbered balances in the insurance regulatory and supervision fund (Fund Number 21075), the captive insurance

regulatory and supervision fund (Fund Number 21085), and the securities regulatory and supervision fund (Fund Number 21080), expected to be approximately \$16,035,260, shall be transferred to the general fund, provided that on or before July 1, 2009, the commissioner of banking, insurance, securities, and health care administration certifies to the joint fiscal committee that the transfer of such balances, or any smaller portion deemed proper by the commissioner, will not impair the ability of the department in fiscal year 2010 to provide thorough, competent, fair, and effective regulatory services, or maintain accreditation by the National Association of Insurance Commissioners; and that the joint fiscal committee does not reject such certification.

(3) The following amounts shall be transferred from the general fund to the funds indicated:

<u>58800 Facilities Operations Fund</u>	<u>2,318,763</u>
<u>21035 Stripper Well Settlement Special Fund</u>	<u>6,511 Approx.</u>
<u>21175 Palo Pinto Special Fund</u>	<u>661 Approx.</u>
<u>21714 VT Racing Commission Special Fund</u>	<u>5,206</u>
<u>21911 Sarcoidosis Fund</u>	<u>419,688</u>
<u>21555 Emergency Relief and Assistance Fund (ERAF)</u>	<u>1,692,096</u>

(4) The following amount shall be transferred between special funds as indicated:

From the Unemployment Compensation Administration fund # 21360 to the Workers' Compensation Administration fund # 21105 703,171

(5) The following amount shall be transferred to the transportation fund from the fund indicated:

<u>57100 Central Garage Fund</u>	<u>1,485,111</u>
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Sec. 68. REVERSIONS

(a) Notwithstanding any other provisions of law, in fiscal year 2009:

(1) The following amounts shall revert to the general fund from the accounts indicated:

<u>2270001000 Vermont Racing Commission</u>	<u>477</u>
<u>3440090000 LIHEAP</u>	<u>1,383,336</u>
<u>1100010000 Secretary of Admin.</u>	<u>27,065</u>

<u>1120060000 Human Resources - Workforce Planning</u>	<u>45,493</u>
<u>1140040000 Homeowner Rebates</u>	<u>45,104</u>
<u>1140070000 Use Tax Reimbursement Program</u>	<u>58,171</u>
<u>1140330000 Renter Rebates</u>	<u>40,333</u>
<u>1210890505 Dairy Policy Cont Consult Services</u>	<u>226</u>
<u>1210890803 Leg. Council - Current Use Tax Study</u>	<u>712</u>
<u>1250010000 Auditor of Accounts</u>	<u>23,606</u>
<u>2100890802 Legal Costs Comp. Legal Actions – Attny. Gen.</u>	<u>5,000</u>
<u>2130100000 State’s Attorneys</u>	<u>66,788</u>
<u>2230010000 Secretary of State</u>	<u>11,288</u>
<u>3420890508 Health - Pilot Program</u>	<u>15,000</u>
<u>3420890701 Methamphetamine Precursor Program</u>	<u>20,000</u>
<u>6140880005 152/00 St. Asst. Munic. Poll Cont.</u>	<u>381</u>
<u>1110890901 VEDA FY 2009 One-Time Appropriation: Targeted Emergency Financing Assistance</u>	<u>500,000</u>

(2) The following amounts shall revert to the education fund from the accounts indicated:

<u>1140050000 Homestead Prop. Tax Assistance</u>	<u>970,497</u>
<u>1140330000 Renter Rebates</u>	<u>856,574</u>
<u>5100090000 Education Grant</u>	<u>1,083,408</u>
<u>5100190000 Essential Early Educ. Grant</u>	<u>104,082</u>
<u>5100200000 Education-Technical Education</u>	<u>570,327</u>
<u>5100890601 Cncl. on Ed. Governance Grants</u>	<u>4,823</u>

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund appropriations remaining unexpended on June 30, 2009 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general and transportation fund appropriations remaining unexpended on June 30, 2009 in the legislative

and judicial branches of state government shall be carried forward and shall be designated for expenditure.

Sec. 70. FY 2009 RESCISSIONS; JOINT FISCAL COMMITTEE ACTIONS PURSUANT TO 32 V.S.A. § 704(f)

(a) The fiscal year 2009 appropriations passed in No. 192 of the Acts of the 2007 Adj. Sess. (2008) have been adjusted by actions of the joint fiscal committee on August 27, 2008 and December 19, 2008, pursuant to 32 V.S.A. § 704(f). In order to provide public access to the fiscal year 2009 expenditure reduction plans duly adopted by the joint fiscal committee, the approved plans and schedules of specific appropriation reductions are on file with the clerk of the house and the secretary of the senate, and posted on the legislative website. The appropriation changes and other actions in the fiscal year 2009 budget adjustment act and other acts of the 2009 legislative session are separate from and in addition to the actions of the joint fiscal committee pursuant to 32 V.S.A. § 704(f).

Sec. 71. Sec. 4.001 of No. 192 of the Acts of 2008 is amended to read:

Sec. 4.001. APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues. Notwithstanding Sec. 266(a)(4) of No. 65 of the Acts of 2007:

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$13,383,258~~ \$12,464,095 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$13,383,258~~ \$12,464,095 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of ~~\$4,302,105~~ \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above ~~\$4,302,105~~ \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The ~~\$4,302,105~~ \$3,449,427 shall be allocated as follows:

(A) ~~\$3,011,473~~ \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) ~~\$860,421~~ \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) ~~\$430,210~~ \$408,700 to the Vermont center for geographic information.

(4) It is the intent of the general assembly that in fiscal year 2010, the appropriations in this subsection shall increase by at least 4.5 percent.

Sec. 72. Sec. 5.006(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$150,000~~ \$75,000 is made available for grants to be awarded on a competitive basis among the 11 existing regional marketing programs (RMP). In addition to these funds, any prior fiscal year RMP grant funds not awarded shall carry forward into the current fiscal year unrestricted by prior year requirements and shall be used to meet current year obligations. Any unobligated balance residing in the crossroads regional marketing program grant, as appropriated in Sec. 233a(a)(9) of No. 65 of the Acts of 2007, is hereby relieved of any prior year restrictions and may be used to meet the current year obligations of the RMP as appropriated in this section.

Sec. 73. Sec. 5.013(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this general fund appropriation, ~~\$30,000~~ \$6,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. 74. Sec. 5.101.1(b) of No. 192 of the Acts of 2008 is amended to read:

~~(b) \$30,000 of this appropriation shall be used for the Vermont sentencing commission recidivism rate analysis by the center for justice research.~~

Sec. 75. Sec. 111b of No. 65 of the Acts of 2007, as amended by Sec. 5.203.1 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 111b. CHIROPRACTIC COVERAGE UNDER MEDICAID AND VHAP

(a) Effective on July 1, 2008 through January 31, 2009, the agency of human services shall reinstate chiropractic coverage for adults in the Medicaid and VHAP programs consistent with section 4088a of Title 8 and at rates comparable to payments for care or services by other health care providers not to exceed Medicare rates. ~~The fiscal year 2009 Medicaid expenditure forecast adopted by the emergency board shall include the reinstatement of chiropractic coverage.~~

Sec. 76. Sec. 5.310(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$396,115~~ \$380,326 shall be transferred to EPSCoR (Experimental Program To Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds, or both.

Sec. 77. Sec. 5.311(b) of No. 192 of the Acts of 2008 is amended to read:

(b) Of this appropriation, ~~\$446,652~~ \$428,786 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. 78. Sec. 5.313(c) of No. 192 of the Acts of 2008 is amended to read:

(c) ~~\$350,000~~ \$342,500 of state funds available to the Vermont student assistance corporation pursuant to Sec. 5.107(a) and 5.801(a)(3)(B) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

Sec. 79. Sec. 5.801 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.801. FISCAL YEAR 2009 NEXT GENERATION FUND ALLOCATIONS (Sec. 2.801)

(a) The ~~\$8,000,000~~ \$7,293,000 appropriated in Sec. 2.801(a)(1) of this act from the next generation initiative fund, created in 16 V.S.A. § 2887, shall be as follows:

(1) Workforce development ~~\$3,450,000~~ \$3,220,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of ~~\$1,550,000~~ \$1,472,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent (7%) of the funds may be used for administration of the program.

(B) Vermont Training Program. The sum of ~~\$750,000~~ \$712,500 is appropriated to the agency of commerce and community development. This appropriation is for the Vermont training program for the issuance of grants pursuant to 10 V.S.A. § 531.

(C) Career and Alternative Workforce Education. The amount of ~~\$450,000~~ \$387,500 is appropriated to the department of labor. This appropriation shall be to support out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education as follows:

(i) ~~Forty-five~~ Fifty-two and three-tenths percent (45%) (52.3%) shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12.

(ii) ~~Fifty-five~~ Forty-seven and seven-tenths percent (55%) (47.7%) shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and ~~non-profit~~ nonprofit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

(D) Adult Technical Education Programs. The amount of ~~\$450,000~~ \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A.

§ 1522, to unemployed and underemployed Vermont adults.

(E) UVM Technology Transfer Program. The amount of ~~\$250,000~~ \$237,500 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(2) Loan repayment ~~\$500,000~~ \$475,000 as follows:

(A) The sum of ~~\$500,000~~ \$475,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants ~~\$4,050,000~~ \$3,597,500 as follows:

(A) Non-degree VSAC Grants. The amount of ~~\$750,000~~ \$712,500 is appropriated to the Vermont student assistance corporation. This appropriation shall be for the purpose of providing non-degree grants to Vermonters to improve job skills and increase overall employability enabling them to enroll in a post-secondary education or training program, including adult-technical education that is not part of a degree or accredited certificate program. A portion of this appropriation shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of this appropriation shall be used for administrative overhead.

(B) The sum of ~~\$3,000,000~~ \$2,600,000 is appropriated for awarding need-based scholarships to Vermont residents. The first ~~\$150,000~~ \$142,500 shall be distributed to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856. ~~\$950,000~~ \$819,166 shall be distributed to the University of Vermont, ~~\$950,000~~ \$819,166 to the Vermont state colleges, and ~~\$950,000~~ \$819,166 to the Vermont student assistance corporation. The Vermont student assistance corporation shall reserve these funds for students attending institutions other than the University of Vermont or the Vermont state colleges. None of the ~~\$3,000,000~~ \$2,600,000 appropriation shall be used for administrative overhead.

(C) Dual Enrollment Programs. The sum of ~~\$300,000~~ \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

Sec. 80. Sec. 5.802 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.802. SETTLEMENT CONTINGENT APPROPRIATIONS (Sec. 2.803)

(a) The first ~~\$5,566,045~~ \$2,300,000 of any amount of bank franchise tax, and associated penalty and interest, due to the general fund resulting from a court decision and received ~~after May 1, 2008 in fiscal year 2008 or in fiscal year 2009~~ shall be reserved and is hereby appropriated ~~or transferred as follows:~~

(1) ~~First, \$1,000,000 is appropriated to the Vermont housing and conservation board;~~

(2) ~~Second, \$2,266,045 is appropriated to the higher education entities as follows:~~

(A) ~~\$1,056,796 to the University of Vermont.~~

(B) ~~\$730,405 to the Vermont state colleges of which \$100,000 is for use as the state's fiscal year 2009 contribution toward the growth of the endowment fund for the Vermont state colleges. The state's funds are to serve as a challenge match to enhance the state colleges' ability to secure endowment contributions from alumni and other interested parties. The intent is that the fiscal year 2009 appropriation will be the first of five annual appropriations through fiscal year 2013 totaling \$500,000. The conditions of this challenge match are that the state colleges are required to raise three dollars for each dollar appropriated by the state. A method for accounting for the state colleges' share has been agreed to between the state colleges and the~~

~~commissioner of finance and management. Transfers to the state colleges' endowment fund shall be under the condition that only the interest accruing to the fund will be available for purposes as designated by the board of trustees of the state colleges. By June 30, 2014, any remaining state appropriations designated for the state colleges' endowment fund that have not been matched by the state colleges shall revert to the general fund.~~

~~(C) \$478,844 to the Vermont student assistance corporation.~~

~~(3) Third, \$2,300,000 is appropriated to the teachers' retirement fund.~~

~~(b) In the event that settlement funds as specified in subsection (a) are not received by January 1, 2009, the administration shall consider funding the above appropriations and transfers in the fiscal year 2009 adjustment process.~~

Sec. 81. 16 V.S.A. § 4011 is amended to read:

§ 4011. EDUCATION PAYMENTS

* * *

(h) The commissioner shall make all payments required by subchapter 5 of chapter 23 of this title.

(i) Annually, by October 1, the commissioner shall send to school boards for inclusion in town reports and publish on the department website the following information:

(1) the statewide average district spending per equalized pupil for the current fiscal year; and 125 percent of that average spending; and

(2) a statewide comparison of student-teacher ratios among schools which are similar in number of students and number of grades.

Sec. 82. SALARY REDUCTIONS; EXEMPT EXECUTIVE BRANCH EMPLOYEES

(a) Notwithstanding statutory salaries to the contrary, in fiscal years 2009 and 2010, exempt executive branch employees may decline to accept their full statutory salaries.

Sec. 83. Sec. 5.003 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.003. FEDERAL FUNDS

* * *

(c) During fiscal year 2009, any federal funds received and to be expended in the fiscal year from the American Recovery and Reinvestment Act of 2009 shall be accepted in accordance with the provisions of subsection (a) of this section. Federal funds from the American Recovery and Reinvestment Act of 2009, other than competitive grants, for expenditure in the following fiscal

years shall be appropriated through the budget process including grants under Title V – State Fiscal Relief. Receipts from competitive grants shall be accepted through the statutory grant process in accordance with 32 V.S.A. § 5.

Sec. 83a. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation related projects. The allocation is subject to a requirement that 50% of a portion of the allocation be obligated by the state within a 120 day time period. The secretary of transportation is authorized in fiscal year 2009 to obligate ARRA funds to the projects listed below as necessary to satisfy such requirements. The total amount obligated may exceed the 50% minimum to the extent the secretary determines the obligation of such additional amounts are necessary to ensure compliance with federal requirements after taking into account project readiness and other factors relevant to obtaining obligation approval.

<u>Project Name</u>	<u>Project Number</u>	<u>Type of Work</u>
Barre City	BHF 6000(15)	Bridge Rehabilitation
Bennington	NH 019-1(51)	Roadway on New Location
Brownington	BRO 1449(28)	Bridge Replacement
Burlington	NH 2726(1)	Resurfacing
Burlington	STP 2727(1)	Resurfacing
Colchester-Essex	STP 2616(1)	Resurfacing
Colchester-Georgia	IM 089-3(64)	Resurfacing
East Montpelier	BRF 028-3(36)	Bridge Replacement
Fair Haven	STP 2615(1)	Resurfacing
Fair Haven-Castleton	STP HES 2614(1)	Resurfacing
Fairlee	STP CULV(13)	Culvert Replacement
Hardwick	BHF 030-2(18)	Bridge Rehabilitation
Hartford	STP 2701(1)	Resurfacing
Hartford-Norwich	STP 2206(1)S	Resurfacing
Hartford-Sharon	IM 089-1(55)	Line Culverts
Hartford-Sharon	IM MEMB(15)	Replace Bridge Membranes
Montpelier	NH 2604(1) & STP 2618(1)	Resurfacing
Norton-Canaan	STP SURF(13)	Resurfacing

Norwich	STP 2602(1)	Resurfacing
Richmond	BHF 0209(6)	Bridge Rehabilitation
Richmond-Highgate	IM MEMB(13)	Replace Bridge Membranes
Rockingham-Chester	NH 2628(1)	Resurfacing
Royalton-Bethel	IM 089-1(54)	Resurfacing
Springfield	STP 0136(1)	Rehab. Existing Roadway
St. Johnsbury-Lyndon	IM MEMB(18)	Replace Bridge Membranes
Statewide	STP CRAK(27)	Resurfacing
Statewide -Southwest	BHF MEMB(20)	Replace Bridge Membranes
Statewide-Northeast	BHF MEMB(19)	Replace Bridge Membranes
Waterbury-Moretown	BHF MEMB(12)	Replace Bridge Membranes
Winooski	STP 2617(1)	Resurfacing
Woodford-Searsburg	NH ST 2630(1)	Resurfacing

(b) The secretary of transportation is authorized in fiscal year 2009 to obligate for the purchase of public transit vehicles up to 100 percent of all Federal Transit Administration funds made available to the state by the American Recovery and Reinvestment Act of 2009.

(c) The secretary of transportation is authorized to request additional federal funds through any discretionary or competitive grant transportation program in the American Recovery and Reinvestment Act of 2009 with respect to projects in the state's approved transportation program.

Sec. 83b. ENHANCEMENTS

(a) Notwithstanding 19 V.S.A. § 38, enhancement grants in the fiscal year 2009 program shall be awarded prior to April 30, 2009. No grants in the fiscal year 2009 program shall be made with respect to federal funds made available to the state under the American Recovery and Reinvestment Act of 2009.

Sec. 83c. TOWN HIGHWAY AID PAYMENTS

(a) The secretary of administration shall issue the normal quarterly payments under the town highway aid program in April 2009 and shall not make up any reduction made consistent with JRS.007 of 2009. The secretary of administration shall adjust transportation fund appropriations for fiscal year 2009 to ensure the transportation fund stabilization reserve meets its maximum statutory required level at the close of fiscal year 2009.

Sec. 83d. Sec. 51(d) of No. 164 of the acts of 2008 is amended to read:

(d) Any funding not needed to maintain existing services shall remain in the capital program. To the extent the funding provided in this section is not needed to maintain existing services, the agency is authorized to make grants of the unneeded funds to cover unanticipated shortfalls in the funding of elder and persons with disabilities (E&D) program services and critical medical care transportation services incurred by transit agencies with grant agreements to provide such services.

Sec. 83e. Sec. 16 of No. 164 of the Acts of 2008 is amended to read:

Sec. 16. Town Highway Class 2 Roadway

The following modifications are made to the town highway class 2 roadway program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	5,748,750	6,448,750	5,748,750	700,000	0
Total	5,748,750	6,448,750	5,748,750	700,000	0
Sources of funds					
State	5,748,750	6,448,750	5,748,750	700,000	0
Federal	0		0		0
Local	0		0		0
Total	5,748,750	6,448,750	5,748,750	700,000	0

Sec. 83f. Sec. 17 of No. 164 of the Acts of 2008 is amended to read:

Sec. 17. Town Highway Structures

The following modifications are made to the town highway structures program:

<u>FY09</u>	<u>As Proposed</u>		<u>As Amended</u>	<u>Change</u>	
Other	3,494,500	3,833,500	3,494,500	339,000	0
Total	3,494,500	3,833,500	3,494,500	339,000	0
Sources of funds					
State	3,494,500	3,833,500	3,404,500	339,000	0
Federal	0		0		0
Local	0		0		0
Total	3,494,500	3,833,500	3,494,500	339,000	0

Sec. 84. Sec. 5.009 of No. 192 of the Acts of 2008 is amended to read:

Sec. 5.009. Finance and management – financial operations (Sec. 2.005; #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed ~~\$5,853,981~~ \$6,042,587, plus the costs of fiscal year 2009 salary

increases bargained as part of the state/VSEA agreement, are hereby approved. Of this amount, \$1,305,490, plus the costs of fiscal year 2009 salary increases bargained as part of the state/VSEA agreement, will be used to support the HCM system that is operated by the department of human resources technical services division.

Sec. 85. Sec. 5.110 of No. 192 of the Acts of 2008 is added to read:

Sec. 5.110. Criminal justice training council (Sec. 2.122. #2170010000)

(a) The establishment of one (1) classified position – Domestic Violence Trainer – is authorized in fiscal year 2009. This position shall be transferred and converted from existing vacant positions in the executive branch of state government.

Sec. 86. 16 V.S.A. § 2856(a) is amended to read:

(a) An active member of the Vermont army national guard or the air national guard may be eligible for an interest-free loan in an academic year for financial assistance to pay for tuition and fees for courses taken at a Vermont colleges, university, ~~or~~ regional technical center or other programs approved pursuant to policies adopted in accordance with subsection (f) of this section. Academic year awards may be up to the in-state tuition rate at the University of Vermont for that year. ~~Traditional airmen may receive academic year awards up to \$9,500.00 per year.~~

Sec. 87. 16 V.S.A. § 2179 is amended to read:

§ 2179. NONAPPLICABILITY OF CERTAIN STATUTES

Except as expressly provided in this chapter, the corporation, its officers and employees shall not be governed by: (1) chapter 9 of Title 3, dealing with administrative departments; (2) chapter 13 of Title 3, dealing with classification of state personnel; (3) chapter 16 of Title 3, dealing with state employees retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (4) chapter 55 of this title, dealing with the state teachers retirement system except as may be otherwise agreed by the board of trustees of the system and the board of trustees of the corporation with respect to those officers and employees of the corporation transferred to the corporation from the state institutions replaced by the corporation; (5) chapter 7 of Title 32, dealing with public moneys; (6) chapters 3 and 5 of this title, dealing with the state board of education and the commissioner of education; (7) chapter 49 of Title 29, dealing with supplies, duties of commissioner of buildings and general services as to purchases of material, supplies or equipment except upon request of the corporation; ~~or~~ (8)

chapter 5 of Title 29, dealing with the department of buildings and general services, except that any contracts awarded for the construction of buildings by the corporation shall continue to be subject to the provisions of 29 V.S.A. § 161(b); or (9) subsection 342(d) of Title 21, dealing with required written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the state.

Sec. 88. Sec. 5.005(d) of No. 192 of the Acts of 2008 is amended to read:

(d) The secretary of administration is directed to reduce ~~travel~~ budgets throughout the executive branch of state government, thereby reducing operating expense, including travel, appropriations by \$998,627 in general funds and \$222,724 in Global Commitment funds. This shall be accomplished through a combination of general fund reductions and direct applications to the general fund from alternative fund reductions. The secretary shall provide an update to the joint fiscal committee in November 2008 on these reductions.

Sec. 89. Sec. 6(b)(1) of No. 206 of the Acts of 2008 is amended to read:

(1) The allocation by department and section from the fiscal year ~~2008~~ 2009 pay act appropriation and the appropriations for pay act needs of this act and any other offsets to meet pay act needs;

Sec. 90. REPEAL

(a) Secs. 21 and 28(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008) (transfers from the transportation fund to the central garage fund) are repealed.

Sec. 91. Sec. 5.600(a) of No. 192 of the Acts of 2008 is amended to read:

(a) Of this appropriation, ~~\$5,657,375~~ \$2,959,855 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. 92. REPEAL

(a) Sec. 406(c) of No. 65 of the Acts of 2007 (sunset on \$5,000 grant review threshold) is repealed.

Sec. 93. 32 V.S.A. § 305a(c) is amended to read:

(c) The January estimates shall include estimated caseloads and estimated per member per month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the agency and the joint fiscal office for state health care assistance programs or premium assistance programs supported by the state health care resources and Global Commitment funds, for VermontRx, and for the programs under the Choices for Care Medicaid Section 1115 waiver. For VPharm, the January estimates

shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category. The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down state contribution payment and for the disproportionate share hospital payments. In July, the administration and the joint fiscal office shall make a report to the emergency board on the most recently ended fiscal year for all Medicaid and Medicaid related programs including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the emergency board may adopt revised estimates for the current and next succeeding fiscal year.

Sec. 94. Sec. 5.112(b) of No. 192 of the Acts of 2008 is amended to read:

(b) The secretary of state is authorized to spend, in addition to its appropriation in this ~~act~~ section, up to \$450,000 for the purpose of conducting the 2008 primary and general elections, and it is the intent of the general assembly to provide an additional appropriation in this amount in the fiscal year 2009 budget adjustment act if funding is not available through Sec. 5.803 of this act.

Sec. 95. Sec. 26(a) of No. 174 of the Acts of 2008 is amended to read:

(a) The amount of ~~\$883,000.00~~ \$500,000 from the victims' compensation fund created by 13 V.S.A. § 5359 ~~shall be available~~ is appropriated in FY 2009 for the center for crime victim services for the Vermont network against domestic and sexual violence. This amount shall be used to fund domestic violence prevention programs and services in order to break the generational cycle of domestic violence and to support the victims of domestic and sexual violence. Additional expenditures may be authorized pursuant to 32 V.S.A. § 511 if the revenues collected in fiscal year 2009 from the \$10 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A., § 7282(a)(8)(B), and from the \$20 authorized by Sec. 21 of No. 174 of 2008 applied to the fee in 32 V.S.A. § 1712(1), exceed the \$500,000 appropriation.

Sec. 96. 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND SURPLUS RESERVES

(a) There is hereby created within the general fund a general fund surplus reserve. After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year general fund surplus not to exceed one percent of the appropriations from the general fund for the prior fiscal year shall be reserved in the general fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

(b) There is hereby created within the transportation fund a transportation fund surplus reserve. After satisfying the requirements of section 308a of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year transportation fund surplus shall be reserved in the transportation fund surplus reserve. Monies from this reserve shall be available for appropriation by the general assembly.

~~(c) The general fund surplus reserve created in subsection (a) of this section shall supersede and replace the general fund surplus reserve established in Sec. 277(5) of No. 147 of the Acts of the 1997 Adj. Sess. (1998), as amended by Sec. 88 of No. 1 of the Acts of 1999.~~

Sec. 97. 32 V.S.A. § 308d is amended to read:

§ 308d. REVENUE SHORTFALL RESERVE; CREATION AND PURPOSE

(a) It is the purpose of this section to create a revenue shortfall reserve to be used in times of economic or fiscal stress.

(b) There is hereby created a revenue shortfall reserve administered by the commissioner of finance and management. Any budgetary basis unreserved and undesignated general fund surplus ~~in excess of one percent~~ occurring at the close of a fiscal year after the general fund budget stabilization reserve established by ~~Sec. section~~ 308 of this title has been brought to its authorized level and after any deposits to the general fund surplus reserve established by subsection 308c(a) of this title, and any additional amounts as may be authorized by the general assembly, shall be reserved in the revenue shortfall reserve created by this section.

(c) In any fiscal year, if the general assembly determines there are insufficient revenues to fund expenditures for the operation of state government at a level the general assembly finds prudent and required, it may specifically appropriate the use of the revenue shortfall reserve to compensate for a reduction of revenues or fund such needs as the general assembly may determine.

(d) Determination of the amount of the revenue shortfall reserve shall be made by the commissioner of finance and management ~~with the approval of and reported to the legislative joint fiscal committee at its first meeting following September 1 of each year.~~

Sec. 98. Sec. 23(e) of No. 203 of the Acts of 2008 is amended to read:

(e) The sum of \$100,000.00 is appropriated from the general fund to the UVM College of Medicine in fiscal year 2009 to support the Vermont academic detailing program, ~~provided that such appropriation shall expire upon collection of the first dollar of the manufacturer fee established in section 2004 of Title 33~~

~~and all funds remaining from this appropriation shall be redeposited in the general fund.~~

Sec. 99. 30 V.S.A. § 7052 is amended to read:

§ 7052. VERMONT ENHANCED 911 BOARD

* * *

(b) The board shall consist of nine members: one county law enforcement officer elected by the membership of the Vermont state sheriff's association; one municipal law enforcement officer elected by the chiefs of police association of Vermont; one official of a municipality ~~not currently receiving 911 service~~; a firefighter; an emergency medical services provider; a department of public safety representative; and three members of the public. Board members shall be appointed by the governor to three-year terms, except that the governor shall stagger initial appointments so that the terms of no more than four members expire during a calendar year. In appointing board members, the governor shall give due consideration to the different geographical regions of the state, and the need for balance between rural and urban areas. Board members shall serve at the pleasure of the governor.

* * *

Sec. 100. 32 V.S.A. § 464 is amended to read:

§ 464. ITEMIZED STATEMENTS AND RECEIPTS REQUIRED

When required by the commissioner of finance and management and before payment therefor is made by the state, all claimants for compensation for services rendered or expense incurred for the state shall furnish the commissioner of finance and management itemized statements in such form as the commissioner of finance and management may from time to time prescribe and shall be verified by written declarations or, if specifically authorized by the commissioner of finance and management, by electronic signature as defined at 9 V.S.A. § 271(9) that they are made under the pains and penalties of perjury, and a person who wilfully makes a false statement shall be guilty of perjury and be punished accordingly.

Sec. 101. Sec. 5.005(k) of No. 192 of the Acts of 2008 is amended to read:

~~(k) The secretary of administration is directed to initiate a program by September 30, 2008 which requires all state employees to receive paperless notification of their direct deposit payroll advice. The secretary and representatives of the Vermont state employees' association are encouraged to meet to determine the most expeditious and efficient means of implementing this section~~ Beginning in fiscal year 2009, all persons who are paid through the state

payroll system must be paid by direct deposit and receive electronic notification of pay information unless excused for good cause by the commissioner of finance and management or designee, or in the legislative and judicial branches, the presiding officers or the chief justice of the supreme court or their designees. Their decisions on excusal shall be final.

Sec. 101a. STATE EMPLOYEE POSITIONS; CURRENT COLLECTIVE BARGAINING AGREEMENT

The general assembly urges the administration and the Vermont State Employees' Association to explore options for achieving savings for fiscal year 2010, including a limited reopener of the current collective bargaining agreement as soon as possible. The general assembly also urges the administration to wait until the completion of the fiscal year 2010 budget process before implementing further layoffs, reductions in force, or the elimination of state employee positions or programs.

Sec. 102. OFFICE OF VERMONT HEALTH ACCESS; DEPUTY DIRECTOR

(a) An exempt position – deputy director for health care reform – is authorized in the office of Vermont health access in fiscal year 2009. This position shall be transferred and converted from existing positions in the executive branch.

Sec. 103. Sec. 2(c) of No. 71 of the Acts of 2007 as amended by Sec. 5.903 of No. 192 of the Acts of 2008 is further amended to read:

(c) After submission of the application, the agency shall determine if the applicant meets full eligibility requirements. Beginning October 1, ~~2009~~ 2011, if the individual is found eligible for the Vermont health access plan, the agency shall, subject to approval from the center for Medicare and Medicaid services, provide payment for any services received by the individual beginning with the date the application was received by the agency.

Sec. 103a. GLOBAL COMMITMENT WAIVER AMENDMENT

(a) Upon passage of this act, the secretary of the agency of human services or designee shall seek a Global Commitment to Health Section 1115 waiver amendment from the Centers for Medicare and Medicaid Services to:

(1) include the Catamount Health Assistance program under subchapter 3A of Chapter 19 of Title 33 for individuals with incomes above 200 percent of the federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(2) include the employer-sponsored premium assistance program under section 1974 of Title 33 for individuals with incomes above 200 percent of the

federal poverty level (FPL) up to 300 percent of FPL in the premium amount paid to the office of Vermont health access under Global Commitment;

(3) include the entire VPharm program described in subchapter 8 of Chapter 19 of Title 33, including individuals with incomes up to 225 percent of FPL and the cost-sharing benefits described in section 2073 of Title 33 in the premium amount paid to the office of Vermont health access under Global Commitment; and

(4) modify the definition of “uninsured” to:

(A) add the loss of insurance due to domestic violence as an exclusion from the 12-month waiting period as required by Sec. 22 of No. 174 of the Acts of the 2007 Adj. Sess. (2008); and

(B) reduce the waiting period from 12 months to six months as provided for in Sec. 5 of No. 203 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 103b. TEMPORARY SUSPENSION OF 2008 PREMIUM INCREASES; GLOBAL COMMITMENT TO HEALTH

(a) The general assembly finds that the state should maximize the federal economic stimulus money available for Medicaid provided in the American Recovery and Reinvestment Act of 2009, Public Law 111-5, by complying with the maintenance of eligibility requirements in section 5001(f). It is the intent of this section to comply with Section 5001(f) for the duration of the recession adjustment period as defined in Section 5001(h)(3) of Public Law 111-5, which ends December 31, 2010, by reverting to the premiums due on June 15, 2008 for individuals with incomes less than or equal to 200% of the federal poverty level (FPL) receiving Catamount Health Premium Assistance, individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance, and individuals with incomes no greater than 175% of FPL enrolled in VPharm and VermontRx. By reinstating the premiums for programs included in Global Commitment to Health no later than July 1, 2009, the state will remain eligible for the full amount of stimulus funds available for Medicaid and Medicaid-waiver programs.

(b)(1) Notwithstanding the premium amounts listed in sections 1974(j)(2)(A) and (B), 1984(c)(1)(A) and (B), 2073(d)(2), and 2074(c) of Title 33, the agency of human services shall reinstate premiums to the amounts due on June 15, 2008 for:

(A) individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance;

(B) individuals with incomes less than or equal to 200% of FPL receiving employer-sponsored insurance premium assistance; and

(C) individuals with incomes no greater than 175% of FPL in VPharm and VermontRx.

(2) The agency shall maintain the premium amounts established in subdivision (1) of this subsection through December 31, 2010. Notwithstanding 33 V.S.A. §1984(b), individuals with incomes less than or equal to 200% of FPL receiving Catamount Health Premium Assistance shall not have the premiums indexed until January 1, 2011.

(3) Only if required by the Centers on Medicare and Medicaid Services (CMS) as a condition of receiving the federal stimulus funds, the agency may reimburse individuals described in subdivision (1) of this subsection for the increase in premiums paid prior to the time of suspension.

(c)(1) Immediately upon passage through December 31, 2010, this section of the Act shall supersede any agency rules establishing premium amounts above the amounts due on June 15, 2008 from the individuals described in subsection (b) of this section. The agency shall issue policy guidance to clarify that there is a temporary suspension of increases in premium amounts through December 31, 2010 and indicate the appropriate premium amounts for affected individuals.

(2) At its discretion, the agency may adopt emergency rules as provided for in section 844 of Title 3 to reinstate the premium amounts to amounts due on June 15, 2008, and also may adopt emergency rules to raise the premium amounts to the amounts indicated in statute effective January 1, 2011. The general assembly deems the temporary suspension of premium increases to meet the public health, safety, or welfare requirement in subsection 844(a) of Title 3.

Sec. 104. NO. 80 OF THE ACTS OF 2007; DELAYED IMPLEMENTATION OF CERTAIN PROVISIONS

(a) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services may delay collection of the manufacturer fee established in 33 V.S.A. § 2004 pending a final decision by the U.S. District Court in the pending lawsuit captioned PhRMA v. Sorrell, Docket No. 1:07-cv-00220. Any decision by the secretary to delay collection shall not affect the obligation of a pharmaceutical manufacturer or labeler to pay the required fee, once collection begins, for each calendar year beginning with 2007. Pharmaceutical manufacturers and labelers shall not be required to pay interest on the fee amounts for any period of time before the secretary begins collection of the fee.

(b) Notwithstanding the provisions of No. 80 of the Acts of 2007 and No. 89 of the Acts of 2007 (Adj. Sess.), the secretary of human services, the director of the office of Vermont health access, and the commissioner of health may delay implementation of the following statutory provisions until the secretary begins collection of the manufacturer fee as described in subsection (a) of this section and the funds are appropriated:

(1) 18 V.S.A. § 4622 (evidence-based education program; generic drug voucher program) and the related requirements in Sec. 15 (generic drug pilot program) of No. 80 of the Acts of 2007 and Sec. 15a (generic drug voucher pilot; report) of No. 80 of the Acts of 2007; and

(2) 33 V.S.A. § 2004a (evidence-based education and advertising fund).

Sec. 104a. 26 V.S.A. § 2032(g) is amended to read:

(g)(1) The board may develop procedures to permit it to oversee, at no more than three locations and for no more than two years each in duration, pilot experiments for remote pharmacies. In addition, the board may develop a pilot experiment, for no more than two years in duration, to use telepharmacy to dispense prescriptions from secure automatic dispensing units at locations in Vermont recognized as a covered entity under Section 340B of the Public Health Service Act.

(2) On December 1 of each year, the board shall report to the house committee on health care and senate ~~committees~~ committee on ~~government operations~~ health and welfare its findings with regard to pilot experiments initiated in the previous calendar year. If the board determines that the pilot experiments should be extended statewide, the board shall include in its final report proposed rules governing remote pharmacy and telepharmacy practice.

Sec. 105. REACH AHEAD IMPLEMENTATION STATUS REPORT

(a) No later than February 1, 2010, the department for children and families shall provide a status report on the Reach Ahead post-employment program to the house committees on appropriations and on human services and the senate committees on appropriations and on health and welfare. The status report shall include:

(1) information by month on caseloads, spending, and cost estimates, including:

(A) actual caseload data and trends since implementation;

(B) actual spending for the program; and

(C) a revised cost estimate for maintaining the program based on actual caseload and the take-up rate for the program;

(2) an analysis of improved employment stability and child well-being of families in Reach Ahead, including:

(A) the impact of food assistance in providing additional financial resources to the family;

(B) the number of families in Reach Ahead who are employed as of December 31, 2009 and the length of time each family was employed; and

(C) an estimate of the reduction in the number of individuals who return to the Reach Up program after participating in Reach Ahead and an estimate of the resulting savings to the Reach Up program;

(3) the impact on the state's work participation rate in federal fiscal years 2009 and 2010, including the impact on avoiding federal fiscal sanctions.

Sec. 106. REACH AHEAD SUNSET

(a) 33 V.S.A. chapter 12 (Reach Ahead) shall expire on June 30, 2010, and sections of chapters 10 and 11 of Title 33 shall be amended to strike references to the Reach Ahead program.

Sec. 106a. Sec. 26 of No. 30 of the Acts of 2007, as amended by Sec. 5.902 of No. 192 of the Acts of 2008, is further amended to read:

Sec. 26. EFFECTIVE DATES; IMPLEMENTATION

* * *

(b) The amendments to 33 V.S.A. chapter 11 contained in Secs. 2-13 (Reach Up), 14 (solely state-funded programs), and 16 (Reach Up transitions) of this act shall take effect immediately when the rule changes necessary to implement the sections become final, but no later than April 1, 2008. Until the time that the rule modifications are final, the Reach Up program shall operate under current law. Any provisions in these sections relating to Reach Ahead shall take effect ~~on April 1, 2009~~ as provided for in subsection (d) of this section.

* * *

(d) Reach First established in Sec. 1 of this act shall be implemented no later than April 1, 2008. Reach Ahead established in Sec. 18 shall be implemented as soon as possible and no later than July 1, 2009 for families, who leave Reach Up or the Postsecondary Education Program on or after ~~April 1, 2009~~ the actual implementation date, as provided for in 33 V.S.A. § 1203(1). Subject to appropriation, Reach Ahead shall be implemented for all other families as provided for in 33 V.S.A. § 1203 no later than ~~July 1, 2009~~ October 1, 2010.

* * *

Sec. 107. HOME WEATHERIZATION TRUST FUND; HOMELESSNESS

(a) Notwithstanding the provisions of chapter 25 (home weatherization assistance program) of Title 33 of the Vermont Statutes Annotated, in fiscal year 2009 the agency of human services may use up to \$250,000 of state funds from the home weatherization assistance trust fund for the purpose of reducing homelessness. Funds unspent for this purpose in fiscal year 2009 may be carried forward into fiscal year 2010 and spent for the same purpose.

Sec. 108. 33 V.S.A. § 2604(a) is amended to read:

(a) Household income eligibility requirements. The secretary, by rule, shall establish household income and asset eligibility requirements of beneficiaries in the seasonal fuel assistance program including the income and assets of all residents of the household.

(1) The income eligibility requirements shall require that households have a net household income no greater than 125 percent of the federal poverty level in order to be potentially eligible for benefits. Net income shall be derived by making the following deductions from gross income: 20 percent of household members' gross earned income; 100 percent of federal or state earned income credits received by household members; dependent care expenses that are within an allowable maximum, paid by a household member, and necessary to support a household member's employment or training for employment, according to criteria established by the secretary by rule; child support or alimony payments made by a household member on behalf of a nonhousehold member that meet criteria established by the secretary by rule; ~~\$150.00~~ \$250.00 for each household member who is 60 years of age or older or disabled according to criteria established by the secretary by rule; any deductions or exclusions required by federal law or regulations; and any other deduction or exclusion established by the secretary by rule.

(2) In order to be eligible, a household shall have net household assets no greater than \$5,000.00, or \$10,000.00 one member of the household is 60 years of age or older. The secretary shall establish exclusions from the asset limit by rule.

Sec. 109. 33 V.S.A. § 2603 is amended to read:

§ 2603. HOME HEATING FUEL ASSISTANCE ~~TRUST FUND~~

(a) There is created in the state treasury a fund to be known as the home heating fuel assistance ~~trust fund to be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.~~

(b) The fund shall ~~be composed of~~ consist of the receipts from any taxes dedicated to the fund; and such other state funds as may be appropriated to it

by the general assembly, ~~including funds from the federal Low Income Home Energy Assistance Program (LIHEAP).~~ Funds from the home heating fuel assistance fund and the federal Low Income Home Energy Assistance Program (LIHEAP) shall be expended by the director in accordance with this chapter and other federal laws and rules adopted pursuant thereto.

(c) All balances in the home heating fuel assistance fund at the end of any fiscal year shall ~~be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. Disbursements from the fund shall be made by the state treasurer on warrants drawn by the commissioner of finance and management remain in the fund for future disbursements.~~

(d) The secretary may spend, in anticipation of federal receipts into the home heating fuel assistance ~~trust~~ fund established under this section, a sum no greater than 75 percent of the federal block grant funds allocated to Vermont for the current federal fiscal year under the Low Income Home Energy Assistance Program (LIHEAP), for the purpose of permitting preseason purchases of fuel and other cost-effective purchasing practices authorized by subsection 2602(c) of this title, in accordance with rules adopted by the secretary.

Sec. 110. Sec. 5.224(f) of No. 192 of the Acts of 2008 is added to read:

(f) In fiscal year 2009, the secretary of administration may upon recommendation of commissioner of corrections transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Sec. 111. VERMONT COMMISSION ON NATIONAL AND COMMUNITY SERVICE; POSITIONS

(a) The exempt positions in the Vermont Commission on National and Community Service shall be transferred to the agency of human services.

Sec. 112. GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2009, the secretary of the agency of human services, with approval from the secretary of administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside of the agency of human services. At least three business days prior to any transfer, the agency shall submit to the joint fiscal office a proposal of transfers to be made pursuant to this section. A final

report on all transfers made under this section shall be made to the joint fiscal committee for review at the September 2009 meeting. The purpose of this section is to provide the agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. 113. Sec. 5.206(c) of No. 192 of the Acts of 2008 is added to read:

(c) The agency of human services secretary's office – Global Commitment appropriation (Section 2.202) shall be reduced by \$813,000 in general funds and by \$1,187,000 federal funds and the office of Vermont health access – Medicaid program – long-term care waiver (Section 2.208) shall be increased by the same amounts to accomplish the intent of using \$2,000,000 of Global Commitment funds specified in Section 5.206(b)(2)(E).

Sec. 114. Sec. 5.202(b)(6) of No. 192 of the Acts of 2008 is added to read:

(6) Notwithstanding 16 V.S.A. § 2959a, any additional federal funds received as a result of an enhanced FMAP that are associated with the certified expenditures specified in subdivisions (1) through (5) of this subsection shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

Sec. 115. 32 V.S.A. § 5932 is amended to read:

§ 5932. DEFINITIONS

As used in this chapter:

(1) “Claimant agency” means any unit of state government, including agencies, departments, boards, commissions, authorities or public corporations, including the Vermont student assistance corporation and a collection agency under contract with the court administrator pursuant to 4 V.S.A. § 1109(d) or 13 V.S.A. § 7171. Notwithstanding the foregoing, the department of taxes shall not be considered a claimant agency and shall not be subject to the limitations contained in this chapter when it applies a refund to the outstanding Vermont state tax liability of a taxpayer, including a taxpayer's liability for interest, penalties and fees.

* * *

Sec. 116. 32 V.S.A. § 5941 is amended to read:

§ 5941. PROCEDURE FOR SETOFF OF COURT JUDGMENTS

* * *

(e) The court administrator may contract with one or more collection agencies to serve as a claimant agency on behalf of a court for purposes of this subchapter.

Sec. 117. 13 V.S.A. § 7171 is amended to read:

§ 7171. COLLECTION BY COMPLAINT, INFORMATION, OR INDICTMENT

* * *

(b) The court administrator is authorized to contract with private collection agencies for collection of penalties, fines, surcharges, court costs, and any other assessment authorized by law incurred or imposed by statute on persons who ~~have failed fail~~ to pay, ~~at or after reasonable notification of the debt, and the risk that the debt may be~~ time of judgment, after notice that failure to pay the debt will result in the debt being referred to a collection agency and that the debtor will be liable for the collection agency's fee. The court administrator may agree to pay collection agencies a fee based on a fixed rate for services rendered or a percentage of the amount actually collected by such agencies and remitted to the state. The debtor shall be liable for the collection agency's fee, in addition to the judgment amount. The collection agency shall deduct its fee from the collected amount and remit the balance to the judiciary. All collection agency fees shall be governed by the contract with the court administrator and shall be clearly disclosed in all notices sent by the collection agency to the debtor.

Sec. 118. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

(a) The counties of Addison, ~~Bennington,~~ Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans, and Washington shall each constitute a probate district, which shall be designated by the name of the county.

(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster, or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321.00 for the Windham probate district and \$75,859.00 for the Rutland and Windsor probate districts.

Sec. 119. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

	Annual Salary as of July 8, 2007
(1) Addison	\$59,321
(2) Bennington	51,559 <u>59,321</u>
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8) Grand Isle	28,853
(9) Hartford	59,321
(10) Lamoille	43,594
(11) Manchester	43,594
(12) Marlboro	51,559
(13) <u>(12)</u> Orange	51,559
(14) <u>(13)</u> Orleans	51,559
(15) <u>(14)</u> Rutland	75,859
(16) <u>(15)</u> Washington	75,859
(17) <u>(16)</u> Westminster	43,594
(18) <u>(17)</u> Windsor	51,559

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 120. REPEAL

(a) 4 V.S.A. § 273 (Bennington and Manchester probate districts) is repealed.

Sec. 121. TRANSITIONAL PROVISIONS

(a) The probate courts of the probate districts of Bennington and Manchester are consolidated as of the effective date of this act to form the probate court of the probate district of Bennington, which is deemed to be a continuation of the probate courts of the probate districts of Bennington and Manchester. The current probate judge for the probate court of the probate district of Manchester shall become the probate judge for the probate court of the probate district of Bennington. The current probate registers of the probate districts of Bennington and Manchester shall become the registers for the probate district of Bennington and shall be allowed to maintain their employment status that was in effect on January 31, 2009 until January 31, 2011, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The records of the probate courts of the probate districts of Bennington and Manchester shall become the records of the probate court of the probate district of Bennington. The newly consolidated probate court of the probate district of Bennington shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the probate districts of Bennington and Manchester, including all pending matters and appeals. The probate court of the probate district of Bennington shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 122. 4 V.S.A. § 271 is amended to read:

§ 271. SINGLE DISTRICT COUNTIES

~~(a) The counties of Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Grand Isle, Lamoille, Orange, Orleans and Washington shall each constitute a probate district, which shall be designated by the name of the county.~~

~~(b) If a judicial position becomes vacant in the probate districts of Fair Haven, Hartford, Marlboro, Rutland, Westminster or Windsor prior to February 1, 2011, the county containing the district with the vacant judge position shall become a single probate district county effective upon the date of the vacancy. The remaining probate judge in the county shall become the probate judge of the single district probate court for the remainder of the current term. Upon consolidation, the judge of probate shall be paid \$59,321~~

for the ~~Windham probate district and \$75,859 for the Rutland and Windsor probate districts.~~

There shall be one probate district in each county, which shall be designated by the name of the county.

Sec. 123. 32 V.S.A. § 1142 is amended to read:

§ 1142. JUDGES OF PROBATE

(a) The annual salaries of the judges of probate in the several probate districts, which shall be paid by the state in lieu of all fees or other compensation, shall be as follows:

Annual Salary as of July 8, 2007

(1) Addison	\$59,321
(2) Bennington	59,321
(3) Caledonia	59,321
(4) Chittenden	91,402
(5) Essex	28,853
(6) Fair Haven	43,594
(7) Franklin	59,321
(8)(7) Grand Isle	28,853
(9) Hartford	59,321
(10)(8) Lamoille	43,594
(11) Marlboro	51,559
(12)(9) Orange	51,559
(13)(10) Orleans	51,559
(14)(11) Rutland	75,859
(15)(12) Washington	75,859
(16)(13) Westminster <u>Windham</u>	43,594 <u>59,321</u>
(17)(14) Windsor	51,559 <u>75,859</u>

(b) Judges of probate shall be paid by the state their actual and necessary expenses under the rules and regulations pertaining to classified state employees.

Sec. 124. REPEALS

(a) 4 V.S.A. §§ 275 (Fair Haven and Rutland probate districts), 276 (Hartford and Windsor probate districts), and 277 (Marlboro and Westminster probate districts) are repealed.

Sec. 125. TRANSITIONAL PROVISIONS

(a) On the effective date of this section, the newly consolidated probate court district within each county is deemed to be a continuation of the prior probate court districts within the county. The newly consolidated court shall have jurisdiction over all proceedings, records, orders, decrees, judgments and other acts of the probate courts of the prior probate districts within the county, including all pending matters and appeals. The records of the prior probate court districts shall become the records of the probate court of the newly consolidated probate district. The newly consolidated probate court district shall have full authority to do all acts concerning all such proceedings and other matters as if they had originated in that court. The probate judge for the newly consolidated district shall be elected on the first Tuesday of November of 2010. The current probate registers of the prior probate districts shall be allowed to maintain their employment status that was in effect on January 31, 2011 for six months, at which time the probate judge taking office February 1, 2011 shall appoint a single probate register for the district. The assistant judges of these counties shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services. The judge of the newly formed district with the approval of the court administrator shall establish the hours of operation and staffing for each office.

Sec. 126. MUNICIPAL TICKET REPAYMENT REVOLVING FUND

(a) Notwithstanding the provisions of 4 V.S.A. § 28(a)(2), the Town of Rutland may receive additional loans from the Municipal Ticket Repayment Revolving Fund for payments received from the Judicial Bureau between June 30, 2001 and June 30, 2004 in an amount not to exceed \$97,687.48.

Sec. 127. 10 V.S.A. § 1942(a) and (b) are amended to read:

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this state, which will be assessed against every distributor, dealer or user as defined in 23 V.S.A. chapters 27 and 28, and which will be deposited into the petroleum cleanup fund. The After analysis of the projected unencumbered fund balance, the secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. shall annually determine may make a recommendation to the legislature as to whether or not to assess the one-cent

licensing fee for the upcoming year. ~~If the unencumbered balance of the motor fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$7,000,000.00, then the one-cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$7,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee will be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee will be collected by the commissioner of motor vehicles and deposited into the petroleum cleanup fund. This fee requirement shall terminate on April 1, 2011.

(b) There is assessed against every seller receiving more than \$10,000.00 annually for the retail sale of heating oil or kerosene, sold in this state and not used to propel a motor vehicle, a licensing fee of one-half cent per gallon of such heating oil or kerosene. This fee shall be subject to the collection, administration, and enforcement provisions of chapter 233 of Title 32, and the fees collected under this subsection by the commissioner of taxes shall be deposited into the petroleum cleanup fund. ~~The~~ After analysis of the projected unencumbered fund balance, the secretary, in consultation with the Vermont Petroleum Association and the Vermont Fuel Dealers Association, Inc. ~~shall annually determine~~ may make a recommendation to the legislature as to whether or not to assess the one-half cent licensing fee for the upcoming year. ~~If the unencumbered balance of heating fuel account of the fund established under subsection 1941(a) of this title is equal to or greater than \$3,000,000.00, then the one-half cent licensing assessment for the upcoming year shall not be assessed. If the unencumbered balance in the fund is less than \$3,000,000, then the annual fee may be assessed. The secretary shall notify all sellers assessing this fee of the status of the fee for the upcoming year.~~ This fee provision shall terminate April 1, 2011.

Sec. 128. Sec. 16 (2) of Act No. 200 of the Acts of 2008 is amended to read:

(2) For the agricultural buffer program, to install water quality conservation buffers, and for the capital equipment assistance program established in 6 V.S.A. §4828. Up to \$225,000 shall be for the Farmers Water Shed Alliances and up to \$40,000 shall be for the Southern Vermont Nutrient Management Program for the purchase of aerators. ~~Up to \$250,000~~ \$200,000 of this appropriation shall be for the capital equipment assistance program, provided that the state's share shall not exceed \$50,000 or 50 percent of a project.

Sec. 129. Sec. 4 of No. 206 of the Acts of 2008 is amended to read:

Sec. 4. APPROPRIATION REDUCTIONS

(a) Position reductions. The secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$3,670,000.00~~ \$2,456,393.00 consistent with reductions in positions in the executive branch. In addition, the secretary of administration shall reduce fiscal year 2009 general fund appropriations in the executive branch of state government by ~~\$250,000.00~~ \$161,046.00 by not filling up to four exempt positions, not including attorneys and clerical personnel. In order to maintain direct services to Vermonters, the secretary shall give preference to reducing those positions which do not provide those direct services. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ March 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

(b) ~~Reductions in contractual services and temporary positions.~~ The secretary of administration shall reduce fiscal year 2009 general fund appropriations budgeted ~~for contractual services and temporary positions~~ in the executive branch of state government by \$2,300,000.00. The secretary of administration may substitute appropriation reductions in other funds, and in fund transfers to the general fund, to achieve this amount, and may reduce Global Commitment appropriations correspondingly. The secretary shall provide a report to the house and senate committees on appropriations and government operations in ~~January~~ February 2009 that lists all appropriation reductions, transfers, and substitutions within fiscal year 2009 appropriated funds ~~that are proposed~~ to achieve the general fund savings in this subsection.

Sec. 130. EFFECTIVE DATES

(a) This act shall take effect upon passage, except Sec. 75 (Medicaid chiropractic coverage) of this act shall apply retroactively beginning February 1, 2009.

(b) Sec. 87 of this act (Vermont State Colleges payment of employee wages through direct deposit) shall take effect May 1, 2009.

(c) Secs. 122, 123, 124, and 125 shall take effect on February 1, 2011.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

SUSAN J. BARTLETT
M. JANE KITCHEL
DIANE B. SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
 MARK LARSON
 ROBERT G. HELM

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the second substitute report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 54, H. 287, H. 232.

Message from the House No. 61

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 453. An act relating to receivership of long-term care facilities.

In the passage of which the concurrence of the Senate is requested.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the Senate:

By Senators Illuzzi and Starr,

By Representative Johnson,

S.C.R. 19.

Senate concurrent resolution honoring Joanie Binns for her accomplishments as manager of the Quimby Country resort.

By All Members of the Senate,

S.C.R. 20.

Senate concurrent resolution expressing appreciation of the state house staff and Buildings and General Services security patrol for the professionalism they

displayed during the legislative proceedings related to the civil marriage legislation.

By Senators Sears, Mullin and Nitka,

By Representative Lippert and others,

S.C.R. 21.

Senate concurrent resolution honoring the Vermont court diversion program on its 30th anniversary.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Davis and others,

H.C.R. 103.

House concurrent resolution congratulating the Chelsea High School Red Devils 2009 Division IV girls' basketball championship team.

By Representative Koch and others,

By Senators Doyle, Cummings and Scott,

H.C.R. 104.

House concurrent resolution congratulating the 2009 Spaulding High School Division I Crimson Tide championship girls' basketball team.

By Representative Koch and others,

By Senators Doyle, Cummings and Scott,

H.C.R. 105.

House concurrent resolution congratulating the Spaulding High School students honored as Times Argus athletes of the year.

By Representative Poirier and others,

By Senators Doyle, Cummings and Scott,

H.C.R. 106.

House concurrent resolution honoring the career accomplishments of former Spaulding High School wrestling coach William Young.

By Representatives Davis and Conquest,

H.C.R. 107.

House concurrent resolution in memory of George Gibby of Topsham.

By All Members of the House,

By All Members of the Senate,

H.C.R. 108.

House concurrent resolution praising the bravery of Maersk Alabama Captain Richard Phillips of Underhill and congratulating the U.S. Navy SEALs and the FBI on his dramatic rescue.

By Representative French and others,

H.C.R. 109.

House concurrent resolution welcoming to the state house the Commission on Alzheimer's Disease and Related Disorders.

By Representative Lenex and others,

By Senators Lyons and Snelling,

H.C.R. 110.

House concurrent resolution congratulating the Champlain Valley Union High School Red Hawks 2008 Division I championship field hockey team.

By Representative Ram and others,

H.C.R. 111.

House concurrent resolution congratulating the University of Vermont Lady Catamounts 2009 America East championship women's basketball team.

By Representatives Copeland-Hanzas and Johnson,

H.C.R. 112.

House concurrent resolution honoring libraries, librarians, and library workers during National Library Week.

By Representative Stevens and others,

H.C.R. 113.

House concurrent resolution congratulating the winners in the second annual Jr. Iron Chef competition.

By Representative O'Donnell and others,

H.C.R. 114.

House concurrent resolution in memory of Mark Bennett of Brattleboro.

By Representative O'Brien and others,

H.C.R. 115.

House concurrent resolution honoring the Granges of Vermont.

By Representative Pugh and others,

H.C.R. 116.

House concurrent resolution congratulating South Burlington on its designation as a Tree City U.S.A.

By Representatives Wheeler and Lewis,

By Senators Illuzzi and Starr,

H.C.R. 117.

House concurrent resolution honoring George Buzzell for his exemplary public service as Orleans County state forester.

By Representative Ram and others,

H.C.R. 118.

House concurrent resolution congratulating the 2009 University of Vermont Catamount skiers on their team and individual accomplishments.

By Representative Lenex and others,

By Senators Lyons and Snelling,

H.C.R. 119.

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2009 Division I championship boys' ice hockey team.

Message from the House No. 62

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

And has adopted the same on its part.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 103. House concurrent resolution congratulating the Chelsea High School Red Devils 2009 Division IV girls' basketball championship team.

H.C.R. 104. House concurrent resolution congratulating the 2009 Spaulding High School Division I Crimson Tide championship girls' basketball team.

H.C.R. 105. House concurrent resolution congratulating the Spaulding High School students honored as Times Argus athletes of the year.

H.C.R. 106. House concurrent resolution honoring the career accomplishments of former Spaulding High School wrestling coach William Young.

H.C.R. 107. House concurrent resolution in memory of George Gibby of Topsham.

H.C.R. 108. House concurrent resolution praising the bravery of Maersk Alabama Captain Richard Phillips of Underhill and congratulating the U.S. Navy SEALs and the FBI on his dramatic rescue.

H.C.R. 109. House concurrent resolution welcoming to the state house the Commission on Alzheimer's Disease and Related Disorders.

H.C.R. 110. House concurrent resolution congratulating the Champlain Valley Union High School Red Hawks 2008 Division I championship field hockey team.

H.C.R. 111. House concurrent resolution congratulating the University of Vermont Lady Catamounts 2009 America East championship women's basketball team.

H.C.R. 112. House concurrent resolution honoring libraries, librarians, and library workers during National Library Week.

H.C.R. 113. House concurrent resolution congratulating the winners in the second annual Jr. Iron Chef competition.

H.C.R. 114. House concurrent resolution in memory of Mark Bennett of Brattleboro.

H.C.R. 115. House concurrent resolution honoring the Granges of Vermont.

H.C.R. 116. House concurrent resolution congratulating South Burlington on its designation as a Tree City U.S.A.

H.C.R. 117. House concurrent resolution honoring George Buzzell for his exemplary public service as Orleans County state forester.

H.C.R. 118. House concurrent resolution congratulating the 2009 University of Vermont Catamount skiers on their team and individual accomplishments.

H.C.R. 119. House concurrent resolution congratulating the Champlain Valley Union High School Redhawks 2009 Division I championship boys' ice hockey team.

In the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 23. Joint resolution relating to the preservation of Vermont's streams and rivers.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 19. Senate concurrent resolution honoring Joanie Binns for her accomplishments as manager of the Quimby Country resort.

S.C.R. 20. Senate concurrent resolution expressing appreciation of the state house staff and Buildings and General Services security patrol for the professionalism they displayed during the legislative proceedings related to the civil marriage legislation.

S.C.R. 21. Senate concurrent resolution honoring the Vermont court diversion program on its 30th anniversary.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until nine o'clock in the morning.

WEDNESDAY, APRIL 22, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Rules Suspended; Bill Committed**H. 438.**

Pending entry on the Calendar for notice, on motion of Senator Brock, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, Senator Brock moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Transportation *intact*,

Which was agreed to.

Rules Suspended; Bill Committed**H. 442.**

Pending entry on the Calendar for notice, on motion of Senator Brock, the rules were suspended and House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Brock moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Finance *intact*,

Which was agreed to.

Recess

On motion of Senator Doyle the Senate recessed until twelve o'clock and thirty minutes.

Called to Order

At one o'clock and ten minutes the Senate was called to order by the President.

Bill Referred

House bill of the following title was read the first time and referred:

H. 453.

An act relating to receivership of long-term care facilities.

To the Committee on Judiciary.

Joint Resolution Placed on Calendar**J.R.H. 23.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to the preservation of Vermont's streams and rivers.

Whereas, the federal Clean Water Act, which Congress passed in 1972, serves to protect our fisheries and our stream habitat, and

Whereas, the state of Vermont has maintained a commitment to protect our streams and rivers, and

Whereas, the general assembly enacted the clean and clear program that established the state's initiative for reducing phosphorus and other pollutants, and

Whereas, numerous groups in Vermont, including Friends of the Winooski, Friends of the Mad River, Trout Unlimited Mad Dog Chapter, Trout Unlimited Central Vermont Chapter, Trout Unlimited Southwestern Vermont Chapter, Trout Unlimited Connecticut River Valley Chapter, Trout Unlimited White River Watershed Chapter, Trout Unlimited Northeast Kingdom Chapter, Connecticut River Watershed Council, the White River Partnership, and the West River Watershed Alliance, have also assisted in maintaining habitat and the riparian buffers of Vermont streams and rivers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly acknowledges and appreciates the diligent and steadfast efforts to preserve Vermont's finest resources—our streams and rivers, and be it further

Resolved: That the General Assembly pledges to continue to protect Vermont's streams and rivers in order to keep our waterways clean, free of pollutants, and a healthy habitat for wildlife and stream vegetation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Rules Suspended; Proposal of Amendment; Third Reading Ordered**H. 442.**

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending 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::

* * * Proposed Miscellaneous Tax Amendments * * *

Sec. 1. INCREASING THE NUMBER OF COMPLIANCE PERSONNEL IN THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, two collectors, and one desk audit supervisor.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department \$935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. 2. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT OF LABOR

(a) In addition to any other funds appropriated to the department of labor in fiscal year 2010, there is appropriated from the general fund to the department \$308,212.00 in fiscal year 2010 for the purpose of hiring four full-time limited

service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Tax Amnesty * * *

Sec. 3. TAX AMNESTY

(a) Notwithstanding any law to the contrary, the commissioner of taxes shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner may be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect if the taxpayer, prior to the expiration of the amnesty period, files proper returns for any tax types and any period for which the taxpayer has or had a filing obligation and pays the full amount of tax shown on such return together with all interest due thereon. The amnesty program shall be established for a period of six consecutive weeks to be determined by the commissioner, to expire not later than October 2, 2009.

(b) The amnesty program shall apply to a tax liability of any tax type for any periods for which the due date of the return was before January 26, 2009 but shall not apply to those penalties which the commissioner would not have the sole authority to waive, including fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes.

(c)(1) The commissioner shall maintain records of the amnesty provided under this section, including:

(A) the number of taxpayers provided with amnesty;

(B) the types of tax liability for which amnesty was provided and, for each type of liability:

(i) the amount of tax liability collected by the commissioner; and

(ii) the amount of penalties forgone by virtue of the amnesty; and

(iii) the total outstanding tax liability due to the state, for the period through June 30, 2009, after the collection of all funds under this section.

(2) The commissioner shall file a report detailing the information required by subdivision (1) of this subsection with the clerk of the house of representatives and the secretary of the senate, the joint fiscal committee, the house committee on ways and means, and the senate committee on finance not later than December 15, 2009; provided, however, that the report shall not contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

Sec. 4. APPROPRIATION

In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$132,000.00 in fiscal year 2010 for the purpose of marketing the tax amnesty program provided for in Sec. 3 of this act. In order to help stimulate the local economy, the legislature asks in determining what resources or marketing firms to use, the department give priority to Vermont-based firms.

* * * Sale of State-Owned Personal Property * * *

Sec. 5. SALE OF STATE-OWNED SURPLUS PERSONAL PROPERTY

In order to raise capital and to free space in buildings owned or leased by the state, the commissioner of buildings and general services is authorized and directed to conduct a "spring cleaning" to identify and sell surplus personal property of the state. Each department and agency of the state shall, in accordance with section 1556 of Title 29, transfer all surplus personal property to the commissioner, who is authorized to sell such surplus personal property pursuant to subdivision 1556(6). Notwithstanding section 1557 of Title 29, the proceeds of such sale, net of the commissioner's administrative costs, shall be deposited into the general fund.

* * * Department of Revenue * * *

Sec. 6. DEPARTMENT OF TAXES; DEPARTMENT OF REVENUE; TRANSITION

(a) In accordance with the report of the commissioner of taxes dated January 22, 2007, the department of taxes shall be converted into a department of revenue no later than June 30, 2012.

(b) To accomplish the requirement set out in subsection (a) of this section, there is hereby established a revenue transition committee to review and approve the commissioner's plan to transition the department of taxes to a department of revenue, which shall be responsible for collecting taxes, fees, levies, and other assessments as determined pursuant to subsection (c) of this section. The revenue transition committee shall be composed of the following seven members:

-
- (1) The commissioner of finance and management or designee;
 - (2) The state treasurer or designee;
 - (3) A member of the house committee on ways and means, appointed by the speaker of the house;
 - (4) A member of the house committee on government operations, appointed by the speaker of the house;
 - (5) A member of the senate committee on finance, appointed by the committee on committees;
 - (6) A member of the senate committee on government operations, appointed by the committee on committees;
 - (7) The court administrator or designee.
- (c) The commissioner shall review each state revenue source and determine whether the management of such revenue source should:
- (1) remain substantially as is;
 - (2) be transferred to the treasurer's lockbox services contract;
 - (3) be transferred to the department of taxes, which shall ultimately be redesignated the department of revenue; or
 - (4) be transferred to another entity.
- (d) The revenue transition committee shall meet as needed to review and approve the commissioner's implementation plan for the transition to a revenue department. The commissioner shall report to the revenue transition committee the findings and recommendations required pursuant to subsection (c) of this section, and the commissioner will implement any changes upon the approval of the revenue transition committee.
- (e) No later than February 15 of each of the three years following the effective date of this act, the committee shall issue a report to the general assembly on its findings and containing specific recommendations concerning the implementation of the transition, efficiencies, technology, staffing issues, and recommendations with respect to subsection (c) of this section.
- (f) The legislative members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided to members of standing committees under 2 V.S.A. § 406 for attendance at a meeting when the general assembly is not in session.

Sec. 7. STATUTORY REVISION

After June 30, 2012, the legislative council is directed to revise the Vermont Statutes Annotated to reflect the redesignation of the department of taxes as the department of revenue. When applicable, the term "commissioner of taxes" shall be substituted with the term "commissioner of revenue"; and when applicable, the term "department of taxes" shall be substituted with the term "department of revenue."

* * * Blue Ribbon Tax Structure Study Committee * * *

Sec. 8. TAX STRUCTURE STUDY

(a) Composition of committee. There is hereby established a tax structure study committee composed of three to five members to be selected as follows:

(1) The speaker of the house, the president pro tempore of the senate, and the governor shall each appoint one member; and

(2) The three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members.

(b) The tax structure study committee shall be appointed as soon as possible after the effective date of this act. The panel shall elect a chair and vice chair from among its members.

(c) Purpose and goals. The tax structure study committee shall study the state's revenue system with the goal of determining whether the current system:

(1) Raises enough revenue to sustain spending needs now and in the future;

(2) Provides equity among the state's diverse taxpayers;

(3) Provides incentives that further the state's goals; and

(4) Enhances the state's competitiveness by attracting labor, capital, and entrepreneurs.

(d) Tax incidence study. As a first step in fulfilling its goals, the tax structure study committee shall hire one or more consultants to conduct a thorough and independent review and analysis of tax incidence in Vermont. The consultants shall report to the tax structure study committee by October 15, 2009. The consultants shall have the assistance of the department of taxes. Specifically, the report to the tax structure study committee shall provide information regarding the distribution of state and local taxes, including income taxes, sales and use taxes, and property taxes, in relation to taxpayer income and provide the tax structure study committee information on the equity of the overall distribution. Additionally, the report shall include

information on how the total state and local tax burden on Vermont households varies by income range and how the burden of each component of the overall state and local tax system is distributed across Vermont households. The report shall also include information on taxes with an initial impact on businesses, such as the corporate franchise tax and the sales tax on business purchases.

(e) Report to committee; follow-up. The tax structure study committee shall have the assistance of the department of taxes and shall meet as needed to evaluate the tax incidence study and oversee the hiring of additional consultants, as needed, to evaluate the tax incidence study required by subsection (d) of this section and provide recommendations regarding the sustainability and stability of the state's revenue system to the general assembly no later than January 15, 2010. The tax structure study committee and any independent consultants it hires shall develop proposals for changes to the state's revenue system, if any, and provide the legislature with plans for implementation of any proposed changes.

(f) In preparation for the study required by subsection (d) of this section, the department of taxes shall provide data to the consultants, which shall prepare reports on the following:

(1) Changes in personal income, arranged by decile, over the last five years;

(2) House site and homestead value arranged by adjusted gross income (AGI) and, where available, household income;

(3) Gross and net school taxes paid, arranged by adjusted gross income and, where available, by household income.

(g) For attendance at a meeting of the tax structure study committee members shall be entitled to per diem compensation and reimbursement of expenses as allowed by state law.

Sec. 9. APPROPRIATION

In addition to any other funds appropriated to the department of taxes, there is appropriated from the general fund \$200,000.00 in fiscal year 2010 for the purposes outlined in Sec. 8 of this act.

* * * Tax Expenditure Reporting Requirement * * *

Sec. 10. 32 V.S.A. § 306 is amended to read:

§ 306. BUDGET REPORT

(a) The governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her

estimates, requests and recommendations for appropriations or other authorizations for expenditures from the state treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year.

(b) The governor shall also submit to the general assembly, not later than the third Tuesday of each session of every biennium, a tax expenditure budget which shall embody his or her estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the state treasury appropriating tax expenditures as contained in the report provided for in section 312 of this chapter. The tax expenditure budget shall be provided to the members of the house committee on ways and means and the senate committee on finance, which committees will review the tax expenditures and recommend appropriations for the tax expenditures to their respective committees on appropriations.

Sec. 11. 32 V.S.A. § 307 is amended to read:

§ 307. FORM OF BUDGET

(a) The budget shall be arranged and classified so as to show separately the following estimates and recommendations:

(1) Expenses of state administration.

(2) Deficiencies, overdrafts, and unexpended balances in appropriations of former years.

(3) Bonded debt, loans and interest charges.

(4) All requests and proposals for expenditures for new projects, new construction, additions, improvements, and other capital outlay.

(5) With respect to the tax expenditure budget required under section 306(b) of this chapter, all requests and proposals for new, amended, or continued tax expenditures as reported under section 312 of this chapter.

* * *

* * * Repeal of Certain Tax Credits * * *

Sec. 12. REPEAL

(a) 32 V.S.A. § 5930v (providing an income tax credit for eligible venture capital investment) is repealed effective for tax years beginning on or after January 1, 2010.

(b) 32 V.S.A. § 3802(13) (exempting fallout shelters from property tax) is repealed for grand lists prepared for April 1, 2010 and after.

* * * Vermont State-Sponsored Credit Card Program * * *

Sec. 13. 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED CREDIT CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in a financial institution credit card program for the benefit of the residents of this state upon his or her determination that such a program is feasible and may be procured at rates and terms in the best interest of the residents of this state. In selecting a credit card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration credit card features which will enhance the promotion of the state-sponsored credit card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored credit card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating Vermont credit card holders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored credit card program.

* * * Government Licenses and Employment * * *

Sec. 14. 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE OR, GOVERNMENTAL CONTRACT, OR EMPLOYMENT

* * *

(c) Every agency shall, upon request of the commissioner, furnish a list of licenses and contracts issued or renewed by such agency during the reporting period; provided, however, that the secretary of state shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the commissioner only those certificates originally issued by the secretary of state during the reporting period and not renewals of such certificates. The lists ~~should~~ shall include the name, address, ~~social security~~ Social Security or federal identification number of such licensee or provider, and such other information as the commissioner may require.

* * *

(i) No agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date such declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the state of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in such position or who returns to any position in state government as a result of a placement right or reduction in force recall right.

* * * Unclaimed Property * * *

Sec. 15. 32 V.S.A. § 3113a is added to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX LIABILITIES

The commissioner may request from the office of the treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to section 1249 of Title 27. If any such owner owes taxes to the state, the commissioner, after notice to the owner, may request and the treasurer shall transfer the abandoned property of such owner to the department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy.

* * * Mapping Program * * *

Sec. 16. 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the ~~director shall prepare~~ center shall provide regional planning commissions, state agencies, and the general public with orthophotographic maps of the state at a scale appropriate for the production and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The ~~director~~ center shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by ~~the director~~ it of the total area of that town. Any map shall be available, without charge, for public inspection ~~both in the office of the Vermont mapping program and in the office of the~~ town clerk to whom the map was supplied.

(2) The ~~director may~~ state of Vermont shall retain the copyright of any map prepared ~~under this section by the Vermont mapping program and the center and the Vermont mapping program shall jointly own the copyright to~~ any map prepared on or after the effective date of this act.

(3) A person, who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.

(4) At a reasonable charge to be established by the center and the director, the ~~director~~ center shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section.

* * * Unorganized Towns and Gores and Unified Towns and Gores * * *

Sec. 17. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

(b) Ad hoc board for unorganized towns and gores and unified towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:

(1) the supervisor; and

(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority, representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor.

(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority.

* * * Education Property Tax Information Insert * * *

Sec. 18. 32 V.S.A. § 5402(b)(1) is amended to read:

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. ~~Each homestead property tax bill shall include a copy of the document entitled "About Your 20XX Taxes "The more you spend the more you pay", updated annually for each town by the commissioner of taxes.~~

* * * Declaration of Homestead * * *

Sec. 19. 32 V.S.A. § 5410 is amended to read:

§ 5410. DECLARATION OF HOMESTEAD

(a) A homestead owner shall declare ownership of a homestead for purposes of education property tax.

(b) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made for property that was acquired by the declarant or was made the declarant's homestead during the previous year. The declaration of homestead shall remain in effect until the earlier of:

(1) the transfer of title of all or any portion of the homestead; or

(2) that time that the property ceases to qualify as a homestead.

(c) In the event that an unsigned but otherwise completed homestead declaration is filed at the same time as the declarant's signed state income tax return, the commissioner may treat such declaration as signed by the declarant.

* * * Unrelated Business Income of Nonprofit Corporations * * *

Sec. 20. 32 V.S.A. § 5811(3) is amended to read:

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

~~(A) Railroad and insurance, surety and guaranty companies, mutual or otherwise that are taxed under chapter 211 of this title;~~

~~(B) Life, fire and marine insurance companies and mutual life, fire and marine insurance companies;~~

~~(C) Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water, mutual or cooperative telephone companies or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;~~

~~(D) Farmers', fruit growers', or like associations organized and operated on a cooperative basis:~~

~~(i) for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses, on the basis of either quantity or the value of the products furnished by them;~~

~~(ii) for the purpose of purchasing supplies and equipment for the use of the members and other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; or~~

~~(iii) for the purpose of processing, preparing for market, or marketing handcraft products as defined in section 991 of Title 11 of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses;~~

~~(E) Credit unions organized under chapter 71 of Title 8 and federal credit unions;~~

~~(F)~~(C) Nonprofit hospital service corporations organized under chapter 123 of Title 8;

~~(G)(D)~~ Nonprofit medical service corporations organized under chapter 125 of Title 8;

~~(H)~~ Free public library corporations organized under chapter 3 of Title 22;

~~(I)~~ Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;

~~(J)~~ Sanitary corporations and corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

~~(K)~~ Business organizations, chambers of commerce or boards of trade and area development organizations not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

~~(L)~~ Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;

~~(M)~~ Clubs organized and operated exclusively for pleasure and recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; or

~~(N)~~ Any political organization which is exempt from or does not owe any federal income taxes as provided in the federal internal revenue code.

Sec. 21. 32 V.S.A. § 5811(18) is amended to read:

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

* * *

(D) For a corporation with federal exempt status, “Vermont net income” means all income that is subject to federal income tax, including unrelated business income under Section 511 of the Internal Revenue Code and any income arising from debt-financed property subject to taxation under Section 514 of the Internal Revenue Code.

* * * Annual Update of Links to Federal Law * * *

Sec. 22. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2007~~ 2008, but without regard to federal income tax

rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Digital Business Entities* * *

Sec. 23. LEGISLATIVE INTENT

The purpose of the following sections of this act concerning digital business entities is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. 24. 32 V.S.A. § 5811(26) is added to read:

(26) “Digital business entity” means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this state which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. 25. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) \$250.00 for all other corporations.

Sec. 26. 32 V.S.A. § 5911 is amended to read:

§ 5911. TAXATION OF AN S CORPORATION AND ITS SHAREHOLDERS

(a) An S corporation shall not be subject to the tax imposed by section 5832 of this title, except to the extent of income taxable to the corporation under the provisions of the Internal Revenue Code.

(b) For the purposes of section 5823 of this title, each shareholder's pro rata share of the S corporation's income attributable to Vermont and each resident shareholder's pro rata share of the S corporation's income not attributable to Vermont shall be taken into account by the shareholder in the manner provided in Section 1366 of the Code.

(c) An S corporation and its shareholders shall not be subject to the tax imposed by section 5832 of this title or to the provisions of this subchapter if the S corporation qualifies as and elects to be taxed as a digital business for the taxable year; but such corporation shall be subject to the reporting requirements of this chapter, and its shareholders shall file a report of income received from such S corporation during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. 27. 32 V.S.A. § 5921a is added to read:

§ 5921a. DIGITAL BUSINESS ENTITY ELECTION

A partnership or limited liability company and its partners or members shall not be subject to the tax imposed by section 5832 of this title or to provisions of this subchapter if the partnership or company qualifies as and elects to be taxed as a digital business entity for the taxable year; but such partnership shall be subject to the reporting requirements of this chapter, and its partners shall file a report of income received from such partnership during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. 28. 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall report its income to the commissioner as provided in section 5862 of this chapter.

* * * Trustee Process * * *

Sec. 29. 32 V.S.A. § 5892 is amended to read:

§ 5892. ACTION TO COLLECT TAXES; LIMITATIONS

(a) Action may be brought by the attorney general of the state at the instance of the commissioner in the name of the state to recover the amount of the tax liability of any taxpayer, if the action is brought within six years after the date the tax liability was collectible under section 5886 of this title. The action shall be returnable in the county where the taxpayer resides or has a place of business, and if the taxpayer neither resides nor has a place of business in this state, the action shall be returnable in Washington ~~county~~ County.

(b) Notwithstanding sections 3167 and 3168 of Title 12, a motion may be brought by the attorney general of the state at the instance of the commissioner in the name of the state for issuance of trustee process at the same time as an action is brought under subsection (a) of this section, and, if judgment is granted in that action, the court may proceed immediately to hear and render a decision on the trustee process.

* * * Property Tax Adjustments * * *

Sec. 30. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive total adjustments under this chapter in excess of ~~\$8,000.00~~ \$10,000.00 related to any one property tax year.

Sec. 31. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by September 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~December 31~~ September 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

* * *

(4) If the property tax adjustment amount as described in subsection ~~(b)~~(e) of this section exceeds the property tax, penalties and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification by the commissioner of education, whichever is later.

* * *

* * * Estate Tax * * *

Sec. 32. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be a sum equal to the amount ~~by which~~ of the credit for state death taxes allowable to a decedent's

estate under Section 2011, ~~as in effect on January 1, 2001,~~ of the Internal Revenue Code, ~~hereinafter sometimes referred to as the "credit," exceeds the lesser of as in effect on January 1, 2001.~~ This base amount shall be reduced by the lesser of the following:

(1) The total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this state. The amount of this tax shall be a sum equal to the proportion of the ~~credit~~ base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this state bears to the value of the decedent's total gross estate for federal estate tax purposes.

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by Section 2001 of the Internal Revenue Service Code calculated using the applicable credit amount under Section 2010 as in effect on January 1, 2008, with no deduction under Section 2058.

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. 33. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

In all cases where ~~the federal gross estate at the time of the death of the decedent exceeds the applicable federal exclusion amount or where the estate is subject to federal estate tax~~ a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the estate tax imposed by this chapter. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the commissioner such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. 34. 32 V.S.A. § 7445 is amended to read:

§ 7445. COPIES OF FEDERAL ESTATE TAX RETURNS TO BE FILED

It shall be the duty of the executor of every person who may die a resident of Vermont or a nonresident with real estate or tangible personal property having an actual situs in Vermont to file with the commissioner a duplicate of all federal estate tax returns which he or she is required to make to the federal authorities, or, if no federal estate tax return is required, a pro forma federal estate tax return for the estate of a decedent with a Vermont estate tax liability shall be filed with the commissioner.

Sec. 35. 32 V.S.A. § 7446 is amended to read:

§ 7446. WHEN RETURNS TO BE FILED

The estate tax return required under section 7444 of this title shall be filed at the time the federal estate tax return is required to be filed under the laws of the United States, including any extensions of time for filing granted by the federal authorities within nine months of the death of the decedent. Prior to expiration of the filing period, executors may apply for a six-month extension.

Sec. 36. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on January 1, ~~2008~~ 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) ~~with~~ the credit for state death taxes shall remain as provided for under Section Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable credit amount shall remain as provided for under section 2010 of the Internal Revenue Code, as in effect on January 1, 2008; and

(3) ~~without any the~~ deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

* * * Tobacco Tax * * *

Sec. 37a. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

* * *

(13) “Moist snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of no less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

* * *

(15) “Tobacco products” means ~~eigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner; but shall not include cigarettes, little cigars, roll-your-own tobacco, moist snuff, or new smokeless tobacco as defined in this section.

* * *

(20) “New smokeless tobacco” means any tobacco product manufactured from, derived from, or containing tobacco that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units.

Sec. 37b. 32 V.S.A. § 7771(c) is amended to read:

(c) The tax imposed under this section shall be at the rate of ~~89.5~~ 112 mills per cigarette or little cigar and for each 0.09 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 37c. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax ~~on~~ is intended to be imposed only once upon the wholesale sale of any tobacco ~~products~~ product and shall be at the

rate of ~~41~~ 92 percent of the wholesale price for all tobacco products except moist snuff, which shall be taxed at \$1.66 per ounce, or fractional part thereof, ~~and is intended to be imposed only once upon any tobacco product and new smokeless tobacco, which shall be taxed at the greater of \$1.66 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of \$1.99 per package.~~ Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 38. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

* * *

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and on which cigarette stamps have been affixed before July 1, ~~2006~~ following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.60~~ \$0.24 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2006~~ following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2006~~ following enactment of this act, and thereafter shall bear interest at the rate established under section

3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * * Electronic Filing of Property Transfer Tax * * *

Sec. 39. DEVELOPMENT OF ELECTRONIC SYSTEM FOR FILING AND PAYING PROPERTY TRANSFER TAXES

No later than August 1, 2009, the department of taxes shall file with the joint fiscal committee an implementation plan for the electronic filing of property transfer tax returns and the electronic payment of property transfer taxes.

* * *

* * * Sales and Use Tax on Digital Downloads * * *

Sec. 40. 32 V.S.A. § 9701(45), (46), and (47) are added to read:

(45) Transferred electronically: means obtained by the purchaser by means other than tangible storage media.

(46) Specified digital products: means digital audio-visual works, digital audio works, digital books, or ringtones that are transferred electronically.

(A) Digital audio-visual works: means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) Digital audio works: means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones;

(C) Digital books: means works that are generally recognized in the ordinary and usual sense as "books."

(D) Ringtones: means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(47) End user: means any person other than a person who received by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

* * *

Sec. 41. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this state. The tax shall be paid at the rate of six percent of the sales price charged for, but in no case shall any one transaction be taxed under more than one of, the following:

* * *

(8) Specified digital products transferred electronically to an end user.

Sec. 41a. 32 V.S.A. § 9772 is amended to read:

§ 9772. AMOUNT OF TAX TO BE COLLECTED

(a) For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the vendor shall ~~use either the calculation in subdivision (1) of this subsection or the formula in subdivision (2). The tax required to be remitted shall be the rate specified in section 9771 of this title multiplied by the total sales price of all the taxable transactions; provided, however, the tax required to be remitted shall be no more than the amount required to be collected. The vendor shall be entitled to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter.~~

~~(1) The multiply the total sales price of all the transaction multiplied transactions taxable by the rate specified in section 9771 of this title carried to the third decimal place and rounded up to the nearest whole cent if the third decimal point is greater than four and rounded down to the nearest whole cent if the third decimal point is four or less. The tax may be computed on either the total invoice amount or on each taxable item.~~

Amount of Sale	Amount of Tax
\$0.01-0.10	No Tax
0.11-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-1.00	.06

~~In addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the following formula:~~

\$ 0.01-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-0.99	.06

* * *

Sec. 42. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this state, except as otherwise exempted under this chapter:

* * *

(2) Of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business; ~~and~~

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; and

(4) Specified digital products transferred electronically to an end user.

* * * Sales Tax on Clothing Costing \$110.00 or More * * *

Sec. 42a. 32 V.S.A. § 9741(45) is amended to read:

(45) ~~Clothing~~ Each article of clothing with a purchase price of \$110.00 or less; but clothing shall not include clothing accessories or equipment, protective equipment, or sport or recreational equipment.

* * * Returns Upon Business Closing * * *

Sec. 43. 32 V.S.A. § 9775 is amended to read:

§ 9775. RETURNS

(a) Except as otherwise provided in this section, every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) \$500.00 or less, pay the tax imposed by this chapter in one annual payment on or before the 25th day of January of each year. Every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$500.00 but less than \$2,500.00, pay the tax imposed by this chapter in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December of each year. In all other cases, except as provided in ~~subsection~~ subsections (e) and (g) of this section, the tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. Payment by electronic funds transfer does not affect the requirement to file returns. The return of a vendor of tangible personal property shall show such information as the commissioner may require.

* * *

(g) A person required to report sales and use tax annually who cancels his, her, or its sales and use tax account shall file a final return not later than 60 days after such cancellation.

* * * Land Gains Tax * * *

Sec. 44. 32 V.S.A. § 10009(b) is amended to read:

(b) All the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the commissioner of the withholding tax and the income tax, and of chapter 103, including those relating to interest and penalty charges, shall apply to the tax imposed by this chapter.

* * * Education Property Tax Rates * * *

Sec. 45. FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATE REDUCTION

(a) For fiscal year 2010 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.34 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.85 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized property value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2010 only, “applicable percentage” in subdivision 6066(a)(2) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

* * * VHFA: Moral Obligation for Pledged Equity Funds * * *

Sec. 46. FINDINGS AND INTENT

Moral obligation of the state is used by municipal bond insurers, such as the Vermont Housing and Finance Agency (VHFA), as a discretionary capitalization obligation. By expanding VHFA’s ability to pledge the state’s existing commitment of moral obligation without increasing the amount of the state’s existing potential obligation, the general assembly can provide VHFA with another tool to increase confidence and attract new financial partners so that the agency can continue its housing programs for low- and moderate-income Vermonters, even in these challenging economic times.

Sec. 47. 10 V.S.A. § 631(f) is amended to read:

(f) The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, ~~which shall thereupon be cancelled, at a price not exceeding:~~ as shall be determined in the economic best interests of the agency.

~~(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or~~

~~(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.~~

Sec. 48. REPEAL

10 V.S.A. § 632 (authorizing the Vermont housing and finance agency to establish reserve funds) is repealed.

Sec. 49. 10 V.S.A. § 632a is added to read:

§ 632a. RESERVE AND PLEDGED EQUITY FUNDS

(a) The agency may create and establish one or more special funds, herein referred to as “debt service reserve funds” or “pledged equity funds.”

(b) The agency shall pay into each debt service reserve fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing their issuance; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any debt service reserve fund created and established under this section except as hereinafter provided shall be used, as required, solely for the payment of the principal of the bonds, notes, or other debt instruments secured in whole or in part by such fund or of the payments with respect to the bonds, notes, or other debt instruments specified in any resolution of the agency as a sinking fund payment, the purchase or redemption of the bonds, the payment of interest on the bonds, notes, or other debt instruments, or the payment of any redemption premium required to be paid when the bonds, notes, or other debt instruments are redeemed prior to maturity, or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the agency’s behalf; provided, however, that the moneys or financial instruments in any such debt reserve fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the agency for such fund as provided in this section except for the purpose of paying, when due, with respect to bonds secured in whole or in part by such fund, the principal, interest, redemption premiums, and sinking fund payments and of reimbursing, when due, the issuer of any credit enhancement for any such payments made by it, for the payment of which other moneys of the agency are not available. Any income or interest earned by or increment to any debt service reserve fund due to the investment thereof may be transferred by the agency to other funds or

accounts of the agency to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(c) The agency shall pay into each pledged equity fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any pledged equity fund created and established under this section except as provided in this section shall be used, as required, solely to provide pledged equity or over-collateralization of any trust estate of the agency to the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement obtained by the agency; provided, however, that the moneys or financial instruments in any pledged such equity fund shall not be drawn upon or withdrawn from such fund at any time in such amounts as would reduce the amount of such funds to less than the pledged equity requirement established by resolution of the agency for such fund as provided in this section except for the purposes set forth in and in accordance with the governing resolution. Any income or interest earned by or increment to, any pledged equity fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such pledged equity fund below the requirement for such fund. Anything in this subdivision to the contrary notwithstanding, upon the defeasance of the bonds, notes, or other debt instruments with respect to which the pledged equity requirement was established, the agency may transfer amounts in such fund to another fund or account of the agency proportionately to the amount of such defeasance; provided that the agency shall repay to the state any amount appropriated by the state pursuant to subsection (f) of this section.

(d) The debt service reserve and pledged equity requirements for any fund established under this section shall be established by resolution of the agency prior to the issuance of any bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or prior to entering into any credit enhancement agreement and shall be the amount determined by the agency to be reasonably required in light of the facts and circumstances of the particular debt issue or credit enhancement; provided that the maximum amount of the state's commitment with respect to any pledged equity fund

shall be determined by the agency at or prior to entering into any credit enhancement agreement related to such pledged equity fund. The agency shall not at any time issue bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or enter into any credit enhancement agreement that requires establishment of a pledged equity fund created and established under this section unless:

(1) the agency at the time of such issuance or execution shall deposit in such fund from the proceeds of such bonds, notes, or other debt instruments or from other sources an amount which, together with the amount then in such fund, will not be less than the requirement established for such fund at that time;

(2) the agency has made a determination at the time of the authorization of the issuance of such bonds, notes, or other debt instruments or at the time of entering into such credit enhancement agreement that the agency will derive revenues or other income from the mortgage loans that secure such bonds, notes, or other debt instruments or that relate to any credit enhancement agreement sufficient to provide, together with all other available revenues and income of the agency other than any amounts appropriated by the state pursuant to this section for the payment or purchase of such bonds, notes, and other debt instruments and reimbursement to the issuer of any credit enhancement the payment of any expected deposits into any pledged equity fund established with respect to such credit enhancement, and the payment of all costs and expenses incurred by the agency with respect to the program or purpose for which such bonds, notes, or other debt instruments are issued; and

(3) the state treasurer or his or her designee has provided written approval to the agency that the agency may issue such bonds, notes, or other debt instruments and enter into any related credit enhancement agreement.

(e) In computing the amount of the debt service reserve or pledged equity funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as that term is defined by resolution of the agency, if purchased at other than par.

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the

president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. 50. SAVINGS CLAUSE

Nothing in Sec. 49 of this act shall be construed to impair the obligation of any preexisting contract or contracts entered into by the agency or by the state.

* * * Tax on Spirituous Liquor * * *

Sec. 51. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of spirituous liquor as defined in section 2 of this title other than fortified wine, sold by or through the liquor control board in accordance with the provisions of this title. A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of fortified wine so sold.

* * * Flavored Malt Beverages * * *

Sec. 52. 7 V.S.A. § 2(33) is added to read:

(33) "Flavored malt beverage" a beverage that complies with all the following:

(A) The beverage contains at least 0.5 percent alcohol.

(B) The beverage is processed by filtration or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as defined in 27 C.F.R. Sec. 25.55.

(C) A flavoring or other ingredient additive that contains alcohol, except for a hop extract, has been added to the beverage.

(D) The producer is required to file a formula for approval with the U.S. Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55, or the beverage is not exempt under 27 C.F.R. Sec. 25.55(f).

Sec. 53. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT ~~AND BEVERAGES~~, VINOUS BEVERAGES, ~~AND FLAVORED MALT BEVERAGES~~

(a) Every bottler and wholesaler shall pay to the commissioner of taxes the following amounts for beverages sold to retailers:

(1) For malt beverages containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit, the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt beverage containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the state and .

(2) For malt beverages containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and for vinous beverages, the sum of 55 cents per gallon for each gallon of malt beverage containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous.

~~beverages sold by them to retailers in the state and shall also pay to the liquor control board all fees for bottler's and wholesaler's licenses.~~

(3) For flavored malt beverages, the sum of \$1.54 per gallon.

* * *

* * * Capital Gains Tax Exemption * * *

Sec. 54. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations; and

(ii) the first \$5,000.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code ~~40 percent of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code, but the total amount of decrease under this subdivision (ii) shall not exceed 40 percent of federal taxable income.~~

* * * Reduction of Income Tax Rates * * *

Sec. 55. REDUCTION OF PERSONAL INCOME TAX RATES

For taxable year 2009 and subsequent taxable years, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without this amendment, would be subject to tax at the following rate:

That taxable income shall instead be taxed at the following rate:

3.60%
7.20%
8.50%
9.00%
9.50%

3.50%
7.10%
8.25%
8.75%
8.95%

* * * Satellite Television Tax * * *

Sec. 56. 32 V.S.A. chapter 242 is added to read:

CHAPTER 242. TAX ON SATELLITE TELEVISION PROGRAMMING

Subchapter 1. General Provisions

§ 10401. DEFINITIONS

Unless otherwise provided, the following terms when used in this chapter have the following definitions:

(1) “Distributor” means any person engaged in the business of making satellite programming available for purchase by subscribers.

(2) “Satellite programming” means radio and television audio and video programming services distributed or broadcast by satellite directly to the subscriber’s receiving equipment.

§ 10402. GENERAL POWERS OF THE COMMISSIONER

In addition to other powers granted in this chapter, the commissioner may:

(1) Prescribe methods for determining the amount of gross receipts subject to tax.

(2) Require any person required to pay the tax imposed under this chapter to keep detailed records of all receipts received, charged, or accrued, including those claimed to be nontaxable, and of other facts relevant in determining the amount of tax due and to furnish that information upon request to the commissioner.

§ 10403. LIABILITY FOR TAX

Every distributor required by this chapter to pay the tax imposed by this chapter shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title; and if the distributor is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to collect the tax and transmit it to the commissioner as required in this chapter.

§ 10404. RECORDS TO BE KEPT

Every person required to collect any tax imposed by this chapter shall keep records of its gross receipts and of the tax payable thereon in such form as the commissioner may by regulation require. The records shall be available for inspection and examination at any time upon demand by the commissioner or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner may consent to their destruction within that period or may require that they be kept longer.

Subchapter 2. Exemptions§ 10441. TRANSACTIONS NOT COVERED

This chapter shall not cover the following transactions:

(1) Transactions that are not within the taxing power of this state under the Constitution of the United States.

(2) The provision of satellite programming to a person for resale in the ordinary course of business.

Subchapter 3. Imposition, Rate, and Payment of Tax§ 10471. IMPOSITION OF TAX

Except as otherwise provided in this chapter, there is imposed a tax on the provision of satellite programming to a subscriber located in this state. The tax shall be paid by the distributor at the rate of five percent of all gross receipts derived by the distributor from the provision of satellite programming to the subscribers within this state.

§ 10472. RETURNS

(a) Except as otherwise provided in this section, every distributor subject to taxation under section 10471 of this title shall file a return with the commissioner stating the gross receipts derived by the distributor during each calendar quarter on or before the 25th day of the calendar month following such calendar quarter.

(b) The commissioner may permit or require returns to be made covering other periods and upon such dates as he or she may specify. In addition, the commissioner may require payments of tax liability at the intervals and based upon the classifications as he or she may designate. In prescribing the other periods to be covered by the return or intervals or classifications for payment of tax liability, the commissioner may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the commissioner and shall contain such information as he or she may deem necessary for the proper administration of this chapter. The commissioner may require returns and amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(d) Upon the failure of a taxpayer to file any return required under this chapter within 20 days of the date of a notice to the taxpayer under subsection (c) of this section, the commissioner may petition a judge of the superior court in the county wherein the taxpayer has a place of business or, if the taxpayer

has no place of business in this state, the commissioner may petition the Washington superior court, and upon the petition of the commissioner and a hearing, the judge shall issue a citation requiring the taxpayer and, if the taxpayer is a corporation, any principal officer of such corporation to file a proper return in accordance with this chapter upon pain of contempt. The order of notice upon the petition shall be returnable not later than 20 days after the filing of the petition. The petition shall be heard and determined on the return day or on a day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. The commissioner's authority to petition under this subsection is in addition to the commissioner's authority under subsection 10475(a) of this chapter to compute the tax liability of a taxpayer who fails to file a required return or files an incorrect or insufficient return.

§ 10473. PAYMENT OF TAX

Every person required to file a return under this chapter shall, at the time of filing the return, pay to the commissioner the tax imposed by this chapter. The commissioner may require payment by electronic funds transfer from any taxpayer who is required by federal tax law to pay any federal tax in that manner or from any taxpayer who has submitted to the tax department two or more protested or otherwise uncollectible checks with regard to any state tax payment in the prior two years. All the taxes for the period for which a return is required to be filed or for such lesser interval as shall have been designated by the commissioner shall be due and payable to the commissioner on the date limited for the filing of the return for that period or on the date limited for such lesser interval as the commissioner has designated, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of gross receipts or the taxes due thereon.

§ 10474. DETERMINATION OF TAX OR PENALTY

(a) If a return required by this chapter is not filed or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the commissioner from any information available. Notice of the determination shall be given to the person liable for the payment of the tax. The determination shall finally and irrevocably fix the tax within 60 days after giving notice of the determination unless the person against whom it is assessed shall apply in writing to the commissioner for a hearing or unless the commissioner of his or her own motion shall redetermine the tax. After the hearing the commissioner shall give notice of his or her determination to the person against whom the tax is assessed.

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner, if he or she believes the collection from a taxpayer of any deficiency, penalty, or interest to be in jeopardy, may demand in writing that the taxpayer pay the deficiency, penalty, or interest forthwith. The demand may be made concurrently with or after the notice of deficiency or the assessment of penalty or interest given to the taxpayer under subsection (a) of this section. The amount of deficiency, penalty, or interest shall be collectible by the commissioner on the date of the demand unless the taxpayer files with the commissioner a bond in an amount equal to the deficiency, penalty, or interest sought to be collected as security for such amount as finally may be determined.

§ 10475. REFUNDS

(a) As provided in this section, the commissioner shall refund or credit any tax, penalty, or interest erroneously, illegally, or unconstitutionally paid if application to the commissioner for the refund shall be made within three years from the date the return was required to be filed; provided that the application is made within three years of the payment. The commissioner may, in lieu of any refund, allow credit on payments due from the applicant.

(b) A person shall not be entitled to a revision, refund, or credit under this section of a tax, interest, or penalty which had been determined to be due pursuant to the provisions of section 10474 of this title where he or she has had a hearing or an opportunity for a hearing as provided in that section or has failed to avail himself or herself of the remedies therein provided. No refund or credit shall be made of a tax, interest, or penalty paid after a determination by the commissioner made under section 10474 unless it is found that the determination was erroneous, illegal, or unconstitutional or otherwise improper pursuant to law, in which event refund or credit shall be made of the tax, interest, or penalty found to have been overpaid.

(c) If the commissioner determines on a petition for refund or otherwise that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state with respect to the current and all preceding taxable periods under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established from time to time by the commissioner pursuant to section 3108 of this title. That interest shall be computed from 45 days after the date the return was filed or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made, whichever is the later date.

Subchapter 4. Enforcement and Penalties§ 10511. PROCEEDINGS TO RECOVER TAX

(a) Whenever any person required to pay a tax under this chapter shall fail to pay any tax, penalty, or interest imposed by this chapter, the attorney general shall, upon the request of the commissioner, enforce the payment thereof on behalf of the state in any court of the state or of any other state of the United States.

(b) As an additional or alternate remedy, the commissioner may issue a warrant, directed to the sheriff of any county commanding him or her to levy upon and sell the real and personal property of any person liable for the tax, which may be found within his or her county, for the payment of the amount thereof with any penalties and interest and the cost of executing the warrant and to return the warrant to the commissioner and to pay to him or her the money collected by virtue thereof within 60 days after the receipt of the warrant. The sheriff shall within five days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon the clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties, and interest for which the warrant is issued and the date on which the copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and, for services in executing the warrant, he or she shall be entitled to the same fees which he or she may collect in the same manner. If a warrant is returned not satisfied in full, the commissioner may from time to time issue new warrants and shall also have the same remedies to enforce the amount due as if the state had recovered judgment therefor and execution had been returned unsatisfied.

§ 10512. ACTIONS FOR COLLECTION OF TAX

Action may be brought by the attorney general at the instance of the commissioner in the name of the state to recover the amount of taxes, penalties, and interest due from a distributor, provided such action is brought within six years after the same are due. Such action shall be returnable in the county where the distributor has a place of business or, if the distributor has no place of business in this state, the action shall be returnable to Washington County. The limitation of six years in this section shall not apply to a suit to collect taxes, penalties, interest, and costs when the distributor filed a fraudulent return or failed to file a return when due.

§ 10513. PRESUMPTIONS AND BURDEN OF PROOF

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all gross receipts from the provision of satellite programming are subject to tax until the contrary is established, and the burden of proving that any receipt or amusement charge is not taxable hereunder shall be upon the person required to collect tax.

(b) The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied under this chapter shall be presumptive evidence thereof.

§ 10514. CRIMINAL PENALTIES

(a) Failure to file; failure to remit. Any person who knowingly fails to file a return or fails to remit a tax required under this subchapter shall be imprisoned not more than three years or fined not more than \$10,000.00 or both.

(b) Any person who knowingly makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than \$1,000.00 or both. Any person who with intent to evade a tax liability makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall, if the amount of tax evaded is in excess of \$500.00, be imprisoned not more than three years or fined not more than \$10,000.00 or both.

§ 10515. NOTICE AND LIMITATIONS OF TIME

(a) Any notice under this chapter may be given by mailing it to the person for whom it is intended in a postpaid envelope addressed to that person at the address given in the last return filed by him or her under this chapter or in any application made by him or her or, if no return has been filed or application made, then to any address obtainable. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it is addressed. Any period of time which is determined under this chapter by the giving of notice shall commence to run from the date of mailing of the notice.

(b) The provisions of law relating to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the state or the commissioner to levy, appraise, assess, determine, or enforce the collection of any tax or penalty under this chapter. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the later of the date of the filing of a return or the date a return is due; provided, however, that when no return has been filed as provided by

law, the tax may be assessed at any time and further provided that where tax collected under this chapter has been underreported by 20 percent or more, such tax may be assessed at any time before the expiration of six years from the date of the filing of the return.

(c) When, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that the period be extended, the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. If a taxpayer has consented in writing to the extension of the period for assessment, the period for filing an application for credit or refund pursuant to section 10476 of this title shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the consent to extend the time for assessment of additional tax.

§ 10516. REVIEW OF COMMISSIONER'S DECISION

(a) Any aggrieved taxpayer may, within 30 days after any decision, order, finding, assessment, or action of the commissioner made under this chapter, appeal to the superior court. The appellant shall give security, approved by the commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs, as set forth in subsection (c) of this section.

(b) The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a decision of the commissioner determining the liability of the taxpayer for the taxes imposed.

(c) Notwithstanding any restrictions on the assessment and collection of deficiencies, the commissioner may assess a deficiency after the expiration of the period specified in subsection (a) of this section, notwithstanding that a notice of appeal regarding the deficiency has been filed by the taxpayer unless the taxpayer, prior to the time the notice of appeal is filed, has paid the deficiency, has deposited with the commissioner the amount of the deficiency, or has filed with the commissioner a bond, which may be a jeopardy bond, in the amount of the portion of the deficiency including interest and other amounts in respect of which review is sought and all costs and charges which may accrue against the taxpayer in the prosecution of the proceeding, including costs of all appeals, and with surety approved by the county court conditioned upon the payment of the deficiency including interest and other amounts as finally determined and all costs and charges. If, as a result of a waiver of the restrictions on the assessment and collection of a deficiency, any part of the amount determined by the commissioner is paid after the filing of the appeal bond, the bond shall, at the request of the taxpayer, be proportionately reduced.

§ 10517. LIENS

If any person required to pay a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Vermont upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner of taxes and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. Such lien shall have the same force and effect as the lien for taxes under chapter 151 of this title as provided in section 5895 of this title, and notice of such lien shall be recorded as is provided in that section. Certificates of release of such lien shall also be given by the commissioner as in the case of the aforesaid tax liens.

* * * Limitation on Use Value Property Tax Reduction * * *

Sec. 57. 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the per-acre fair market value of the total enrolled acres in any one parcel exceeds \$4,000.00, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner under chapter 154 of this title; and the payment to any municipality under section 3760 of this chapter shall be adjusted accordingly.

Sec. 58. EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. 17 (establishing an ad hoc board of civil authority for unorganized towns and gores and unified towns and gores) shall apply to appeals filed on or after July 1, 2009.

(2) Sec. 18 (repealing tax information insert) shall apply to homestead property tax bills mailed in 2009 and after.

(3) Sec. 19 (homestead declaration) shall apply to homestead declarations filed for tax year 2008 and after.

(4) Secs. 20 and 21 (taxation of unrelated business income of nonprofit corporations) shall take effect for taxable years beginning on and after January 1, 2010.

(5) Sec. 22 (update of link to federal income tax laws) shall apply to taxable years beginning on and after January 1, 2008.

(6) Secs. 24–28a (digital business entities) shall take effect on January 1, 2010.

(7) Sec. 30 (income sensitivity adjustment limit) shall apply to income sensitivity adjustments made in 2009 and after.

(8) Sec. 31 (deadline for notice from department to towns regarding adjustment amounts) shall apply to homestead declarations filed in 2009 and after.

(9) Secs. 32–36 (estate taxes) shall apply to estates of individuals dying on or after January 1, 2009.

(10) Secs. 37–38 (tobacco tax) shall take effect July 1, 2009.

(11) Secs. 40–42 (sales and use tax on digital downloads) shall take effect on July 1, 2009.

(12) Sec. 43 (cancellation of sales and use tax account) shall take effect with respect to cancellations on or after July 1, 2009.

(13) Sec. 51 (tax on spirituous liquor) shall take effect on July 1, 2009.

(14) Secs. 52 and 53 (flavored malt beverages) shall take effect on July 1, 2009.;

(15) Sec. 54 (capital gains exemption) shall take effect for taxable years beginning on or after January 1, 2009.

(16) Sec. 56 (satellite television tax) shall take effect on July 1, 2009.

(17) Sec. 57 (limitation on use value property tax reduction) shall apply to property tax bills issued in calendar 2010 and thereafter.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Shumlin, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, Senator McCormack moved to amend the proposal of amendment of the Committee on Finance by striking out Sec. 42a [sales tax on clothing], Sec. 52 [flavored malt drinks tax], Sec. 55 [lowering marginal rates] and Sec. 57 [limitation on use value reductions] in their entirety.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Finance be amended as recommended by Senator McCormack?,

Senator McCormack requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the pending question Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, was agreed to on a roll call, Yeas 18, Nays 12.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Miller, Nitka, Sears, Shumlin, *Snelling, White.

Those Senators who voted in the negative were: Ashe, Brock, *Choate, Doyle, MacDonald, Maynard, Mazza, McCormack, Mullin, Racine, Scott, Starr.

*Senator Choate explained his vote as follows:

“Mr. President:

“This is a very difficult vote for me. I hope that as this process moves forward we can find additional savings and efficiencies before we turn to raising more revenue.”

*Senator Snelling explained her vote as follows:

“Mr. President:

“This has been an extraordinarily difficult year to serve on the Appropriations Committee. The budget has seemed to be a constantly moving target, and yet I do believe in presenting a balanced budget. Unfortunately we need this bill to be in balance. My hope is that we can reach a better conclusion in conference.”

Thereupon, third reading of the bill was ordered.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 441.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act making appropriations for the support of government.

Was taken up for immediate consideration.

Senator Bartlett, for the Committee on Appropriations, to which the bill was referred, reported recommending 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. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2010 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2010. It is the express intent of the general assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2009. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2010 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the general assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the general assembly that this act serve as the primary source and reference for appropriations for fiscal year 2010.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single year appropriations only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the commissioner of finance and management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2010.

Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the state for services or supplies, and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities, office and other supplies, equipment including motor vehicles, highway materials and construction, expenditures for the purchase of land, and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, and contracted third party services, and similar items.

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the state appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2010 the governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may accept federal funds available to the state of Vermont including block grants in lieu of or in addition to funds herein designated as federal. The governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2010, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2009 session of the Vermont general assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The governor may spend such funds for such purposes for no more than 45 days prior to legislative or joint fiscal committee approval. Notice shall be given to the joint fiscal committee without delay if the governor intends to use the authority granted by this section, and the joint fiscal committee shall meet in an expedited manner to review the governor's request for approval.

Sec. A.107 DEPARTMENTAL RECEIPTS

(a) All receipts shall be credited to the general fund except as otherwise provided and except the following receipts, for which this subsection shall constitute authority to credit to special funds:

- (1) Connecticut River flood control
- (2) Public service department - sale of power
- (3) Tax department - unorganized towns and gores.

(b) Notwithstanding any other provision of law, departmental indirect cost recoveries (32 V.S.A. § 6) receipts are authorized, subject to the approval of the secretary of administration, to be retained by the department. All recoveries not so authorized shall be covered into the general fund, or, for agency of transportation recoveries, the transportation fund.

Sec. A.108 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2010 except for new positions authorized by the 2009 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

Sec. A.109 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriations of funds. The sections between E.100 and E.9999 contain language that relates to specific appropriations and/or government functions. The function areas by section numbers are as follows:

Sec. B.100 Secretary of administration - secretary's office

Personal services	795,758
Operating expenses	<u>69,411</u>
Total	865,169
Source of funds	
General fund	676,776
Global Commitment fund	<u>188,393</u>
Total	865,169

Sec. B.101 Information and innovation - communications and information technology

Personal services	6,816,269
Operating expenses	2,749,899
Grants	<u>750,000</u>

Total	10,316,168
Source of funds	
General fund	97,094
Internal service funds	9,698,448
Interdepartmental transfers	<u>520,626</u>
Total	10,316,168
Sec. B.102 Information and innovation - health care information technology	
Personal services	90,000
Grants	<u>2,865,674</u>
Total	2,955,674
Source of funds	
Special funds	2,616,174
Global Commitment fund	<u>339,500</u>
Total	2,955,674
Sec. B.103 Finance and management - budget and management	
Personal services	1,011,091
Operating expenses	<u>145,343</u>
Total	1,156,434
Source of funds	
General fund	778,405
Global Commitment fund	63,375
Interdepartmental transfers	<u>314,654</u>
Total	1,156,434
Sec. B.104 Finance and management - financial operations	
Personal services	2,666,280
Operating expenses	<u>205,538</u>
Total	2,871,818
Source of funds	
Internal service funds	<u>2,871,818</u>
Total	2,871,818
Sec. B.105 Human resources - operations	
Personal services	2,460,443
Operating expenses	<u>625,941</u>
Total	3,086,384
Source of funds	
General fund	1,888,503
Special funds	280,835
Interdepartmental transfers	<u>917,046</u>
Total	3,086,384

 Sec. B.107 Human resources - employee benefits & wellness

Personal services	1,655,935
Operating expenses	<u>395,438</u>
Total	2,051,373
Source of funds	
Internal service funds	2,011,520
Interdepartmental transfers	<u>39,853</u>
Total	2,051,373

Sec. B.108 Libraries

Personal services	2,078,222
Operating expenses	1,561,712
Grants	<u>62,500</u>
Total	3,702,434
Source of funds	
General fund	2,616,539
Special funds	132,500
Federal funds	855,215
Interdepartmental transfers	<u>98,180</u>
Total	3,702,434

Sec. B.109 Tax - administration/collection

Personal services	12,047,125
Operating expenses	<u>2,992,665</u>
Total	15,039,790
Source of funds	
General fund	13,593,386
Special funds	1,191,404
Tobacco fund	58,000
Interdepartmental transfers	<u>197,000</u>
Total	15,039,790

Sec. B.110 Buildings and general services - administration

Personal services	1,371,967
Operating expenses	<u>98,823</u>
Total	1,470,790
Source of funds	
Interdepartmental transfers	<u>1,470,790</u>
Total	1,470,790

 Sec. B.111 Buildings and general services - engineering

Personal services	1,989,475
Operating expenses	<u>418,865</u>
Total	2,408,340
Source of funds	
General fund	1,658,340
Interdepartmental transfers	<u>750,000</u>
Total	2,408,340

Sec. B.112 Buildings and general services - information centers

Personal services	3,331,451
Operating expenses	1,333,949
Grants	<u>45,000</u>
Total	4,710,400
Source of funds	
General fund	4,660,400
Special funds	<u>50,000</u>
Total	4,710,400

Sec. B.113 Buildings and general services - purchasing

Personal services	671,569
Operating expenses	<u>204,881</u>
Total	876,450
Source of funds	
General fund	<u>876,450</u>
Total	876,450

Sec. B.114 Buildings and general services - postal services

Personal services	650,910
Operating expenses	<u>184,090</u>
Total	835,000
Source of funds	
General fund	36,116
Internal service funds	<u>798,884</u>
Total	835,000

Sec. B.115 Buildings and general services - copy center

Personal services	725,873
Operating expenses	<u>194,127</u>
Total	920,000
Source of funds	

Internal service funds	<u>920,000</u>
Total	920,000
Sec. B.116 Buildings and general services - fleet management services	
Personal services	475,587
Operating expenses	<u>169,413</u>
Total	645,000
Source of funds	
Internal service funds	<u>645,000</u>
Total	645,000
Sec. B.117 Buildings and general services - federal surplus property	
Personal services	83,564
Operating expenses	<u>62,936</u>
Total	146,500
Source of funds	
Enterprise funds	<u>146,500</u>
Total	146,500
Sec. B.118 Buildings and general services - state surplus property	
Personal services	80,720
Operating expenses	<u>86,060</u>
Total	166,780
Source of funds	
Internal service funds	<u>166,780</u>
Total	166,780
Sec. B.119 Buildings and general services - property management	
Personal services	1,196,597
Operating expenses	<u>2,985,033</u>
Total	4,181,630
Source of funds	
Internal service funds	<u>4,181,630</u>
Total	4,181,630
Sec. B.120 Buildings and general services - workers' compensation insurance	
Personal services	1,329,914
Operating expenses	<u>309,324</u>
Total	1,639,238
Source of funds	
Internal service funds	<u>1,639,238</u>
Total	1,639,238

 Sec. B.121 Buildings and general services - general liability insurance

Personal services	295,114
Operating expenses	<u>125,386</u>
Total	420,500
Source of funds	
Internal service funds	<u>420,500</u>
Total	420,500

Sec. B.122 Buildings and general services - all other insurance

Personal services	33,028
Operating expenses	<u>51,972</u>
Total	85,000
Source of funds	
Internal service funds	<u>85,000</u>
Total	85,000

Sec. B.123 Buildings and general services - fee for space

Personal services	12,684,951
Operating expenses	<u>14,970,941</u>
Total	27,655,892
Source of funds	
Internal service funds	<u>27,655,892</u>
Total	27,655,892

Sec. B.124 Geographic information system

Grants	<u>408,700</u>
Total	408,700
Source of funds	
Special funds	<u>408,700</u>
Total	408,700

Sec. B.125 Executive office - governor's office

Personal services	1,217,326
Operating expenses	<u>386,489</u>
Total	1,603,815
Source of funds	
General fund	1,410,315
Interdepartmental transfers	<u>193,500</u>
Total	1,603,815

Sec. B.126 Legislative council

Personal services	2,164,007
Operating expenses	<u>178,970</u>
Total	2,342,977
Source of funds	
General fund	<u>2,342,977</u>
Total	2,342,977

Sec. B.127 Legislature

Personal services	3,872,884
Operating expenses	<u>3,428,507</u>
Total	7,301,391
Source of funds	
General fund	<u>7,301,391</u>
Total	7,301,391

Sec. B.128 Legislative information technology

Personal services	393,601
Operating expenses	<u>492,357</u>
Total	885,958
Source of funds	
General fund	<u>885,958</u>
Total	885,958

Sec. B.129 Joint fiscal committee

Personal services	1,214,565
Operating expenses	<u>94,632</u>
Total	1,309,197
Source of funds	
General fund	<u>1,309,197</u>
Total	1,309,197

Sec. B.130 Sergeant at arms

Personal services	509,586
Operating expenses	<u>99,931</u>
Total	609,517
Source of funds	
General fund	<u>609,517</u>
Total	609,517

Sec. B.131 Lieutenant governor	
Personal services	146,651
Operating expenses	<u>16,983</u>
Total	163,634
Source of funds	
General fund	<u>163,634</u>
Total	163,634
Sec. B.132 Auditor of accounts	
Personal services	3,032,314
Operating expenses	<u>139,366</u>
Total	3,171,680
Source of funds	
General fund	437,938
Special funds	51,709
Internal service funds	<u>2,682,033</u>
Total	3,171,680
Sec. B.133 State treasurer	
Personal services	2,313,466
Operating expenses	357,079
Grants	<u>6,484</u>
Total	2,677,029
Source of funds	
General fund	1,086,815
Special funds	1,506,190
Private purpose trust funds	<u>84,024</u>
Total	2,677,029
Sec. B.134 State treasurer - unclaimed property	
Personal services	687,596
Operating expenses	<u>237,795</u>
Total	925,391
Source of funds	
Interdepartmental transfers	<u>925,391</u>
Total	925,391
Sec. B.135 Vermont state retirement system	
Personal services	27,115,165
Operating expenses	<u>773,415</u>
Total	27,888,580
Source of funds	

Pension trust funds	<u>27,888,580</u>
Total	27,888,580
Sec. B.136 Municipal employees' retirement system	
Personal services	1,841,374
Operating expenses	<u>346,814</u>
Total	2,188,188
Source of funds	
Pension trust funds	<u>2,188,188</u>
Total	2,188,188
Sec. B.137 State labor relations board	
Personal services	166,789
Operating expenses	<u>37,194</u>
Total	203,983
Source of funds	
General fund	198,260
Special funds	2,788
Interdepartmental transfers	<u>2,935</u>
Total	203,983
Sec. B.138 VOSHA review board	
Personal services	37,997
Operating expenses	<u>9,815</u>
Total	47,812
Source of funds	
General fund	23,905
Interdepartmental transfers	<u>23,907</u>
Total	47,812
Sec. B.139 Homeowner rebate	
Grants	<u>13,725,647</u>
Total	13,725,647
Source of funds	
General fund	<u>13,725,647</u>
Total	13,725,647
Sec. B.140 Renter rebate	
Grants	<u>8,476,695</u>
Total	8,476,695
Source of funds	
General fund	2,543,008

Education fund	<u>5,933,687</u>
Total	8,476,695
Sec. B.141 Tax department - reappraisal and listing payments	
Grants	<u>3,470,000</u>
Total	3,470,000
Source of funds	
Education fund	<u>3,470,000</u>
Total	3,470,000
Sec. B.142 Use tax reimbursement fund - municipal current use	
Grants	<u>10,807,403</u>
Total	10,807,403
Source of funds	
General fund	<u>10,807,403</u>
Total	10,807,403
Sec. B.143 Lottery commission	
Personal services	1,555,943
Operating expenses	<u>1,113,662</u>
Total	2,669,605
Source of funds	
Enterprise funds	<u>2,669,605</u>
Total	2,669,605
Sec. B.144 Payments in lieu of taxes	
Grants	<u>4,900,000</u>
Total	4,900,000
Source of funds	
Special funds	<u>4,900,000</u>
Total	4,900,000
Sec. B.145 Payments in lieu of taxes - Montpelier	
Grants	<u>184,000</u>
Total	184,000
Source of funds	
Special funds	<u>184,000</u>
Total	184,000
Sec. B.146 Payments in lieu of taxes - correctional facilities	
Grants	<u>40,000</u>
Total	40,000
Source of funds	

	Special funds	<u>40,000</u>
	Total	40,000
Sec. B 147	Total General government	184,207,966
	Source of funds	
	General fund	69,727,974
	Education fund	9,403,687
	Special funds	11,364,300
	Tobacco fund	58,000
	Global Commitment fund	591,268
	Federal funds	855,215
	Enterprise funds	2,816,105
	Internal service funds	53,776,743
	Pension trust funds	30,076,768
	Private purpose trust funds	84,024
	Interdepartmental transfers	<u>5,453,882</u>
	Total	184,207,966
Sec. B.200	Attorney general	
	Personal services	6,518,250
	Operating expenses	<u>1,055,051</u>
	Total	7,573,301
	Source of funds	
	General fund	4,044,689
	Special funds	788,302
	Tobacco fund	405,000
	Federal funds	677,526
	Interdepartmental transfers	1,657,784
	Total	7,573,301
Sec. B.201	Vermont court diversion	
	Grants	<u>1,724,784</u>
	Total	1,724,784
	Source of funds	
	General fund	1,204,784
	Special funds	<u>520,000</u>
	Total	1,724,784
Sec. B.202	Defender general - public defense	
	Personal services	7,273,704
	Operating expenses	<u>919,387</u>
	Total	8,193,091
	Source of funds	

General fund	7,691,786
Special funds	<u>501,305</u>
Total	8,193,091
Sec. B.203 Defender general - assigned counsel	
Personal services	3,319,857
Operating expenses	<u>77,909</u>
Total	3,397,766
Source of funds	
General fund	3,272,502
Special funds	<u>125,264</u>
Total	3,397,766
Sec. B.204 Judiciary	
Personal services	27,203,182
Operating expenses	10,084,796
Grants	<u>70,000</u>
Total	37,357,978
Source of funds	
General fund	30,960,922
Special funds	3,891,636
Tobacco fund	39,112
Federal funds	546,919
Interdepartmental transfers	<u>1,919,389</u>
Total	37,357,978
Sec. B.205 State's attorneys	
Personal services	9,685,589
Operating expenses	<u>1,298,616</u>
Total	10,984,205
Source of funds	
General fund	8,754,382
Special funds	56,675
Federal funds	31,000
Interdepartmental transfers	<u>2,142,148</u>
Total	10,984,205
Sec. B.206 Special investigative unit	
Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>
Total	1

Sec. B.207 Sheriffs

Personal services	3,306,718
Operating expenses	<u>356,269</u>
Total	3,662,987
Source of funds	
General fund	<u>3,662,987</u>
Total	3,662,987

Sec. B.208 Public safety - administration

Personal services	1,696,711
Operating expenses	<u>194,781</u>
Total	1,891,492
Source of funds	
General fund	1,861,340
Federal funds	<u>30,152</u>
Total	1,891,492

Sec. B.209 Public safety - state police

Personal services	41,481,022
Operating expenses	12,457,718
Grants	<u>582,087</u>
Total	54,520,827
Source of funds	
ARRA funds	3,061,782
General fund	18,865,183
Transportation fund	26,231,384
Special funds	1,910,795
Federal funds	2,159,888
Interdepartmental transfers	<u>2,291,795</u>
Total	54,520,827

Sec. B.210 Public safety - criminal justice services

Personal services	6,078,888
Operating expenses	2,965,224
Grants	<u>2,909,394</u>
Total	11,953,506
Source of funds	
General fund	745,092
Transportation fund	4,557,454
Special funds	1,860,980
Federal funds	4,689,372

Interdepartmental transfers	<u>100,608</u>
Total	11,953,506
Sec. B.211 Public safety - emergency management	
Personal services	1,778,662
Operating expenses	1,246,992
Grants	<u>819,400</u>
Total	3,845,054
Source of funds	
Transportation fund	63,969
Special funds	168,831
Federal funds	<u>3,612,254</u>
Total	3,845,054
Sec. B.212 Public safety - fire safety	
Personal services	4,396,900
Operating expenses	1,590,660
Grants	<u>55,000</u>
Total	6,042,560
Source of funds	
General fund	590,719
Special funds	4,866,202
Federal funds	411,992
Interdepartmental transfers	<u>173,647</u>
Total	6,042,560
Sec. B.213 Public safety - homeland security	
Personal services	1,252,863
Operating expenses	4,999,729
Grants	<u>1,050,000</u>
Total	7,302,592
Source of funds	
General fund	395,271
Federal funds	<u>6,907,321</u>
Total	7,302,592
Sec. B.214 Public safety - emergency management - radiological emergency response plan	
Personal services	695,571
Operating expenses	273,382
Grants	<u>743,518</u>
Total	1,712,471
Source of funds	

Special funds	<u>1,712,471</u>
Total	1,712,471
Sec. B.215 Military - administration	
Personal services	595,055
Operating expenses	185,755
Grants	<u>100,000</u>
Total	880,810
Source of funds	
General fund	<u>880,810</u>
Total	880,810
Sec. B.216 Military - air service contract	
Personal services	4,682,496
Operating expenses	<u>1,576,241</u>
Total	6,258,737
Source of funds	
General fund	433,236
Federal funds	<u>5,825,501</u>
Total	6,258,737
Sec. B.217 Military - army service contract	
Personal services	3,645,443
Operating expenses	<u>9,174,120</u>
Total	12,819,563
Source of funds	
General fund	107,071
Federal funds	<u>12,712,492</u>
Total	12,819,563
Sec. B.218 Military - building maintenance	
Personal services	1,024,137
Operating expenses	<u>386,580</u>
Total	1,410,717
Source of funds	
General fund	1,343,826
Federal funds	<u>66,891</u>
Total	1,410,717
Sec. B.219 Military - veterans' affairs	
Personal services	430,316
Operating expenses	133,624
Grants	<u>163,815</u>

Total	727,755
Source of funds	
General fund	575,519
Special funds	83,529
Federal funds	<u>68,707</u>
Total	727,755
Sec. B.220 Center for crime victims' services	
Personal services	1,275,841
Operating expenses	261,734
Grants	<u>9,433,056</u>
Total	10,970,631
Source of funds	
ARRA funds	797,067
General fund	1,119,233
Special funds	5,201,380
Federal funds	<u>3,852,951</u>
Total	10,970,631
Sec. B.221 Criminal justice training council	
Personal services	1,225,444
Operating expenses	<u>1,135,975</u>
Total	2,361,419
Source of funds	
General fund	1,453,753
Special funds	534,343
Interdepartmental transfers	<u>373,323</u>
Total	2,361,419
Sec. B.222 Agriculture, food and markets - administration	
Personal services	707,514
Operating expenses	390,128
Grants	<u>338,351</u>
Total	1,435,993
Source of funds	
General fund	886,626
Special funds	382,449
Federal funds	124,918
Interdepartmental transfers	<u>42,000</u>
Total	1,435,993

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	2,041,806
Operating expenses	<u>332,830</u>
Total	2,374,636
Source of funds	
General fund	1,278,611
Special funds	651,025
Federal funds	438,000
Interdepartmental transfers	<u>7,000</u>
Total	2,374,636

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	688,162
Operating expenses	504,063
Grants	<u>302,500</u>
Total	1,494,725
Source of funds	
General fund	673,775
Special funds	432,950
Federal funds	<u>388,000</u>
Total	1,494,725

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

Personal services	3,800,621
Operating expenses	639,708
Grants	<u>4,480,952</u>
Total	8,921,281
Source of funds	
General fund	2,420,363
Special funds	5,433,147
Federal funds	519,517
Interdepartmental transfers	<u>548,254</u>
Total	8,921,281

Sec. B.226 Agriculture, food and markets - state stipend

Grants	<u>175,000</u>
Total	175,000
Source of funds	
General fund	<u>175,000</u>
Total	175,000

 Sec. B.227 Agriculture, food and markets - mosquito control

Personal services	20,000
Operating expenses	<u>60,000</u>
Total	80,000
Source of funds	
Special funds	<u>80,000</u>
Total	80,000

Sec. B.228 Banking, insurance, securities, and health care administration - administration

Personal services	1,982,977
Operating expenses	<u>88,470</u>
Total	2,071,447
Source of funds	
Special funds	<u>2,071,447</u>
Total	2,071,447

Sec. B.229 Banking, insurance, securities, and health care administration - banking

Personal services	1,240,658
Operating expenses	<u>248,960</u>
Total	1,489,618
Source of funds	
Special funds	<u>1,489,618</u>
Total	1,489,618

Sec. B.230 Banking, insurance, securities, and health care administration - insurance

Personal services	2,765,146
Operating expenses	<u>450,750</u>
Total	3,215,896
Source of funds	
Special funds	<u>3,215,896</u>
Total	3,215,896

Sec. B.231 Banking, insurance, securities, and health care administration - captive

Personal services	2,998,995
Operating expenses	<u>452,000</u>
Total	3,450,995
Source of funds	

Special funds	<u>3,450,995</u>
Total	3,450,995
Sec. B.232 Banking, insurance, securities, and health care administration - securities	
Personal services	418,217
Operating expenses	<u>144,733</u>
Total	562,950
Source of funds	
Special funds	<u>562,950</u>
Total	562,950
Sec. B.233 Banking, insurance, securities, and health care administration - health care administration	
Personal services	4,338,993
Operating expenses	<u>326,905</u>
Total	4,665,898
Source of funds	
Special funds	2,767,074
Global Commitment fund	<u>1,898,824</u>
Total	4,665,898
Sec. B.234 Secretary of state	
Personal services	5,440,700
Operating expenses	2,086,742
Grants	<u>1,000,000</u>
Total	8,527,442
Source of funds	
General fund	1,710,918
Special funds	4,741,524
Federal funds	2,000,000
Interdepartmental transfers	<u>75,000</u>
Total	8,527,442
Sec. B.235 Public service - regulation and energy	
Personal services	7,588,185
Operating expenses	709,206
Grants	<u>6,506,007</u>
Total	14,803,398
Source of funds	
Special funds	13,645,598
Federal funds	<u>1,157,800</u>
Total	14,803,398

Sec. B.236 Public service - purchase and sale of power	
Personal services	18,484
Operating expenses	<u>1,516</u>
Total	20,000
Source of funds	
Special funds	<u>20,000</u>
Total	20,000
Sec. B.237 Public service board	
Personal services	2,555,286
Operating expenses	<u>320,000</u>
Total	2,875,286
Source of funds	
Special funds	<u>2,875,286</u>
Total	2,875,286
Sec. B.238 Enhanced 9-1-1 Board	
Personal services	2,098,342
Operating expenses	1,565,260
Grants	<u>1,823,443</u>
Total	5,487,045
Source of funds	
Special funds	<u>5,487,045</u>
Total	5,487,045
Sec. B.239 Human rights commission	
Personal services	375,041
Operating expenses	<u>68,917</u>
Total	443,958
Source of funds	
General fund	273,219
Federal funds	<u>170,739</u>
Total	443,958
Sec. B.240 Liquor control - administration	
Personal services	1,495,953
Operating expenses	<u>543,031</u>
Total	2,038,984
Source of funds	
Tobacco fund	6,661
Enterprise funds	1,789,323

Interdepartmental transfers	<u>243,000</u>
Total	2,038,984
Sec. B.241 Liquor control - enforcement and licensing	
Personal services	1,963,476
Operating expenses	<u>344,075</u>
Total	2,307,551
Source of funds	
Tobacco fund	289,645
Enterprise funds	<u>2,017,906</u>
Total	2,307,551
Sec. B.242 Liquor control - warehousing and distribution	
Personal services	750,352
Operating expenses	<u>367,561</u>
Total	1,117,913
Source of funds	
Enterprise funds	<u>1,117,913</u>
Total	1,117,913
Sec. B 243 Total Protection to persons and property 263,152,263	
Source of funds	
ARRA funds	3,858,849
General fund	95,381,618
Transportation fund	30,852,807
Special funds	69,528,717
Tobacco fund	740,418
Global Commitment fund	1,898,824
Federal funds	46,391,940
Enterprise funds	4,925,142
Interdepartmental transfers	<u>9,573,948</u>
Total	263,152,263
Sec. B.300 Human services - agency of human services - secretary's office	
Personal services	10,016,218
Operating expenses	2,998,915
Grants	<u>5,099,439</u>
Total	18,114,572
Source of funds	
General fund	5,333,921
Special funds	7,517
Tobacco fund	609,730
Global Commitment fund	398,400

Federal funds	8,068,443
Interdepartmental transfers	3,696,561
Total	18,114,572
Sec. B.301 Secretary's office - global commitment	
Grants	<u>1,022,593,702</u>
Total	1,022,593,702
Source of funds	
ARRA funds	97,005,100
General fund	63,308,477
Special funds	11,854,521
Tobacco fund	34,911,760
State health care resources fund	159,183,519
Catamount fund	18,881,295
Federal funds	637,086,376
Interdepartmental transfers	<u>362,654</u>
Total	1,022,593,702
Sec. B.302 Rate setting	
Personal services	853,246
Operating expenses	<u>81,982</u>
Total	935,228
Source of funds	
Global Commitment fund	<u>935,228</u>
Total	935,228
Sec. B.303 Developmental disabilities council	
Personal services	240,797
Operating expenses	48,251
Grants	<u>220,000</u>
Total	509,048
Source of funds	
Federal funds	<u>509,048</u>
Total	509,048
Sec. B.304 Human services board	
Personal services	299,820
Operating expenses	<u>66,441</u>
Total	366,261
Source of funds	
General fund	51,912
Federal funds	157,174

Interdepartmental transfers	<u>157,175</u>
Total	366,261
Sec. B.305 AHS - administrative fund	
Personal services	500,000
Operating expenses	<u>4,500,000</u>
Total	5,000,000
Source of funds	
Interdepartmental transfers	<u>5,000,000</u>
Total	5,000,000
Sec. B.306 Office of Vermont health access - administration	
Personal services	31,911,860
Operating expenses	2,330,388
Grants	<u>1,018,000</u>
Total	35,260,248
Source of funds	
General fund	429,107
Global Commitment fund	31,631,056
Catamount fund	351,627
Federal funds	<u>2,848,458</u>
Total	35,260,248
Sec. B.307 Office of Vermont health access - Medicaid program - global commitment	
Grants	<u>538,752,966</u>
Total	538,752,966
Source of funds	
Global Commitment fund	<u>538,752,966</u>
Total	538,752,966
Sec. B.308 Office of Vermont health access - Medicaid program - long term care waiver	
Grants	<u>205,105,257</u>
Total	205,105,257
Source of funds	
ARRA funds	22,089,839
General fund	62,187,933
Federal funds	<u>120,827,485</u>
Total	205,105,257

 Sec. B.309 Office of Vermont health access - Medicaid program - state only

Grants	<u>32,524,951</u>
Total	32,524,951
Source of funds	
General fund	28,195,859
Global Commitment fund	1,510,264
Catamount fund	<u>2,818,828</u>
Total	32,524,951

Sec. B.310 Office of Vermont health access - Medicaid non-waiver matched

Grants	<u>46,551,748</u>
Total	46,551,748
Source of funds	
ARRA funds	1,060,380
General fund	16,976,310
Federal funds	<u>28,515,058</u>
Total	46,551,748

Sec. B.311 Health - administration and support

Personal services	6,222,550
Operating expenses	2,812,966
Grants	<u>2,877,000</u>
Total	11,912,516
Source of funds	
General fund	943,788
Special funds	24,678
Global Commitment fund	4,844,832
Federal funds	6,027,218
Interdepartmental transfers	<u>72,000</u>
Total	11,912,516

Sec. B.312 Health - public health

Personal services	35,134,321
Operating expenses	7,080,700
Grants	<u>32,532,610</u>
Total	74,747,631
Source of funds	
General fund	6,924,156
Special funds	4,611,472
Tobacco fund	1,906,916
Global Commitment fund	24,847,472
Catamount fund	4,046,218

Federal funds	31,809,266
Permanent trust funds	10,000
Interdepartmental transfers	<u>592,131</u>
Total	74,747,631
Sec. B.313 Health - alcohol and drug abuse programs	
Personal services	3,195,089
Operating expenses	799,901
Grants	<u>26,918,440</u>
Total	30,913,430
Source of funds	
General fund	3,045,189
Special funds	236,210
Tobacco fund	2,382,834
Global Commitment fund	16,663,987
Federal funds	8,435,210
Interdepartmental transfers	<u>150,000</u>
Total	30,913,430
Sec. B.314 Mental health - mental health	
Personal services	4,492,095
Operating expenses	562,604
Grants	<u>127,953,050</u>
Total	133,007,749
Source of funds	
General fund	698,915
Special funds	6,836
Global Commitment fund	126,404,681
Federal funds	5,877,317
Interdepartmental transfers	<u>20,000</u>
Total	133,007,749
Sec. B.315 Mental health - Vermont state hospital	
Personal services	20,040,654
Operating expenses	2,752,971
Grants	<u>82,335</u>
Total	22,875,960
Source of funds	
General fund	21,692,396
Special funds	170,000
Global Commitment fund	450,000
Federal funds	263,564

Interdepartmental transfers	<u>300,000</u>
Total	22,875,960

Sec. B.316 Department for children and families - administration & support services

Personal services	37,028,517
Operating expenses	7,305,795
Grants	<u>933,155</u>
Total	45,267,467
Source of funds	
ARRA funds	300,000
General fund	15,002,788
Global Commitment fund	15,455,187
Catamount fund	547,960
Federal funds	<u>13,961,532</u>
Total	45,267,467

Sec. B.317 Department for children and families - family services

Personal services	22,207,550
Operating expenses	3,312,909
Grants	<u>65,050,514</u>
Total	90,570,973
Source of funds	
ARRA funds	1,411,224
General fund	18,199,778
Special funds	1,691,637
Tobacco fund	275,000
Global Commitment fund	41,228,349
Federal funds	27,664,985
Interdepartmental transfers	<u>100,000</u>
Total	90,570,973

Sec. B.318 Department for children and families - child development

Personal services	3,473,066
Operating expenses	545,908
Grants	<u>56,106,468</u>
Total	60,125,442
Source of funds	
ARRA funds	2,452,636
General fund	23,481,012
Special funds	1,820,000
Global Commitment fund	5,221,053
Federal funds	27,011,234

Interdepartmental transfers	<u>139,507</u>
Total	60,125,442
Sec. B.319 Department for children and families - office of child support	
Personal services	8,905,003
Operating expenses	<u>4,400,851</u>
Total	13,305,854
Source of funds	
ARRA funds	660,000
General fund	2,671,384
Special funds	455,718
Federal funds	9,131,152
Interdepartmental transfers	<u>387,600</u>
Total	13,305,854
Sec. B.320 Department for children and families - aid to aged, blind and disabled	
Personal services	1,801,009
Grants	<u>10,305,780</u>
Total	12,106,789
Source of funds	
General fund	8,356,789
Global Commitment fund	<u>3,750,000</u>
Total	12,106,789
Sec. B.321 Department for children and families - general assistance	
Grants	<u>6,000,928</u>
Total	6,000,928
Source of funds	
ARRA funds	1,699,412
General fund	2,850,196
Global Commitment fund	340,000
Federal funds	<u>1,111,320</u>
Total	6,000,928
Sec. B.322 Department for children and families - food stamp cash out	
Grants	<u>19,031,133</u>
Total	19,031,133
Source of funds	
ARRA funds	2,300,000
Federal funds	<u>16,731,133</u>
Total	19,031,133

 Sec. B.323 Department for children and families - reach up

Grants	<u>49,803,800</u>
Total	49,803,800
Source of funds	
ARRA funds	6,735,423
General fund	16,086,170
Special funds	18,025,000
Global Commitment fund	374,400
Federal funds	<u>8,582,807</u>
Total	49,803,800

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Personal services	20,000
Operating expenses	90,000
Grants	<u>11,502,664</u>
Total	11,612,664
Source of funds	
Federal funds	<u>11,612,664</u>
Total	11,612,664

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	250,236
Operating expenses	78,644
Grants	<u>8,591,588</u>
Total	8,920,468
Source of funds	
ARRA funds	3,775,000
General fund	1,294,543
Special funds	57,810
Federal funds	<u>3,793,115</u>
Total	8,920,468

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	174,293
Operating expenses	130,499
Grants	<u>14,959,936</u>
Total	15,264,728
Source of funds	
ARRA funds	8,421,288

Special funds	4,593,774
Federal funds	<u>2,249,666</u>
Total	15,264,728
Sec. B.327 Department for children and families - Woodside rehabilitation center	
Personal services	3,482,661
Operating expenses	<u>630,581</u>
Total	4,113,242
Source of funds	
General fund	4,058,350
Interdepartmental transfers	<u>54,892</u>
Total	4,113,242
Sec. B.328 Department for children and families - disability determination services	
Personal services	3,508,357
Operating expenses	<u>624,291</u>
Total	4,132,648
Source of funds	
Global Commitment fund	246,517
Federal funds	<u>3,886,131</u>
Total	4,132,648
Sec. B.329 Disabilities, aging and independent living - administration & support	
Personal services	24,693,635
Operating expenses	<u>3,762,989</u>
Total	28,456,624
Source of funds	
General fund	6,952,640
Special funds	1,068,022
Global Commitment fund	6,329,926
Federal funds	11,666,254
Interdepartmental transfers	<u>2,439,782</u>
Total	28,456,624
Sec. B.330 Disabilities, aging and independent living - advocacy and independent living grants	
Grants	<u>22,243,510</u>
Total	22,243,510
Source of funds	
ARRA funds	404,000

General fund	10,101,374
Global Commitment fund	3,455,319
Federal funds	7,645,317
Interdepartmental transfers	<u>637,500</u>
Total	22,243,510

Sec. B.331 Disabilities, aging and independent living - blind and visually impaired

Grants	<u>1,481,457</u>
Total	1,481,457
Source of funds	
General fund	364,064
Special funds	223,450
Global Commitment fund	245,000
Federal funds	<u>648,943</u>
Total	1,481,457

Sec. B.332 Disabilities, aging and independent living - vocational rehabilitation

Grants	<u>7,302,971</u>
Total	7,302,971
Source of funds	
ARRA funds	1,334,000
General fund	1,535,695
Global Commitment fund	7,500
Federal funds	4,132,389
Interdepartmental transfers	<u>293,387</u>
Total	7,302,971

Sec. B.333 Disabilities, aging and independent living - developmental services

Grants	<u>141,878,742</u>
Total	141,878,742
Source of funds	
General fund	172,625
Special funds	15,463
Global Commitment fund	141,330,797
Federal funds	<u>359,857</u>
Total	141,878,742

Sec. B.334 Disabilities, aging and independent living -TBI home and community based waiver

Grants	<u>4,044,899</u>
Total	4,044,899

Source of funds	
Global Commitment fund	<u>4,044,899</u>
Total	4,044,899
Sec. B.335 Corrections - administration	
Personal services	2,348,301
Operating expenses	<u>302,104</u>
Total	2,650,405
Source of funds	
General fund	<u>2,650,405</u>
Total	2,650,405
Sec. B.336 Corrections - parole board	
Personal services	320,374
Operating expenses	<u>58,121</u>
Total	378,495
Source of funds	
General fund	<u>378,495</u>
Total	378,495
Sec. B.337 Corrections - correctional education	
Personal services	4,016,553
Operating expenses	<u>306,274</u>
Total	4,322,827
Source of funds	
General fund	413,648
Special funds	500,000
Interdepartmental transfers	<u>3,409,179</u>
Total	4,322,827
Sec. B.338 Corrections - correctional services	
Personal services	79,204,112
Operating expenses	34,200,620
Grants	<u>1,649,849</u>
Total	115,054,581
Source of funds	
General fund	110,673,067
Special funds	533,963
Tobacco fund	87,500
Global Commitment fund	3,094,144
Federal funds	584,861
Interdepartmental transfers	<u>81,046</u>
Total	115,054,581

Sec. B.339 Correctional services-out of state beds	
Personal services	<u>12,318,215</u>
Total	12,318,215
Source of funds	
General fund	<u>12,318,215</u>
Total	12,318,215
Sec. B.340 Corrections - correctional facilities - recreation	
Personal services	436,744
Operating expenses	<u>349,076</u>
Total	785,820
Source of funds	
General fund	125,000
Special funds	<u>660,820</u>
Total	785,820
Sec. B.341 Corrections - Vermont offender work program	
Personal services	1,154,973
Operating expenses	<u>554,103</u>
Total	1,709,076
Source of funds	
Internal service funds	<u>1,709,076</u>
Total	1,709,076
Sec. B.342 Vermont veterans' home - care and support services	
Personal services	14,896,756
Operating expenses	<u>3,362,067</u>
Total	18,258,823
Source of funds	
Special funds	10,931,473
Global Commitment fund	837,225
Federal funds	<u>6,490,125</u>
Total	18,258,823
Sec. B.343 Commission on women	
Personal services	224,632
Operating expenses	<u>67,273</u>
Total	291,905
Source of funds	
General fund	286,905
Special funds	<u>5,000</u>
Total	291,905

 Sec. B.344 Retired senior volunteer program

Grants	<u>131,096</u>
Total	131,096
Source of funds	
General fund	<u>131,096</u>
Total	131,096

Sec. B 345 Total Human services 2,880,736,849

Source of funds	
ARRA funds	149,648,302
General fund	447,892,202
Special funds	57,493,364
Tobacco fund	40,173,740
Global Commitment fund	972,399,202
State health care resources fund	159,183,519
Catamount fund	26,645,928
Federal funds	1,007,688,102
Permanent trust funds	10,000
Internal service funds	1,709,076
Interdepartmental transfers	<u>17,893,414</u>
Total	2,880,736,849

Sec. B.400 Labor - administration

Personal services	4,592,207
Operating expenses	<u>577,547</u>
Total	5,169,754
Source of funds	
ARRA funds	1,875,000
General fund	223,725
Special funds	266,110
Catamount fund	25,424
Federal funds	2,412,145
Interdepartmental transfers	367,350
Total	5,169,754

Sec. B.401 Labor - programs

Personal services	21,048,615
Operating expenses	4,726,026
Grants	<u>7,216,529</u>
Total	32,991,170
Source of funds	
General fund	8,852,385

Special funds	2,947,118
Catamount fund	368,648
Federal funds	18,786,531
Interdepartmental transfers	<u>2,036,488</u>
Total	32,991,170
Sec. B.402 Labor - domestic and sexual violence survivors' transitional employment program	
Grants	<u>30,000</u>
Total	30,000
Source of funds	
Special funds	<u>30,000</u>
Total	30,000
Sec. B 403 Total Labor	38,190,924
Source of funds	
ARRA funds	1,875,000
General fund	9,076,110
Special funds	3,243,228
Catamount fund	394,072
Federal funds	21,198,676
Interdepartmental transfers	<u>2,403,838</u>
Total	38,190,924
Sec. B.500 Education - finance and administration	
Personal services	5,173,188
Operating expenses	1,651,304
Grants	<u>12,084,730</u>
Total	18,909,222
Source of funds	
General fund	3,409,206
Special funds	12,626,342
Global Commitment fund	858,212
Federal funds	2,010,732
Interdepartmental transfers	4,730
Total	18,909,222
Sec. B.501 Education - education services	
Personal services	13,051,696
Operating expenses	1,873,037
Grants	<u>113,036,906</u>
Total	127,961,639
Source of funds	

General fund	5,325,358
Education fund	1,131,751
Special funds	2,189,254
Federal funds	119,289,540
Interdepartmental transfers	<u>25,736</u>
Total	127,961,639
Sec. B.502 Education - special education: formula grants	
Grants	<u>142,687,975</u>
Total	142,687,975
Source of funds	
Education fund	142,457,975
Global Commitment fund	<u>230,000</u>
Total	142,687,975
Sec. B.503 Education - state-placed students	
Grants	<u>18,900,000</u>
Total	18,900,000
Source of funds	
Education fund	<u>18,900,000</u>
Total	18,900,000
Sec. B.504 Education - adult education and literacy	
Grants	<u>6,463,656</u>
Total	6,463,656
Source of funds	
General fund	2,587,995
Education fund	3,000,000
Federal funds	<u>875,661</u>
Total	6,463,656
Sec. B.505 Education - adjusted education payment	
Grants	<u>1,136,100,000</u>
Total	1,136,100,000
Source of funds	
ARRA funds	38,575,036
Education fund	<u>1,097,524,964</u>
Total	1,136,100,000
Sec. B.506 Education - transportation	
Grants	<u>15,542,809</u>
Total	15,542,809
Source of funds	

Education fund	<u>15,542,809</u>
Total	15,542,809
Sec. B.507 Education - small school grants	
Grants	<u>6,977,336</u>
Total	6,977,336
Source of funds	
Education fund	<u>6,977,336</u>
Total	6,977,336
Sec. B.508 Education - capital debt service aid	
Grants	<u>188,000</u>
Total	188,000
Source of funds	
Education fund	<u>188,000</u>
Total	188,000
Sec. B.509 Education - tobacco litigation	
Personal services	131,153
Operating expenses	57,584
Grants	<u>800,180</u>
Total	988,917
Source of funds	
Tobacco fund	<u>988,917</u>
Total	988,917
Sec. B.510 Education - essential early education grant	
Grants	<u>5,700,000</u>
Total	5,700,000
Source of funds	
Education fund	<u>5,700,000</u>
Total	5,700,000
Sec. B.511 Education - technical education	
Grants	<u>12,800,000</u>
Total	12,800,000
Source of funds	
Education fund	<u>12,800,000</u>
Total	12,800,000
Sec. B.512 Education - Act 117 cost containment	
Personal services	1,070,398
Operating expenses	121,307

Grants	<u>91,000</u>
Total	1,282,705
Source of funds	
Special funds	<u>1,282,705</u>
Total	1,282,705
Sec. B.513 Appropriation and transfer to education fund	
Grants	<u>259,303,944</u>
Total	259,303,944
Source of funds	
General fund	<u>259,303,944</u>
Total	259,303,944
Sec. B.514 State teachers' retirement system	
Personal services	26,629,115
Operating expenses	942,527
Grants	<u>40,303,002</u>
Total	67,874,644
Source of funds	
General fund	40,303,002
Pension trust funds	<u>27,571,642</u>
Total	67,874,644
Sec. B 515 Total General education	1,821,680,847
Source of funds	
ARRA funds	38,575,036
General fund	310,929,505
Education fund	1,304,222,835
Special funds	16,098,301
Tobacco fund	988,917
Global Commitment fund	1,088,212
Federal funds	122,175,933
Pension trust funds	27,571,642
Interdepartmental transfers	<u>30,466</u>
Total	1,821,680,847
Sec. B.600 University of Vermont	
Grants	<u>40,746,629</u>
Total	40,746,629
Source of funds	
General fund	36,740,473
Global Commitment fund	4,006,156
Total	40,746,629

Sec. B.601 Vermont Public Television

Grants	<u>564,620</u>
Total	564,620
Source of funds	
General fund	<u>564,620</u>
Total	564,620

Sec. B.602 Vermont state colleges

Grants	<u>23,155,213</u>
Total	23,155,213
Source of funds	
General fund	<u>23,155,213</u>
Total	23,155,213

Sec. B.603 Vermont state colleges - allied health

Grants	<u>1,068,537</u>
Total	1,068,537
Source of funds	
General fund	663,130
Global Commitment fund	<u>405,407</u>
Total	1,068,537

Sec. B.604 Vermont interactive television

Grants	<u>785,679</u>
Total	785,679
Source of funds	
General fund	<u>785,679</u>
Total	785,679

Sec. B.605 Vermont student assistance corporation

Grants	<u>18,363,607</u>
Total	18,363,607
Source of funds	
General fund	<u>18,363,607</u>
Total	18,363,607

Sec. B.606 New England higher education compact

Grants	<u>84,000</u>
Total	84,000
Source of funds	
General fund	<u>84,000</u>
Total	84,000

 Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>
Total	1

Sec. B 608 Total Higher education 84,768,286

Source of funds	
General fund	80,356,723
Global Commitment fund	<u>4,411,563</u>
Total	84,768,286

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	3,830,378
Operating expenses	1,506,066
Grants	<u>25,000</u>
Total	5,361,444
Source of funds	
General fund	<u>4,794,914</u>
Federal funds	278,120
Interdepartmental transfers	288,410
Total	5,361,444

Sec. B.701 Connecticut river watershed advisory commission

Grants	<u>38,000</u>
Total	38,000
Source of funds	
General fund	<u>38,000</u>
Total	38,000

Sec. B.702 Citizens' advisory committee on Lake Champlain's future

Personal services	3,600
Operating expenses	<u>3,900</u>
Total	7,500
Source of funds	
General fund	<u>7,500</u>
Total	7,500

Sec. B.703 Natural resources - state land local property tax assessment

Operating expenses	<u>2,128,733</u>
Total	2,128,733

Source of funds	
General fund	1,707,233
Interdepartmental transfers	<u>421,500</u>
Total	2,128,733
Sec. B.704 Green up	
Operating expenses	7,594
Grants	<u>10,550</u>
Total	18,144
Source of funds	
Special funds	<u>18,144</u>
Total	18,144
Sec. B.705 Fish and wildlife - support and field services	
Personal services	12,437,985
Operating expenses	4,482,575
Grants	<u>774,333</u>
Total	17,694,893
Source of funds	
General fund	1,227,419
Fish and wildlife fund	16,230,474
Interdepartmental transfers	<u>237,000</u>
Total	17,694,893
Sec. B.706 Fish and wildlife - watershed improvement	
Grants	<u>125,000</u>
Total	125,000
Source of funds	
Fish and wildlife fund	<u>125,000</u>
Total	125,000
Sec. B.707 Forests, parks and recreation - administration	
Personal services	1,020,309
Operating expenses	555,710
Grants	<u>1,858,450</u>
Total	3,434,469
Source of funds	
General fund	1,223,859
Special funds	1,305,610
Federal funds	<u>905,000</u>
Total	3,434,469

Sec. B.708 Forests, parks and recreation - forestry

Personal services	4,482,990
Operating expenses	579,205
Grants	<u>343,000</u>
Total	5,405,195

Source of funds

General fund	3,633,694
Special funds	474,501
Federal funds	1,140,000
Interdepartmental transfers	<u>157,000</u>
Total	5,405,195

Sec. B.709 Forests, parks and recreation - state parks

Personal services	5,381,818
Operating expenses	<u>1,989,011</u>
Total	7,370,829

Source of funds

General fund	767,889
Special funds	<u>6,602,940</u>
Total	7,370,829

Sec. B.710 Forests, parks and recreation - lands administration

Personal services	443,601
Operating expenses	<u>1,209,081</u>
Total	1,652,682

Source of funds

General fund	368,477
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	<u>55,000</u>
Total	1,652,682

Sec. B.711 Forests, parks and recreation - youth conservation corps

Grants	<u>751,666</u>
Total	751,666

Source of funds

General fund	46,000
Special funds	361,666
Federal funds	94,000
Interdepartmental transfers	<u>250,000</u>
Total	751,666

 Sec. B.712 Forests, parks and recreation - forest highway maintenance

Personal services	20,000
Operating expenses	<u>159,266</u>
Total	179,266
Source of funds	
General fund	<u>179,266</u>
Total	179,266

Sec. B.713 Environmental conservation - management and support services

Personal services	4,043,142
Operating expenses	806,015
Grants	<u>103,913</u>
Total	4,953,070
Source of funds	
General fund	1,065,644
Special funds	2,425,301
Federal funds	1,407,125
Interdepartmental transfers	<u>55,000</u>
Total	4,953,070

Sec. B.714 Environmental conservation - air and waste management

Personal services	7,183,059
Operating expenses	6,483,565
Grants	<u>1,386,000</u>
Total	15,052,624
Source of funds	
General fund	619,928
Special funds	10,783,016
Federal funds	3,439,680
Interdepartmental transfers	<u>210,000</u>
Total	15,052,624

Sec. B.715 Environmental conservation - office of water programs

Personal services	13,507,863
Operating expenses	1,964,999
Grants	<u>2,165,402</u>
Total	17,638,264
Source of funds	
General fund	6,336,970
Special funds	4,419,321
Federal funds	6,401,973

Interdepartmental transfers	<u>480,000</u>
Total	17,638,264
Sec. B.716 Environmental conservation - tax-loss-Connecticut river flood control	
Operating expenses	<u>40,000</u>
Total	40,000
Source of funds	
Special funds	<u>40,000</u>
Total	40,000
Sec. B.717 Natural resources board	
Personal services	2,259,294
Operating expenses	<u>347,320</u>
Total	2,606,614
Source of funds	
General fund	816,942
Special funds	<u>1,789,672</u>
Total	2,606,614
Sec. B 718 Total Natural resources	84,458,393
Source of funds	
General fund	22,833,735
Fish and wildlife fund	16,355,474
Special funds	28,399,376
Federal funds	14,715,898
Interdepartmental transfers	<u>2,153,910</u>
Total	84,458,393
Sec. B.800 Commerce and community development - agency of commerce and community development - administration	
Personal services	1,914,002
Operating expenses	642,659
Grants	<u>1,136,390</u>
Total	3,693,051
Source of funds	
General fund	2,793,051
Federal funds	800,000
Interdepartmental transfers	100,000
Total	3,693,051

Sec. B.801 Housing and community affairs

Personal services	2,333,275
Operating expenses	420,760
Grants	<u>16,579,461</u>
Total	19,333,496
Source of funds	
General fund	1,203,070
Special funds	3,210,948
Federal funds	14,881,478
Interdepartmental transfers	<u>38,000</u>
Total	19,333,496

Sec. B.802 Historic sites - operations

Personal services	593,585
Operating expenses	338,745
Grants	<u>2,850</u>
Total	935,180
Source of funds	
General fund	545,528
Special funds	<u>389,652</u>
Total	935,180

Sec. B.803 Historic sites - special improvements

Personal services	108,200
Operating expenses	<u>76,247</u>
Total	184,447
Source of funds	
Special funds	50,000
Federal funds	113,449
Interdepartmental transfers	<u>20,998</u>
Total	184,447

Sec. B.804 Community development block grants

Grants	<u>9,428,530</u>
Total	9,428,530
Source of funds	
ARRA funds	1,982,000
Federal funds	<u>7,446,530</u>
Total	9,428,530

 Sec. B.805 Downtown transportation and capital improvement fund

Personal services	72,978
Grants	<u>327,022</u>
Total	400,000
Source of funds	
Special funds	<u>400,000</u>
Total	400,000

Sec. B.806 Economic development

Personal services	1,480,824
Operating expenses	619,677
Grants	<u>1,741,434</u>
Total	3,841,935
Source of funds	
General fund	2,876,585
Special funds	465,350
Federal funds	<u>500,000</u>
Total	3,841,935

Sec. B.807 Vermont training program

Personal services	197,200
Operating expenses	22,334
Grants	<u>1,483,621</u>
Total	1,703,155
Source of funds	
General fund	1,668,155
Special funds	<u>35,000</u>
Total	1,703,155

Sec. B.808 Tourism and marketing

Personal services	1,448,276
Operating expenses	2,008,976
Grants	<u>171,000</u>
Total	3,628,252
Source of funds	
General fund	3,622,252
Special funds	<u>6,000</u>
Total	3,628,252

Sec. B.809 Vermont life

Personal services	740,669
Operating expenses	<u>110,309</u>

Total	850,978
Source of funds	
Enterprise funds	<u>850,978</u>
Total	850,978
Sec. B.810 Vermont council on the arts	
Grants	<u>507,607</u>
Total	507,607
Source of funds	
General fund	<u>507,607</u>
Total	507,607
Sec. B.811 Vermont symphony orchestra	
Grants	<u>113,821</u>
Total	113,821
Source of funds	
General fund	<u>113,821</u>
Total	113,821
Sec. B.812 Vermont historical society	
Grants	<u>795,669</u>
Total	795,669
Source of funds	
General fund	<u>795,669</u>
Total	795,669
Sec. B.813 Vermont housing and conservation board	
Grants	<u>22,933,436</u>
Total	22,933,436
Source of funds	
Special funds	11,326,662
Federal funds	<u>11,606,774</u>
Total	22,933,436
Sec. B.814 Vermont humanities council	
Grants	<u>172,670</u>
Total	172,670
Source of funds	
General fund	<u>172,670</u>
Total	172,670

Sec. B 815	Total Commerce and community development	68,522,227
	Source of funds	
	ARRA funds	1,982,000
	General fund	14,298,408
	Special funds	15,883,612
	Federal funds	35,348,231
	Enterprise funds	850,978
	Interdepartmental transfers	<u>158,998</u>
	Total	68,522,227
Sec. B.900	Transportation - finance and administration	
	Personal services	10,071,137
	Operating expenses	<u>2,438,262</u>
	Total	12,509,399
	Source of funds	
	Transportation fund	12,009,399
	Federal funds	500,000
	Total	12,509,399
Sec. B.901	Transportation - aviation	
	Personal services	1,448,274
	Operating expenses	16,283,801
	Grants	<u>160,000</u>
	Total	17,892,075
	Source of funds	
	Transportation fund	2,251,575
	Federal funds	<u>15,640,500</u>
	Total	17,892,075
Sec. B.902	Transportation - buildings	
	Operating expenses	<u>1,311,500</u>
	Total	1,311,500
	Source of funds	
	Transportation fund	<u>1,311,500</u>
	Total	1,311,500
Sec. B.903	Transportation - program development	
	Personal services	36,275,422
	Operating expenses	202,948,726
	Grants	<u>25,834,622</u>
	Total	265,058,770
	Source of funds	

ARRA funds	66,369,500
TIB fund	10,037,081
Transportation fund	27,571,077
Local match	1,600,430
Federal funds	152,704,432
Interdepartmental transfers	<u>6,776,250</u>
Total	265,058,770
Sec. B.904 Transportation - rest areas	
Personal services	100,000
Operating expenses	<u>2,850,000</u>
Total	2,950,000
Source of funds	
Transportation fund	379,740
Federal funds	<u>2,570,260</u>
Total	<u>2,950,000</u>
Sec. B.905 Transportation - maintenance state system	
Personal services	34,028,928
Operating expenses	32,991,361
Grants	<u>278,020</u>
Total	67,298,309
Source of funds	
Transportation fund	64,315,237
Federal funds	2,883,072
Interdepartmental transfers	<u>100,000</u>
Total	67,298,309
Sec. B.906 Transportation - policy and planning	
Personal services	4,099,519
Operating expenses	1,169,550
Grants	<u>5,024,772</u>
Total	10,293,841
Source of funds	
Transportation fund	2,295,512
Federal funds	7,623,486
Interdepartmental transfers	<u>374,843</u>
Total	10,293,841
Sec. B.907 Transportation - rail	
Personal services	3,625,048
Operating expenses	<u>16,858,115</u>
Total	20,483,163

Source of funds	
Transportation fund	10,129,388
Federal funds	<u>10,353,775</u>
Total	20,483,163
Sec. B.908 Transportation - bridge maintenance	
Operating expenses	<u>17,623,700</u>
Total	17,623,700
Source of funds	
ARRA funds	3,630,500
TIB fund	234,020
Transportation fund	2,979,620
Federal funds	<u>10,779,560</u>
Total	17,623,700
Sec. B.909 Transportation - public transit	
Personal services	717,809
Operating expenses	51,301
Grants	<u>21,563,806</u>
Total	22,332,916
Source of funds	
Transportation fund	6,828,234
Federal funds	<u>15,504,682</u>
Total	22,332,916
Sec. B.910 Transportation - central garage	
Personal services	3,454,724
Operating expenses	<u>14,373,351</u>
Total	17,828,075
Source of funds	
Internal service funds	<u>17,828,075</u>
Total	17,828,075
Sec. B.911 Department of motor vehicles	
Personal services	17,063,642
Operating expenses	8,026,673
Grants	<u>50,000</u>
Total	25,140,315
Source of funds	
Transportation fund	23,657,821
Federal funds	<u>1,482,494</u>
Total	25,140,315

Sec. B.912 Transportation - town highway structures

Grants	<u>3,833,500</u>
Total	3,833,500
Source of funds	
Transportation fund	<u>3,833,500</u>
Total	3,833,500

Sec. B.913 Transportation - town highway Vermont local roads

Grants	<u>375,000</u>
Total	375,000
Source of funds	
Transportation fund	235,000
Federal funds	<u>140,000</u>
Total	375,000

Sec. B.914 Transportation - town highway class 2 roadway

Grants	<u>6,448,750</u>
Total	6,448,750
Source of funds	
Transportation fund	<u>6,448,750</u>
Total	6,448,750

Sec. B.915 Transportation - town highway bridges

Personal services	3,570,000
Operating expenses	<u>17,101,100</u>
Total	20,671,100
Source of funds	
TIB fund	2,540,899
Transportation fund	500,000
Local match	1,356,473
Federal funds	<u>16,273,728</u>
Total	20,671,100

Sec. B.916 Transportation - town highway aid program

Grants	<u>24,982,744</u>
Total	24,982,744
Source of funds	
Transportation fund	<u>24,982,744</u>
Total	24,982,744

 Sec. B.917 Transportation - town highway class 1 supplemental grants

Grants	<u>128,750</u>
Total	128,750
Source of funds	
Transportation fund	<u>128,750</u>
Total	128,750

Sec. B.918 Transportation - town highway emergency fund

Grants	<u>750,000</u>
Total	750,000
Source of funds	
Transportation fund	<u>750,000</u>
Total	750,000

Sec. B.919 Transportation - municipal mitigation grant program

Grants	<u>2,112,998</u>
Total	2,112,998
Source of funds	
Transportation fund	247,998
Federal funds	<u>1,865,000</u>
Total	2,112,998

Sec. B.920 Transportation - public assistance grant program

Grants	<u>200,000</u>
Total	200,000
Source of funds	
Federal funds	<u>200,000</u>
Total	200,000

Sec. B.921 Transportation board

Personal services	73,502
Operating expenses	<u>13,389</u>
Total	86,891
Source of funds	
Transportation fund	<u>86,891</u>
Total	86,891

Sec. B 922 Total Transportation 540,311,796

Source of funds	
ARRA funds	70,000,000
TIB fund	12,812,000
Transportation fund	190,942,736

Local match	2,956,903
Federal funds	238,520,989
Internal service funds	17,828,075
Interdepartmental transfers	<u>7,251,093</u>
Total	540,311,796
Sec. B.1000 Debt service	
Debt service	<u>69,569,880</u>
Total	69,569,880
Source of funds	
General fund	63,509,650
Transportation fund	3,560,515
Special funds	2,499,715
Total	69,569,880
Sec. B.1000.1 Short term borrowing	
Debt service	<u>1,176,792</u>
Total	1,176,792
Source of funds	
General fund	<u>1,176,792</u>
Total	1,176,792
Sec. B 1001 Total Debt service	70,746,672
Source of funds	
General fund	64,686,442
Transportation fund	3,560,515
Special funds	<u>2,499,715</u>
Total	70,746,672
Sec. B.1100 FISCAL YEAR 2010 NEXT GENERATION APPROPRIATION	
<u>(a) In fiscal year 2010, the following amount is appropriated from the next generation initiative fund, created in 16 V.S.A. § 2887 as prescribed by Sec. E.1100:</u>	
	\$7,293,000
Sec. B.1101 FISCAL YEAR 2010 ONE TIME APPROPRIATIONS	
<u>(a) In fiscal year 2010, the following amounts are appropriated from the general fund:</u>	
<u>(1) To the university of Vermont. \$261,667 of these funds are intended for the restoration of the fiscal year 2009 reduction to the next generation scholarship allocated to UVM for both fiscal year 2009 and fiscal year 2010 and shall be used for scholarships in the same manner as specified in Sec. E.1100(a)(3)(B) of this act.</u>	
	\$5,436,966

(2) To Vermont state colleges \$291,667 of these funds are intended for the restoration of the fiscal year 2009 reduction to the next generation scholarship allocated to VSC for both fiscal year 2009 and fiscal year 2010. \$261,667 shall be used for scholarships in the same manner as specified in Sec. E.1100(a)(3)(B) and \$30,000 shall be used for dual enrollment programs in the same manner as specified in E.1100(a)(3)(C) of this act. \$3,537,342

(3) To the Vermont student assistance corporation. \$336,667 of these funds are intended for the restoration of the fiscal year 2009 reduction to the next generation scholarship allocated to VSAC for both fiscal year 2009 and fiscal year 2010. \$75,000 shall be used for non-degree grants in the same manner as specified in E.1100(a)(3)(A) and \$261,667 shall be used for scholarships in the same manner as specified in Sec. E.1100(a)(3)(B) of this act. \$2,826,658

(4) To the Vermont housing and conservation board for a grant to the Vermont center for independent living to fund the home access program in fiscal year 2010. \$1,000,000

(5) To the Vermont state colleges to grow the endowment and to be used in a manner consistent with that specified in Sec. 381a (a)(13) of Act 65 of 2007. \$100,000

(6) To the department of health for expenses associated with "Real ID" requirements. \$280,000

(7) To the department of tourism and marketing of which \$100,000 shall be for a grant to the Vermont convention bureau and \$20,000 shall be for the Shires of Vermont. \$600,000

(8) To the department of innovation and information for the expansion of the vision and human resource information systems. These funds will assist in the implementation of web-based time and expense reporting as well as to improve business practices related to the state financial systems. The department is authorized to re-negotiate the contract with the vendor consistent with these funds or to re-bid the project if necessary. Additional funding will be required in fiscal year 2011 and fiscal year 2012 to complete the project. \$4,500,000

(9) To the legislature, for planning and preparation for the 2009 council of state governments northeast regional meeting in Vermont. \$50,000

(b) In fiscal year 2010 the following amounts are appropriated from the American and Recovery and Reinvestment: State Fiscal Stabilization Fund Government Services Fund.

(1) To the Vermont economic development authority, for job creation in Vermont, a total of \$6,000,000 in fiscal year 2010. This is the first-year allocation of an intended two-year initiative. Of this total the funds are appropriated:

(A) to be reserved to provide venture capital to Vermont small businesses in the areas of technology, green energy, and agriculture to expand their workforce as specified in S.137 of 2009. \$5,000,000

(B) to be reserved to fund activities specified in S.137 of 2009. \$1,000,000

(2) To the transportation fund to be used for expenditures of the fund that are not used to match federal funds. \$2,500,000

Sec. B.1102 REPEAL

(a) Sec. 3(a)(2)(B) of No. 206 of the Acts of 2008 (fiscal year 2010 transportation fund pay act) is repealed.

Sec. B.1103 APPROPRIATION REDUCTION; EXPENDITURE REDUCTION

(a) The secretary of administration shall reduce fiscal year 2010 general and transportation fund appropriations consistent with expenditure reductions, including reductions in positions, and is authorized to substitute appropriation adjustments in other funds and to effect fund transfers to the general and transportation funds to achieve these amounts. The general fund appropriation reduction shall be \$14,700,000 and the transportation fund reduction shall be \$1,400,000 and shall be made in accordance with the provision of Sec. E. 1103 of this act.

(b) The secretary of administration is directed to reduce instate travel budgets throughout the executive branch of state government, thereby reducing operating expense appropriations by \$16,560. This shall be accomplished through a reduction in general funds.

* * * Fiscal Year 2009 Budget Adjustment * * *

Sec. C.101 Sec. 2.136 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.136. Public service - regulation and energy

Personal services	4,981,246	5,901,246
Operating expenses	690,524	690,524
Grants	5,770,007	5,770,007
Total	11,441,777	12,361,777
Source of funds		
Special funds	10,248,977	11,168,977

Federal funds	1,157,800	1,157,800
Interdepartmental transfer	<u>35,000</u>	<u>35,000</u>
Total	<u>11,441,777</u>	12,361,777

Sec. C.102 Sec. 2.145 of No. 192 of the Acts of 2008 as amended by Sec. 13 of H.232 of 2009 is further amended to read:

Sec. 2.145. Total protection to persons and property	259,245,579	260,165,579
Source of funds		
General fund	93,104,352	93,104,352
Transportation fund	32,725,324	32,725,324
Special funds	66,924,640	67,844,640
Tobacco fund	696,306	696,306
Global Commitment fund	1,898,824	1,898,824
Federal funds	49,775,682	49,775,682
Enterprise funds	4,735,317	4,735,317
Interdepartmental transfer	<u>9,385,134</u>	<u>9,385,134</u>
Total	259,245,579	260,165,579

Sec. C. 103 Sec. 2.223 of No. 192 of the Acts of 2008 as amended by Sec. 29. of H. 232 of 2009 is further amended to read:

Sec. 2.223. Department for children and families - child development

Personal services	3,338,891	3,338,891
Operating expenses	843,660	520,557
Grants	51,064,583	<u>54,940,903</u>
Total	55,247,134	58,800,351
Source of funds		
General fund	23,228,747	25,195,964
Special funds	865,000	865,000
Global Commitment fund	4,289,469	5,365,469
<u>Federal ARRA funds</u>		426,000
Federal funds	26,724,411	26,808,411
Interdepartmental transfer	<u>139,507</u>	<u>139,507</u>
Total	55,247,134	58,800,351

Sec. C 104. Sec. 2.251 of No. 192 of the Acts of 2008 as amended by Sec. 46. of H. 232 is further amended to read:

Sec. 2.251. Total human services	2,649,379,658	2,693,573,326
Source of funds		
General fund	521,931,597	474,056,196
Special funds	66,707,178	64,844,465

Tobacco fund	45,410,381	45,410,381
Global Commitment fund	906,593,258	914,305,775
State health care resources fund	147,623,246	148,261,016
Catamount fund	31,073,806	23,769,031
Federal funds	916,671,195	933,989,937
<u>Federal ARRA funds</u>		75,886,880
Permanent trust funds	10,000	10,000
Internal service funds	3,282,548	3,282,548
Interdepartmental transfer	10,076,449	9,757,097
Total	2,649,379,658	2,693,573,326

Sec. C.105 FISCAL YEAR 2009 – ARRA APPROPRIATIONS

(a) In addition to funds appropriated elsewhere, the following appropriation of American Recovery and Reinvestment Act funds are authorized in fiscal year 2009.

(1) \$60,049 to the agency of human services for the Vermont commission of national and community service.

(2) \$1,225,000 to the department for children and families - office of economic opportunity for Community Services Block Grant funding.

(3) \$131,911 to the department for children and families - child development as a result of IV-E enhanced match. This is anticipated to allow a like amount of funding to carry forward and be available to offset fiscal year 2010 funding need.

(4) \$1,048,199 to the department for children and families – family services as a result of IV-E enhanced match. This is anticipated to allow a like amount of funding to carry forward and be available to offset fiscal year 2010 funding need.

(5) \$540,660 to the department for children and families – food stamp cash out for supplemental nutrition assistance program funding.

(6) \$300,000 to the department for children and families – administration and support services for food stamp administration.

(7) \$635,573 to the department of disabilities, aging, and independent living - vocational rehabilitation for rehabilitation services.

(8) \$81,000 to the department of disabilities, aging, and independent living - advocacy and independent living grants for senior nutrition funds.

(9) \$3,000 to the department of disabilities, aging, and independent living - advocacy and independent living grants for senior community service employment.

(10) \$44,649 to the department of disabilities, aging, and independent living - blind and visually impaired.

(11) \$50,000 to the department of labor for state unemployment and employment service operations including job counseling and other assistance to workers.

(12) \$350,000 to the department of labor for employment and training assistance to economically disadvantaged youth with employment barriers.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$9,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above \$9,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The sum of \$3,449,427 shall be allocated as follows:

(A) \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) \$408,700 to the Vermont center for geographic information.

(4) It is the intent of the general assembly that in fiscal year 2011, the appropriations in this subsection shall be in accordance with the formulas set forth in 32 V.S.A. § 9610(c), 10 V.S.A. § 312, and 24 V.S.A. § 4306(a) and (b).

Sec. D.101 FUND TRANSFERS

(a) The following amounts are transferred from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. § 902a: \$750,000.

(B) next generation initiative fund established by 16 V.S.A. § 2887: \$7,293,000.

(2) from the transportation fund to the downtown transportation and related capital improvement fund established by 24 V.S.A. § 2796 to be used by the Vermont downtown development board for the purposes of the fund: \$400,000.

(3) from the public service department regulation special fund to the general fund: \$300,000.

(4) an assessment from special funds to the general fund, of approximately \$3,321,444. Notwithstanding any other provisions of law, the secretary of administration is authorized to reduce special fund appropriations and transfer special funds to the general fund in fiscal year 2010 to achieve this amount and shall report these actions to the joint fiscal committee at its November 2009 meeting.

Sec. D.102 FUND RESERVE AUTHORIZATION

(a) In fiscal year 2010, the secretary of administration may authorize the secretary of human services to include any available balance in the human services caseload reserve as an available state match when setting the per-member per-month actuarial rates for Medicaid eligibility groups in the global commitment program for federal fiscal year 2010 and submitting these rates for approval by the Centers for Medicare and Medicaid Services.

Sec. D.103 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2009 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2010.

Sec. D.104 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2010 shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2010.

Sec. D.105 EXEMPTIONS FROM BUDGET STABILIZATION RESERVES

(a) Transportation fund amounts totaling \$3,144,146, reverted under the secretary of administration's carry-forward authority in Sec. 82(a) of No. 90 of the Acts of 2008, are exempt from the fiscal year 2008 transportation fund appropriation total used to calculate the five percent budget stabilization requirement for fiscal year 2009 in 32 V.S.A. § 308a.

Sec. D.106 EDUCATION MEDICAID RECEIPTS IN FISCAL YEARS 2009 AND 2010

(a) Notwithstanding 16 V.S.A. § 2959a(g), during fiscal year 2009 and fiscal year 2010, after the application of subsections (a) through (f), any remaining Medicaid reimbursement funds shall be deposited in the general fund.

Sec. D.107 GROSS RECEIPTS TAX IN FISCAL YEAR 2010

(a) In fiscal year 2010, the first \$2,300,000 of gross receipts tax revenue collected under 33 V.S.A. § 2503 shall be deposited in the general fund.

Sec. D.108 AMERICAN RECOVERY AND REINVESTMENT ACT: STATE FISCAL STABILIZATION FUND PROGRAM FOR THE SUPPORT OF PUBLIC ELEMENTARY, SECONDARY, AND HIGHER EDUCATION

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the Act and this section. \$38,575,036, which is one-half of Vermont's SFSF funds are appropriated to school districts as part of the funding of the state's adjusted education payment under Sec. B.505 of this act.

(b) The commissioner of education shall ensure that federal reporting is carried out as to:

- (1) the use of funds provided under the SFSF program;
- (2) the estimated number of jobs created or saved with program funds;
- (3) estimated tax increases that were averted as a result of program funds;
- (4) the state's progress in the areas covered by the application assurances; and
- (5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the state fiscal stabilization fund.

Sec. D. 109 AMERICAN RECOVERY AND REINVESTMENT ACT:
STATE FISCAL STABILIZATION FUND GOVERNMENT SERVICES
FUND

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the Act and as indicated below:

(1) For Vermont's SFSF government services fund designated for education, public safety, and other government services, estimated at \$17,165,683, \$8,500,000 is appropriated for fiscal year 2010 in Sec. B.1101 of the act which specifies:

(A) \$6,000,000 is shall be reserved for appropriation to the Vermont Economic Development Authority (VEDA) in fiscal year 2010 and fiscal year 2011 to further job creation in Vermont by providing \$5,000,000 for venture capital to Vermont small businesses in the areas of technology, green energy, and agriculture to expand their workforce and \$1,000,000 is reserved to meet other priorities contained in S.137, An Act Relating to the Vermont Recovery and Reinvestment Act of 2009.

(B) \$2,500,000 is applied to the transportation fund to be used for fund expenditures that are not a match for federal funds.

(b) The secretary of administration shall ensure that federal reporting is carried out as to:

(1) the use of funds provided under the SFSF program;

(2) the estimated number of jobs created or saved with program funds;

(3) estimated tax increases that were averted as a result of program funds;

(4) the state's progress in the areas covered by the application assurances; and

(5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the SFSF monies.

Sec. D.110 FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation-related projects. The allocation is subject to a requirement that 50 percent of a portion of the allocation be obligated by the state within a 120-day time period and that the remaining funds be obligated by February 2010. To the extent the state needs to obligate ARRA funds to satisfy the February 2010 deadline, subject to

the approval of the joint transportation oversight committee, the secretary is authorized to obligate ARRA funds:

(1) to eligible projects in the fiscal year 2010 transportation program; and

(2) to additional town highway projects that meet federal eligibility and readiness criteria.

(b) To the extent ARRA funds are proposed under subsection (a) of this section to be obligated to projects in place of previously authorized state funds or non-ARRA federal funds, the agency shall, subject to the approval of the joint transportation oversight committee, reallocate the authorized funds to advance other projects in the fiscal year 2010 transportation programs in the order of their priority ranking. If the secretary determines that such funds would be more efficiently spent advancing a lower-ranking project due to permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project.

(c) To the extent ARRA funds have been obligated and appropriated under other authority to projects in the fiscal year 2009 transportation program to projects in place of previously authorized and appropriated state funds or non-ARRA federal funds, the agency is authorized to reallocate the authorized funds to advance other projects in the fiscal year 2009 transportation program.

(d) The agency shall submit its proposal regarding the obligation of ARRA funds under subsection (a) of this section and its proposal regarding the reallocation of funds under subsection (b) of this section to the joint transportation oversight committee for approval. The agency shall in addition report to the committee on any reallocation of funds executed under authority of subsection (c) of this section.

(e) The secretary of the agency of transportation shall transfer portions of the \$66,369,500 of ARRA funds appropriated to program development in Sec. 2.903 of this act to other programs as required to effect the spending approved by the joint transportation oversight committee. The agency shall report on the expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular and specially scheduled 2009 meetings.

(f) All reports from the agency to the joint transportation oversight committee (JTOC) required under this section when the legislature is not in session shall take place at meetings of the committee called by the chair.

* * * General Government * * *

Sec. E.100 Secretary of administration – secretary’s office (Sec. B.100, #1100010000)

(a) The secretary of administration shall use the Global Commitment funds appropriated in this section for the Vermont Blueprint for Health chronic care initiative director.

(b) The secretary shall reduce in-state travel budgets in the executive branch to achieve the targeted savings in Sec. B.1103(b).

Sec. E.100.1 3 V.S.A. § 2283 is amended to read:

§ 2283. DEPARTMENT OF HUMAN RESOURCES

(a) The department of human resources is created in the agency of administration. In addition to other responsibilities assigned to it by law, the department is responsible for the provision of centralized human resources management services for state government, including the administration of a classification and compensation system for state employees under chapter 13 of this title and the performance of duties assigned to the commissioner of human resources under chapter 27 of this title. The department shall administer the human resources functions of the agency of administration, in consultation with the agency of administration commissioners and the state librarian. A department of the agency of administration which receives services of the consolidated agency human resources unit shall be charged for those services through an interdepartmental transfer on a basis established by the commissioner of finance and management in consultation with the commissioner of human resources and with the approval of the secretary of administration.

Sec. E.100.2 22 V.S.A. § 901 is amended to read:

§ 901. CREATION OF DEPARTMENT

There is created the department of information and innovation within the agency of administration. The department shall have all the responsibilities assigned to it by law, including the following:

* * *

(12) to provide technical support and services to the departments of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary.

Sec. E.100.3 32 V.S.A. § 183 is amended to read:

§ 183. FINANCIAL AND HUMAN RESOURCE INFORMATION
INTERNAL SERVICE FUND

(a) There is established in the department of finance and management a financial and human resource information internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the division of financial operations in the department of finance and management, and the technical support ~~for the~~ and services provided by the department of information and innovation for the statewide central accounting and encumbrance, budget development, and human resource management system in the department of human resources systems. Expenditures shall be managed in accordance with subsection 462(b) of this title.

* * *

Sec. E.100.4 GOVERNOR'S PRODUCTIVITY TASKFORCE; JOINT
LEGISLATIVE GOVERNMENT ACCOUNTABILITY COMMITTEE

(a) The governor's productivity taskforce, as recommended in the September 8, 2005 report of the Vermont institute on government effectiveness, shall collaborate with the joint legislative government accountability committee on achieving the goals of the strategic enterprise initiative. Specifically, the taskforce and the committee shall develop initiatives to increase efficiencies in and promote innovation across state government.

Sec. E.101 Information and innovation - communications and information technology (Sec. B.101, #1105500000)

(a) Of this appropriation, \$750,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061.

Sec. E.102 Information and innovation – health care information technology (Sec. B.102, #1105503000)

(a) The department of information and innovation (DII) will use the Global Commitment funds appropriated in this section for grants to coordinate with the Vermont Blueprint for Health chronic care initiative and other health care-related statewide information technology programs and projects. These programs and projects will provide public health approaches to improve the health outcomes and the quality of life for all Vermonters, including those who are Medicaid-eligible, and encourage the formation and maintenance of public-private partnerships in statewide health information exchange.

Sec. E.102.1 HEALTH INFORMATION TECHNOLOGY FOR PAYMENT REFORM WORK GROUP

(a) The commissioner of information and innovation shall convene a work group to explore ways to use and fund health information technology to achieve health care payment reform in this state. The work group shall consist of:

(1) Two members of the Vermont general assembly, one appointed by the speaker of the house of representatives and one appointed by the president pro tem of the senate.

(2) The secretary of administration or designee.

(3) The director of the office of economic stimulus and recovery.

(4) The director of the office of Vermont health access or designee.

(5) A representative from the Vermont Information Technology Leaders, Inc.

(6) A representative from First Data.

(7) A representative from IBM.

(8) A representative from each of the three largest health insurers licensed to do business in Vermont.

(9) Other interested stakeholders, which may include health care professionals, hospitals, and academic institutions.

(b) The work group shall:

(1) Explore opportunities for using health information technology to achieve health care payment reform in Vermont, including consideration of the use of smart card technology and mechanisms to enable real-time eligibility determinations and claims preparation, submission, and adjudication at a health care professional's office or a hospital.

(2) Identify potential sources of funding, including grants and other federal funds.

(3) Develop one or more proposals for appropriate grant funds, including those available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

(4) Create a working plan for implementation of the health information technology payment reform initiatives identified for further action by the work group.

(c) No later than 90 days following the effective date of this act, the work group shall submit to the joint fiscal committee its recommendations for using

health information technology to achieve payment reform, as well as the grant proposals and working plan required in subsection (b) of this section.

Sec. E.103 Finance and management – budget and management (Sec. B.103, #1110003000)

(a) The department of finance and management will use the Global Commitment funds appropriated in this section to support the staff effort needed to manage the Global Commitment fund.

Sec. E.103.1 32 V.S.A. §311 is amended to read:

§ 311. Retirement funds integrity report

(a) The governor shall include as a part of the annual budget report required by section 306 of this title, a statement of the extent by which the recommended appropriations to the teachers' retirement funds and to the Vermont employees' retirement funds differ from the amounts as recommended by the Vermont employees' retirement system retirement board as provided by subsection 471(n) of Title 3, and by the teachers' retirement system board of trustees as provided by subsection 1942(r) of Title 16 and for current obligations for retiree health care costs. If the governor's recommended appropriations are less than the amounts recommended by one or both of the boards of the two retirement systems for retirement obligations and retiree health care, the governor shall set forth the long-term financial implications to the state of such shortfall and present a plan to achieve and preserve the fiscal integrity of the retirement funds of the retirement system or systems.

(b) At the request of the house or senate committees on government operations or appropriations, the state treasurer and the commissioner of finance and management shall present to the requesting committees the recommendations submitted under subsections 471(n) of Title 3 and 1942(r) of Title 16.

Sec. E.104 Finance and management – financial operations (Sec. B.104, #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed \$6,111,582 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement are hereby approved. Of this amount, \$1,343,908 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement shall be used to support the HCM system that is operated by the department of information and innovation.

Sec. E.107 HEALTH CARE AND WORKERS COMPENSATION INSURANCE FOR STATE FUNDED ENTITIES

(a) The commissioner of human resources shall review the fiscal implications of inclusion of quasi-public organizations such as the Vermont center for crime victims services and nonprofit organizations that receive 65 percent or more of their funding from Vermont state sources in the state health care program, the state workers compensation program and other state benefit programs. Such analysis shall assume that these organizations pay 100 percent of the costs of any program inclusion. This study shall be submitted to the house and senate committees on government operations and appropriations on or before December 1, 2009. If the commissioner of human resources and the secretary of administration determine there would be no negative fiscal implications for the state, they are authorized to implement the process of including these entities as soon as practicable.

Sec. E.111 Buildings and general services - engineering (Sec. B.111, #1150300000)

(a) The \$750,000 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in 2009 H.445 Sec. 1(8).

Sec. E.112 Buildings and general services – information centers (Sec. B.112, #1150400000)

(a) Of this appropriation, \$8,000 will be used to update the Sharon Vietnam honor roll.

Sec. E.120 Buildings and general services – workers’ compensation insurance (Sec. B.120, #1160450000)

(a) Pursuant to 32 V.S.A. § 307(e), workers’ compensation fund charges not to exceed \$9,336,126 are hereby approved.

Sec. E.123 Buildings and general services – fee-for-space (Sec. B.123, #1160550000)

(a) Pursuant to 29 V.S.A. § 160a(b)(3), facilities operations fund charges not to exceed \$27,655,892 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement are hereby approved.

Sec. E.127 Legislature (Sec. 127, #1210002000)

(a) It is the intent of the general assembly that funding for the legislature in fiscal year 2011 and beyond be included at a level sufficient to support an 18 week legislative session.

Sec. E.128 VIRTUALIZED INFORMATION TECHNOLOGY INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall study the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure. In conducting the study they shall consider the following:

- (1) Current service level and scalability to future service needs;
- (2) Physical and virtual data security and recovery;
- (3) Potential for technology-related savings;
- (4) Opportunities for improved systems performance and capacity;
- (5) Specific vendors and relevant vendor policies; and
- (6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the results of this study to the general assembly on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

Sec. E.129 ACCEPTANCE OF ARRA GRANTS

(a) During fiscal years 2009, 2010, and 2011, the joint fiscal committee shall consider grants under 32 V.S.A. § 5 that are received from the American Recovery and Reinvestment Act (ARRA) with the following procedural changes:

(1) Where a grant is received from ARRA funding, the chairs of the house and senate legislative committees of most relevant jurisdiction, as determined by the chair of the joint fiscal committee, shall be informed of the grant receipt and request for acceptance.

(2) Said chairs may request that a joint fiscal committee member place a grant on the agenda of the joint fiscal committee in a manner consistent with committee policy under 32 V.S.A. § 5(a)(2)

(3) Where a grant is held for the joint fiscal committee agenda, the chairs of the legislative committees of jurisdiction shall be invited to the meeting and may participate in any related discussion.

(b) At joint fiscal committee regular meetings the administration shall report on ARRA grant applications submitted and on the current status of such grant submissions.

Sec. E.133 State treasurer (Sec. B.133, #1260010000)

(a) Of this general fund appropriation, \$6,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. E.135 Vermont state retirement system (Sec. B.135, #1265020000)

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2010, investment fees shall be paid from the corpus of the fund.

Sec. E.135.1 COMMISSION ON THE DESIGN AND FUNDING OF RETIREMENT AND RETIREE HEALTH BENEFITS PLANS FOR STATE EMPLOYEES AND TEACHERS

(a) A commission is created to review and report on the design and funding of retirement and retiree health benefit plans for the state employees' and teachers' retirement systems. The commission is charged with making recommendations about plan design, benefit provisions, and appropriate funding sources, along with other recommendations they deem appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long term sustainability of the benefit programs. The joint fiscal committee may provide benchmark targets reducing the rate of expenditure growth for retirement and retiree health benefits to the commission to guide the development of recommendations.

(b) The commission shall be comprised of the following seven members:

(1) one member of the house of representatives, appointed by the speaker of the house;

(2) one member of the senate, appointed by the committee on committees;

(3) the state treasurer, who shall chair the commission;

(4) the secretary of administration or designee;

(5) the commissioner of education or designee;

(6) one member of the public with pension and benefit experience appointed by the governor;

(7) one member of the public with pension and benefit experience appointed jointly by the speaker of the house and the president of the senate;

(c) The report shall include, but not be limited to, the following:

(1) an evaluation of current benefits structure and contribution characteristics in comparison to other comparable public and private systems,

(2) an estimate of the cost of current and proposed benefits structures on a budgetary, pay-as-you-go basis and full actuarial accrual basis,

(3) a five year review of benefit expenditure levels, as well as employer and employee contribution levels and growth rates, and a three, five and ten year projection of these levels and rates,

(4) based on benefit and funding benchmarks, options for providing new benefit structures with the objective of adequate benefits within the established cost containment benchmarks,

(5) funding methods, including contributions from State, municipalities, and employees to achieve these objectives, and

(6) An evaluation of whether current governance, oversight, and lines of authority are appropriate and consistent with funding objectives.

(d) During the course of its deliberations and prior to any final recommendations being made, the commission should solicit input from the affected parties, such as employees, taxpayers, and organizations representing those parties, including the Vermont state employees association, Vermont – NEA, and the Vermont league of cities and towns.

(e) The commission may select and oversee outside expert benefit and legal expert advisory services as they deem appropriate. An amount of \$150,000 is appropriated for this purpose from the special funds.

(f) On or before December 18, 2009 the commission shall file a report and recommendations with the governor and the general assembly.

(g) The commission shall also provide the report to the board of trustees of the state employees' and teachers' retirement systems for their consideration, deliberation and comment to the general assembly.

(h) Administrative support shall be provided by the office of the state treasurer.

(i) Legislative and public members shall be entitled to per diem compensation and expenses as provided for in § 406 of Title 2 and § 1010 of Title 32 respectively.

Sec. E.135.2 3 V.S.A. § 455(a)(4) is amended to read:

(4) “Average final compensation” shall mean:

* * *

(C) For purposes of calculating the average final compensation, if the member's highest three years of earnable compensation are the three years prior to separation of service, the amount of earnable compensation credited in

each of the last three years prior to retirement for group A or group F members retiring on or after July 1, 2012 and in the last two years prior to retirement for group C members retiring on or after July 1, 2012 may not exceed the amount of earnable compensation for the preceding year by more than 10 percent.

(D) For purposes of determining average final compensation for group A or group C members, a member who has accumulated unused sick leave at retirement shall be deemed to have worked the full normal working time for his or her position for 50 percent of such leave, at his or her full rate of compensation in effect at the date of his or her retirement. For purposes of determining average final compensation for group F members, unused annual or sick leave, termination bonuses and any other compensation for service not actually performed shall be excluded. The average final compensation for a state's attorney shall be determined by the state's attorney's highest annual compensation earned during his or her creditable service.

~~(D)~~(E) For purposes of determining average final compensation for a member who has accrued service in more than one group plan within the system, the highest consecutive years of earnings shall be based on the formulas set forth in subdivision (A) or (B) of this subdivision (4) using the earnable compensation received while a member of the system.

Sec. E.141 Tax department -reappraisal and listing payments (B.141, #1140060000)

(a) The amount of \$3,470,000 in education funds appropriated in Sec. B141 of this act in fiscal year 2010 shall be used to implement the provisions of 32 V.S.A. §§ 4041(a), relating to payments to municipalities for reappraisal costs, and 5405(f), relating to payments of \$1.00 per grand list parcel.

(b) Of this appropriation, \$200,000 shall be transferred to the department of taxes, division of property valuation and review and reserved for payment of expenses associated with a reappraisal as of April 1, 2010 of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the state of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Sec. E.143 Lottery commission (Sec. B.143, #2310010000)

(a) Of this appropriation, the lottery commission shall transfer \$150,000 to the department of health, office of alcohol and drug abuse programs to support the gambling addiction program.

(b) The Vermont state lottery shall provide assistance and work with the Vermont council on problem gambling on systems and program development.

Sec. E.144 Payments in lieu of taxes (Sec. B.144, #1140020000)

(a) This appropriation is for state payments in lieu of property taxes under subchapter 4 of chapter 123 of Title 32, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

Sec. E.145 Payments in lieu of taxes - Montpelier (Sec. B.145, #1150800000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

Sec. E.146 Payments in lieu of taxes – correctional facilities (Sec. B.146, #1140030000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

* * * Protection to Persons and Property * * *

Sec. E.200 Attorney general (Sec. B.200, #2100001000)

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud control unit, is authorized to retain one-half of any civil monetary penalty proceeds from global Medicaid fraud settlements. All penalty funds retained shall be used to finance Medicaid fraud and residential abuse unit activities.

Sec. E.204 Judiciary (Sec. B.204, #2120000000)

(a) For compensation paid from July 1, 2009 to June 30, 2010, the supreme court is authorized to reduce by up to five percent salaries established by statute that are paid by the judicial department appropriation and to reduce by up to five percent the hourly rates of nonbargaining-unit employees earning in excess of \$28.85 per hour.

(b) The court administrator and the executive director of the department of state's attorneys and sheriffs shall enter into a memorandum of understanding to identify which court events require the personal or telephone presence of an individual in state custody. The agreement shall be implemented no later than August 1, 2009.

Sec. E.204.1 Judiciary (Sec. B.204, #2120000000)

4 V. S. A. § 25 is amended to read:

§ 25. JUDICIAL BRANCH; FURLOUGH DAYS; ADMINISTRATIVE LEAVE

(a) The supreme court is authorized to declare up to 12 unpaid judicial branch furlough days in a fiscal year and on those days may close ~~all~~ courts in

the state. For purposes of implementing a furlough day, the supreme court is authorized to reduce on a daily or hourly basis all salaries established by 32 V.S.A. §§ 1003(c), 1141, 1142, and 1181, and all other salaries paid by the judicial branch. Furlough days declared under this section shall have the same effect as holidays under 1 V.S.A. § 371 for the purpose of counting time under the rules of court procedure and the Vermont Statutes Annotated.

* * *

Sec. E.207 Sheriffs (Sec. B.207, #2130200000)

(a) Of this appropriation, \$15,000 shall be transferred to the state's attorneys' office as reimbursement for the cost of the executive director's salary.

(b) Notwithstanding any provision of law to the contrary, the executive director of the department of state's attorneys and sheriffs has the authority and shall reassign state paid deputies to achieve greater efficiency and reduced costs in transporting individuals in the custody of the state. The executive director shall take into consideration the location of correctional and detention facilities, use of regional arraignments by the judiciary, availability and use of technology, and other relevant considerations that will reduce costs.

(c) The executive director and the court administrator shall enter into a memorandum of understanding to identify which court events require the personal or telephone presence of an individual in state custody. The agreement shall be implemented no later than August 1, 2009.

Sec. E.209 Public safety - state police (Sec. B.209, #2140010000)

(a) Of this appropriation, \$32,000 shall be used to make a grant to the County of Essex for law enforcement purposes.

(b) Of this appropriation, \$35,000 in special funds shall be available for snowmobile law enforcement activities and \$35,000 in general funds shall be available to the southern Vermont wilderness search and rescue team, which comprises state police, the department of fish and wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties for snowmobile enforcement.

(c) Of the \$255,000 allocated for local heroin interdiction grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund three town task force officers. These town task force officers will be dedicated to heroin and heroin-related drug (e.g., methadone, oxycontin, crack cocaine, and methamphetamine) enforcement efforts. Any additional available funds shall remain as a "pool" available to local and county law enforcement to fund overtime costs associated with heroin investigations. Any unexpended funds

from prior fiscal years' allocations for local heroin interdiction shall be carried forward.

Sec. E.212 Public safety - fire safety (Sec. B.212, #2140040000)

(a) Of this general fund appropriation, \$55,000 shall be granted to the Vermont rural fire protection task force for the purpose of designing dry hydrants.

Sec. E.214 Public safety - emergency management - radiological emergency response plan (Sec. B.214, #2140080000)

(a) Of this special fund appropriation, up to \$30,000 shall be available to contract with any radio station serving the emergency planning zone for the emergency alert system.

Sec. E.215 Military - administration (Sec. B.215, #2150010000)

(a) Of this appropriation, \$100,000 shall be disbursed to the Vermont student assistance corporation for the national guard educational assistance program established in 16 V.S.A. § 2856.

Sec. E.219 Military - veterans' affairs (Sec. B.219, #2150050000)

(a) Of this appropriation, \$5,000 shall be used for continuation of the Vermont medal program, \$4,800 shall be used for the expenses of the governor's veterans' advisory council, \$7,500 shall be used for the Veterans' Day parade, and \$10,000 shall be used for the military, family, and community network.

Sec. E.220 Center for crime victim services (Sec. B.220, #2160010000)

(a) Of this appropriation, the amount of \$883,000.00 from the victims' compensation fund created by 13 V.S.A. § 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of 2008 applied to the assessment in 13 V.S.A. § 7282(a)(8)(B), and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of 2008 applied to the fee in 32 V.S.A. Sec. 1712(1).

Sec. E.233 Banking, insurance, securities, and health care administration (Sec. B.233, #2210040000)

(a) The department of banking, insurance, securities, and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of funding certain health care-related BISHCA programs, projects, and activities

to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(b) In fiscal year 2010, the commissioner of banking, insurance, securities, and health care administration shall collect the same amount under § 9416(c) of Title 18 as was collected in state fiscal year 2009 for the expenses incurred under that section.

Sec. E.234 Secretary of state (Sec. B.234, #2230010000)

(a) Of this special fund appropriation, \$492,991 represents the corporation division of the secretary of state's office and these funds shall be from the securities regulation and supervision fund in accordance with 9 V.S.A. § 5613.

Sec. E. 235 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, in addition to revenues from the sale of credits under the RGGI cap and trade program ~~established~~ as provided for under section 255 of this title.

* * *

Sec. E. 235.1 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, revenues from the sale of carbon credits as provided for under section 255 of this title shall be deposited into the electric efficiency fund established by this section and be used by the entity or entities appointed under subdivision (2) of this subsection to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers to help meet the state's building efficiency goals established by 10 V.S.A. § 581.

Sec. E. 235.2 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of

Vermont energy consumers. ~~Proceeds~~ Fifty percent of the net proceeds above costs from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a and fifty percent of the net proceeds above costs shall be deposited in the electric efficiency fund established under subsection 209(d)(2) of this title.

Sec. E.238 Enhanced 9-1-1 board (Sec. B.238, #2260001000)

(a) Of this appropriation, \$1,823,443 shall be transferred to the department of public safety for 911 call-takers at public safety answering points operated by the department of public safety.

Sec. E.250 LAW ENFORCEMENT SERVICES; COORDINATION BETWEEN AGENCIES; UNFILLED POSITIONS

(a) The departments of fish and wildlife, motor vehicles, and liquor control shall establish memorandums of understanding with the department of public safety to continue the improvement in communication, cooperation, and coordination between the departments with respect to the provision of law enforcement services.

(b) The commissioners of the departments of public safety, fish and wildlife, motor vehicles, and liquor control shall report to the senate and house committees on appropriations on or before January 15, 2010 on progress the departments have made implementing the recommendations made in the Independent Evaluation of Law Enforcement Services report submitted to the general assembly by the Public Safety Strategies Group on February 20, 2009.

(c) The departments of fish and wildlife, motor vehicles, and liquor control shall report to the senate and house committees on appropriations by September 15, 2009 on the advisability of not filling positions that are not funded by the general fund or the transportation fund.

* * * Human Services * * *

Sec. E.300 Human services - agency of human services - secretary's office (Sec. B.300, #3400001000)

(a) Notwithstanding 32 V.S.A. § 706, the secretary may transfer funds allocated for the "high risk pool" and costs related to juvenile justice to the departments in the agency of human services designated to provide these services.

(b) Of this appropriation, \$54,000 in tobacco settlement funds shall be used to provide a grant to the project against violent encounters for a statewide program for substance abuse prevention and mentoring for youth.

(c) Of this appropriation, \$143,000 in tobacco funds shall be used for a grant to Lamoille County people in partnership for wrap-around services for at-risk youth.

(d) Of this appropriation, \$85,000 in tobacco funds with any corresponding federal matching funds shall be for comprehensive treatment services and \$15,000 shall be for housing provisions for at-risk youth.

(e) Of the funds appropriated to the secretary, \$100,000 shall be available for the pathways to housing program.

Sec. E.301 Secretary's office – Global Commitment (Sec. B.301, #3400004000)

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the office of Vermont health access as provided for in the Global Commitment for Health Waiver (“Global Commitment”) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$29,674,577 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$12,279,600 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$28,220,400 of federal funds appropriated in Sec. B.301 equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$8,956,247 certified state match available from local education agencies' school-based health services, including school nurse services, that increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$3,418,532 certified state match available from local education and social service agencies for eligible services provided to eligible persons through children's collaborative services programs.

(4) \$5,020,198 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under the Global Commitment.

Sec. E.301.1 RETAINING ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)

(a) Notwithstanding 16 V.S.A. § 2959a, to the extent possible, any additional federal funds received as a result of an enhanced FMAP (Federal Medical Assistance Percentage) that are associated with the certified expenditures specified in subdivisions (b)(1) through (4) of Sec. E.301 of this act shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

(b) For the period of the enhanced FMAP, the funding allocated from the Catamount fund for Catamount Health care program expenses within the Global Commitment waiver shall be calculated on the base underlying FMAP rate. This allocation may be prorated as necessary to ensure that the fund is in balance at the close of the fiscal year.

Sec. E.306 MEDICAID; OUT-OF-STATE DISPENSING FEES (Sec. B.306, #341001000)

(a) The office of Vermont health access shall reduce the dispensing fees paid to pharmacies located out of state who participate in Medicaid, VHAP, Dr. Dynasaur, VPharm, or VermontRx to \$2.50 per script.

Sec. E.306.1 CHIROPRACTIC COVERAGE IN MEDICAID

(a) Effective on July 1, 2009, the agency of human services shall reinstate chiropractic coverage for adults in the Medicaid and VHAP programs consistent with section 4088a of Title 8 and at rates comparable to payments for care or services by other health care providers not to exceed Medicare rates.

Sec. E.307 Office of Vermont health access – Medicaid Program - Global Commitment (Sec. B.307, #3410015000)

(a) The office of Vermont health access shall limit payment for select drugs used as maintenance treatment to increments of 90-day supplies in Medicaid, the Vermont Health Access Plan, and VermontRx. This limit shall not apply to drugs generally used to treat acute conditions. The drug utilization review boards shall make recommendations to the director on the drugs to be selected. This limit shall not apply when the patient initially fills the prescription in order to provide an opportunity for the patient to try the medication and for the prescriber to determine that it is appropriate for the patient's medical needs.

Sec. E.307.1 EMERGENCY RULES

(a) In order to administer the provisions of this act relating to establishing co-payments in VPharm, VermontRx, and VHAP provided for in sections E.309.6, E.309.7, E.309.8, and E.309.12 modifying prescriptions for

maintenance drugs to 90-day increments provided for in section E.307, and establishing a therapeutic equivalency generic drug program provided for in E.309.9 in a timely fashion, the agency of human services shall adopt rules pursuant to emergency rulemaking as provided for in 3 V.S.A. § 844.

Sec. E.307.2 33 V.S.A. § 1973 is amended to read:

§ 1973. VERMONT HEALTH ACCESS PLAN

* * *

(e) An individual who is or becomes eligible for Medicare shall not be eligible for the Vermont health access plan.

(f) For purposes of this section, “uninsured” means:

* * *

Sec. E.307.3 32 V.S.A. § 7823 is amended to read:

§ 7823. DEPOSIT OF REVENUE

The revenue generated by the taxes imposed under this chapter shall be credited to the state health care resources fund established by section 1901d of Title 33 and the Catamount fund established by section 1986 of Title 33.

Sec. E.308 FISCAL YEAR 2010 NURSING HOME INFLATION

(a) Notwithstanding any other provision of law, for state fiscal year 2010, the division of rate setting shall modify its methodology for calculating Medicaid rates for nursing homes by inflating the costs in the cost categories for the director of nursing, resident care, and indirect costs from base year 2005 through state fiscal year 2010 by adding two percentage points to the inflation percentages used to calculate the state fiscal year 2009 rates. The state fiscal year 2009 rates limited the incremental state fiscal year 2009 inflation to one-half of the percentage change in the inflation factors between 2008 and 2009.

(b) For the nursing care cost category, the division shall first calculate the inflation percentage from calendar year 2007 to state fiscal year 2008. The division shall next calculate the inflation percentage from calendar year 2007 to state fiscal year 2009. The difference in inflation between the state fiscal year 2008 and state fiscal year 2009 inflation calculations shall be halved and this one-half difference shall be added to the 2008 inflation percentage calculation. Two additional percentage points shall be added to this calculation to arrive at the total inflation percentage to be used to inflate nursing care costs from base year 2007 through state fiscal year 2010.

(c) The division of rate setting shall provide an incentive or rate adjustment by rule to nursing homes to install electronic medical records in order to

improve quality of care by avoiding medical errors and to achieve savings in health care costs through streamlined administration. The incentive or rate adjustment shall be in addition to any current adjustment for capital costs. The incentive or rate adjustment shall be available to nursing homes who have installed electronic medical records prior to the adoption of the rule.

Sec. E.309 33 V.S.A. § 2072(c) is added to read:

(c) If an individual becomes ineligible for assistance under this subchapter, the secretary shall terminate assistance to the individual.

Sec. E.309.1 33 V.S.A. § 2077(a) is amended to read:

(a) The programs established under this subchapter shall be designed to provide maximum access to program participants, to incorporate mechanisms that are easily understood and require minimum effort for applicants and health care providers, and to promote quality, efficiency, and effectiveness through cost controls and utilization review. Applications may be filed at any time and shall be reviewed annually. OVHA may contract with a fiscal agent for the purpose of processing claims and performing related functions required in the administration of the pharmaceutical programs established under this subchapter.

Sec. E.309.2 33 V.S.A. § 1998(f)(1) and (2) are amended to read:

(f)(1) The drug utilization review board shall make recommendations to the director for the adoption of the preferred drug list. The board's recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. "Evidence-based" shall have the same meaning as in section 4622 of Title 18. The director shall provide the board with evidence-based information about clinical efficacy, adverse side effects, safety, appropriate clinical trials, and shall provide information about cost-effectiveness of available drugs in the same therapeutic class.

(2) The board shall meet at least quarterly. The board shall comply with the requirements of subchapter 2 of chapter 5 of Title 1 (open meetings) and subchapter 3 of chapter 5 of Title 1 (open records), except that the board may go into executive session to discuss drug alternatives and receive information on the relative price, net of any rebates, of a drug under discussion and the drug price in comparison to the prices, net of any rebates, of alternative drugs available in the same class to determine cost-effectiveness, and in order to comply with subsection 2002(c) of this title to consider information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required

by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program.

Sec. E.309.3 DUR BOARD EXECUTIVE SESSION

(a) If necessary in order to comply with 33 V.S.A. § 1998(f), the director of the office of Vermont health access shall renegotiate the contract with the pharmacy benefits manager to ensure that the drug utilization review (DUR) board receives information relating to costs of prescription drugs in executive session.

Sec. E.309.4 STUDY ON THE PROMOTION OF GENERICS IN MEDICAID

(a) The office of Vermont health access shall determine the impacts of modifying the co-payment structure in Medicaid and VPharm from a three-tiered structure which varies depending on the cost of the drug to a two-tiered structure with a higher co-payment for a brand-name drug than for a generic drug. The office shall analyze the impacts of changing the fee structure on spending in the Medicaid and VPharm programs, on patient utilization of generic drugs and brand-name drugs, and on any access issues.

(b) The office shall report its analysis to the commission on health care reform no later than October 15, 2009. The commission on health care reform shall review the report and make a recommendation to the general assembly on changing the fee structure as part of its annual report.

Sec. E.309.5 VPHARM; VERMONTRX; REBATES

(a) As required by sections 2002, 2073(f), and 2074(d) of Title 33, the director of the office of Vermont health access shall require any manufacturer of pharmaceuticals purchased by individuals receiving assistance from VPharm or VermontRx to pay a rebate in an amount at least as favorable as the rebate or price discount paid to the office in connection with the Medicaid program. The director shall negotiate with pharmaceutical companies for the payment of these rebates or price discounts. The department shall explore negotiation strategies taken by other states in order to maximize the rebates or discounts achieved. If the Centers for Medicare and Medicaid Services approve the amendment requested to include VPharm and VermontRx in the Global Commitment to Health Medicaid Section 1115 waiver, the director shall establish rebates or price discounts for these programs as part of Medicaid.

Sec. E.309.6 33 V.S.A. § 2073(c) is amended to read:

(c) V-Pharm shall provide supplemental benefits by paying or subsidizing:

* * *

(2) any other cost-sharing required by Medicare part D, except for co-payments for individuals eligible for Medicaid and as provided for in subdivision (d)(1) of this section;

Sec. E.309.7 33 V.S.A. § 2073(d)(1) is amended to read:

~~(d)(1) The secretary of the agency of human services shall develop by rule the manner by which an individual shall contribute the individual's cost established in subdivision (2) of this subsection, except that individuals eligible for Medicaid shall only be subject to the cost sharing requirements established by Medicaid and Medicare. The rule shall seek to minimize the possibility of inadvertent loss of eligibility for Medicare part D and V Pharm benefits. Prior to filing the rule, the secretary shall submit the proposed rule to the health access oversight committee. The health access oversight committee shall review and advise on the agency rules and policies developed under this subsection and shall submit for consideration any recommendations to the joint legislative committee on administrative rules.~~ An individual shall contribute a co-payment of \$1.00 for prescriptions costing \$29.99 or less and a co-payment of \$2.00 for prescriptions costing \$30.00 or more. A pharmacy may not refuse to dispense a prescription to an individual who does not provide the co-payment.

Sec. E.309.8 33 V.S.A. § 2074(c) is amended to read:

(c) Benefits under Vermont-Rx shall be subject to payment of a premium ~~amount~~ and co-payment amounts by the recipient in accordance with the provisions of this section.

* * *

(4) A recipient shall contribute a co-payment of \$1.00 for prescriptions costing \$29.99 or less and a co-payment of \$2.00 for prescriptions costing \$30.00 or more.

Sec. E.309.9 VPHARM; THERAPEUTIC EQUIVALENCY PILOT PROGRAM

(a) No later than July 1, 2009, the office of Vermont health access shall implement a pilot program to maximize the use of over-the-counter (OTC) and generic drugs used to treat the conditions specified in subsection (b) of this section by individuals enrolled in a Medicare Part D prescription drug plan and VPharm.

(b)(1) The VPharm therapeutic equivalency pilot program shall require the use of an OTC or generic drug in order to receive coverage of the Medicare Part D cost-sharing or of the prescription when the drug would be paid for entirely by VPharm, except that a prescriber may override the substitution of a

drug in the same manner and under the same criteria provided for under section 4606 of Title 18 (generic substitutions).

(2) The designated pilot classes are lipotropics, which are statins most commonly used for the treatment of high cholesterol, and gastrointestinal proton pump inhibitors, which are most commonly used to reduce gastric acid. The drug utilization review (DUR) board shall determine the list of OTC and generic drugs that shall be available for coverage in each class and shall ensure that the list of generic drugs includes drugs available on the formularies of 90 percent of the Medicare Part D prescription drug plans available in Vermont. In designing the list, the DUR board shall maximize access to a variety of OTC and generic drugs for consumers.

(c) The office of Vermont health access shall notify prescribers and pharmacists about the pilot program and the requirement for the use of OTC and generics in the pilot classes described in subsection (b) of this section in order to receive coverage for those classes under VPharm.

(d) The office of Vermont health access, in collaboration with the DUR board, shall evaluate the pilot program and provide a report no later than January 15, 2010. The evaluation and report shall include an estimate of the savings from the increased use of OTC and generic drugs, negative impacts on consumer choice, and other positive or negative outcomes of the pilot program.

Sec. E.309.10 VPHARM AND VHAP CO-PAYMENTS

(a) Prior to December 5, 2009, the joint fiscal committee may suspend the co-payments in VPharm, VermontRx, and VHAP established under sections E.309.6, E.309.7, E.309.8, and E.309.12 of this act pending further action of the general assembly:

(1) if the Centers for Medicare and Medicaid Services approve the office of Vermont health access' request for an amendment to the Global Commitment for Health Section 1115 Medicaid waiver to include the VPharm program as part of that waiver; or

(2) if the VPharm program is included as a managed care organization (MCO) investment under the Global Commitment for Health.

Sec. E.309.11 MEDICAID COST CONTAINMENT STUDY

(a) The office of Vermont health access shall determine the feasibility of creating a preferred list of or entering into agreements with other states for purchasing medical devices and biologics to maximize the ability of the Medicaid program to ensure high quality products while negotiating favorable prices and containing costs.

(b) No later than January 15, 2010, the office shall report its analysis on the feasibility, including the potential benefits and harms to the senate committees on appropriations and on health and welfare and the house committees on appropriations and on human services.

Sec. E.309.12 VHAP; PRESCRIPTION DRUG CO-PAYMENTS

(a) An individual enrolled in the Vermont health access plan (VHAP) with income at or above 100 percent of the federal poverty guideline shall contribute a co-payment of \$1.00 for prescriptions costing \$29.99 or less and a co-payment of \$2.00 for prescriptions costing \$30.00 or more. A pharmacy may not refuse to dispense a prescription to an individual who does not provide the co-payment.

Sec. E.311 Health – administration and support (Sec. B.311, #3420010000)

(a) Area health education center: Of this appropriation, \$500,000 shall be granted to the area health education center (AHEC) to support the work and infrastructure of the statewide AHEC network to ensure an adequate and appropriate health care workforce, to bring quality improvement programs to health care professionals, and to create partnerships across community-based health care services to improve health care access and integration. Any funds not expended shall be carried forward to be available for use in subsequent fiscal years. The AHEC will provide the department of health with a final progress report and financial report detailing the unexpended funds to be carried forward at the close of the fiscal year.

(b) Health care provider loan forgiveness and repayment programs:

(1) The department of health may carry forward any unspent portion of funds designated for health professional loan repayment. These funds may be used either alone or to match federal National Health Service Corps loan repayment funds, local funds, or private funds and shall be deposited into the loan repayment fund established under 18 V.S.A. § 10a or for the Vermont student assistance corporation for loan forgiveness programs for health care providers through the dental hygienist incentive loan program, the nursing incentive loan program, and the dental student incentive loan program.

(2) Of this Global Commitment fund appropriation, \$1,295,000 shall be used for the purposes of loan repayment for health care providers and health care educators pursuant to 18 V.S.A. § 10a.

(3) Of this appropriation, \$100,000 is allocated for the Vermont student assistance corporation for loan forgiveness programs for health care providers through the dental hygienist incentive loan program, the nurse incentive loan program, and the dental student incentive loan program.

(c) Vermont academic detailing program:

(1) Of this Global Commitment fund appropriation, \$100,000.00 shall be used for the purposes of supporting the Vermont academic detailing program, a university-based educational outreach program for health care professionals administered by the University of Vermont (UVM), College of Medicine office of primary care. The goal of the Vermont academic detailing program is to promote high-quality, evidence-based, patient-centered, cost-effective medication treatment decisions. This program shall present an objective overview of what evidence from studies shows about various drugs used to treat a medical condition.

(2) The UVM office of primary care may collaborate with other states, countries, or entities that are working on similar programs.

(3) The UVM office of primary care may request information and collaboration from the Vermont department of health, the office of Vermont health access, prescribers, pharmacists, private insurers, hospitals, pharmacy benefit managers, drug utilization review boards, state agencies, and other programs in order to best utilize resources, prevent redundancies of effort, and facilitate appropriate linkages to complementary programs, such as the Vermont Blueprint for Health.

(d) Blueprint: Of this appropriation, \$5,051,400 is allocated to the Vermont Blueprint for Health. \$1,300,000 of the funds shall be used to provide incentive grants and stipends to physician practices and hospitals participating in the pilot projects developed under the Vermont Blueprint for Health established in 18 V.S.A. § 702.

Sec. E.312 Health – public health (Sec. B.312, #3420021000)

(a) AIDS/HIV funding:

(1) The amount of \$335,000 of the general fund/Global Commitment fund appropriation shall be appropriated to the following Vermont AIDS service organizations and peer-support organizations for client-based support services. It is the intent of the general assembly that if Global Commitment fund monies in this subsection are unavailable, the total funding for Vermont AIDS service organizations and peer-support organizations for client-based support services shall be maintained through the general fund or other state-funding sources. The department of health AIDS program shall meet at least quarterly with the HIV/AIDS Community Advisory Group (CAG) with current information and data relating to service initiatives. The funds shall be allocated as follows:

(A) AIDS Project of Southern Vermont, \$71,863;

(B) ACORN, \$28,745;

(C) IMANI, \$37,985;

(D) VT CARES, \$131,407;

(E) Twin States Network, \$30,000;

(F) People with AIDS Coalition, \$35,000.

(2) Of the federal funds, Ryan White Title II funds for AIDS services and the AIDS Medication Assistance Program shall be distributed in accordance with federal guidelines. These guidelines shall not apply to programming funded by state general funds.

(3) The amount of \$100,000 of this general fund appropriation shall be appropriated to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programming which is currently not supported by federal funds due to federal restrictions. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; anti-stigma campaigns; and promotion of needle exchange programs. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds shall be distributed shall be determined by mutual agreement of the department of health, AIDS service organizations, the community planning group (CPG), and CAG. The department of health AIDS program shall be guided and advised by CPG and CAG on an ongoing basis in prioritizing prevention service needs in the disbursement of these funds.

(4) The secretary of human services shall immediately notify the joint fiscal committee if, at any time, there are insufficient funds in AMAP to assist all eligible individuals. The secretary shall work in cooperation with persons living with HIV/AIDS to develop a plan to continue access to AMAP medications until such time as the general assembly can take action.

(5) The secretary of human services shall work in conjunction with the AMAP advisory committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. The committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(6) The amount of \$140,000 general fund carry-forward funds from fiscal year 2009 shall be used for assistance to individuals in the HIV/AIDS Medication Assistance Program (AMAP), including the costs of prescribed

medications, related laboratory testing, and nutritional supplements. These funds may not be used for any administrative purposes by the department of health or by any other state agency or department. Any remaining AMAP general funds at the end of the fiscal year shall be distributed to Vermont AIDS service organizations in the same proportions as those outlined under this subsection.

(b) Of these Global Commitment funds, \$750,000 shall be used to support the Vermont coalition of clinics for the uninsured health care and dental services provided by clinics for uninsured individuals and families and for federally qualified health center (FQHC) development, service expansion, and uncompensated care.

(c) Funding for the tobacco programs in fiscal year 2010 shall consist of the \$1,917,516 in tobacco funds and \$1,059,409 in Global Commitment funds appropriated in Sec. B.312 of this act; and \$212,709 of the tobacco funds appropriated in Sec. B.300 of this act. This total \$3,189,634 shall be utilized according to the provisions of 18 V.S.A. chapter 225 as follows:

(1) community-based programs - \$850,300;

(2) media and public education - \$837,200;

(3) tobacco cessation programs - \$1,163,200; these funds may also be used to provide tobacco cessation counseling services to persons incarcerated in Vermont correctional facilities, and \$80,000 shall be used to make nicotine replacement therapies available to all persons enrolled in tobacco cessation counseling, \$91,400 shall be allocated to programs that serve pregnant women, and \$12,500 shall be granted to the Washington County Mental Health Agency, Inc. for a special cessation program;

(4) surveillance and evaluation activities - \$276,600;

(5) statewide provider education - \$62,334.

Sec. E.313 Health - alcohol and drug abuse programs (Sec. B.313, #3420060000)

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a

state-supported Medicaid and uninsured population substance abuse program in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

(c) Of the interdepartmental transfer in this section, \$150,000 shall be used to support the program dealing with gambling addiction.

(d) Of this appropriation, \$35,000 shall be used to support the drug court program in Chittenden County, \$25,000 shall be used to support the drug court program in Rutland County, and \$25,000 shall be used for court coordination in Bennington County.

(e) The department of health shall be advised by an executive council of Vermont's recovery center network on an ongoing basis to prioritize service and funding needs for recovery centers, to assist with the review of recovery center funding proposals, and to provide recommendations for disbursement of funds to the recovery centers and their support needs. The executive council will consist of a board member of each recovery center. The executive council will work with a network coordinator who provides technical assistance and training to recovery centers. The executive council, working with the department of health, will have oversight of the recovery centers.

(f) Of this appropriation, \$45,000 shall be granted to the Vermont recovery center network. \$458,000 of the appropriation is the allocated share of the DETER program for recovery centers and shall be granted to the recovery centers in operation as of June 30, 2008.

(g) It is the intent of the general assembly that Maple Leaf Farm and Serenity House will undergo the rate setting process prior to establishing the fiscal year 2010 budget for the division of alcohol and drug abuse programs.

The division of rate setting shall report to the joint fiscal committee at its July 2009 meeting on the status of this rate setting process.

(h) The reduction in residential treatment slots needed to achieve the \$150,000 savings included in this appropriation shall be from the allocation for adolescent treatment only.

(i) Of this appropriation, \$750,000 shall be available for a grant to establish a Chittenden County pilot program to unify existing treatment efforts in the county that will demonstrate savings in hospital expenditures related to detoxification and emergency treatment sufficient to offset the initial start-up investment by the end of the second year of operation and savings that exceed 50 percent of the program operation by the end of the third year of operation. Of this total \$250,000 is for start up expenses of the pilot program.

Sec. E.315 Mental health – Vermont state hospital (Sec. B.315, #3150080000)

(a) The community recovery residential program developed under this section shall be consistent with the goals identified in the existing “futures plan.”

Sec. E.316 Department for children and families – administration and support services (Sec. B.316, #3440010000)

(a) Of this appropriation, \$14,000 in general funds shall be provided as a grant to the Vermont Girl Scouts for a program enabling girl scouts and their siblings to visit their mothers in prison.

Sec. E.317. FISCAL YEAR 2010 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2010, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services as provided for under this section.

(b) General rule. The division of rate setting shall calculate PNMI per diem rates for state fiscal year 2010 as 98 percent of each program's final per diem rate in effect on June 30, 2009, with the following exception:

(1) For programs categorized by the placement authorizing departments as crisis-stabilization programs with typical lengths of stay from 0 to 10 days, rates for state fiscal year 2010 shall be set retroactively as follows:

(i) The allowable budget shall be 98 percent of the final approved budget for the rate year which includes June 30, 2009. The monthly allowable budget shall be the allowable budget divided by 12.

(ii) Within five days of the end of each month in state fiscal year 2010, the program shall submit the prior month's census to the division of rate setting. The per-diem rate will be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(b) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2010.

(c) Rates set for state fiscal year 2010 shall be issued as final.

(d) For state fiscal year 2010, the three-month waiting provision of section 8.1(b) of the PNMI rate setting rules for the submission of a rate adjustment application is waived.

(e) The division shall ensure that setting rates of new PNMI residential programs does not disadvantage PNMI residential programs effected by subsection (a) of this section.

Sec. E.322 33 V.S.A. § 1701 is amended to read:

§ 1701. ~~FOOD STAMP SUPPLEMENTAL NUTRITION ASSISTANCE~~
PROGRAM

(a) The state of Vermont may participate in the federal ~~food stamp~~ supplemental nutrition assistance program which is provided for under Public Law 88-525, also known as the Food Stamp Act of 1964, as amended. The commissioner may adopt, and from time to time amend or repeal, regulations governing the operation of the program in the state.

(b) ~~{Repealed.}~~ An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

* * *

Sec. E.322.1 SCHOOL NUTRITION PROGRAM PILOT PROJECT

(a) No later than August 1, 2009, the department of education shall apply to the Food and Nutrition Service for permission to conduct a pilot project under 42 U.S.C. § 1769i to simplify the certification process for families receiving the earned income tax credit who are categorically eligible for the state nutrition assistance program (SNAP). The pilot project shall be designed to allow families receiving the earned income tax to enroll in the school nutrition programs by providing the school with a receipt of proof of earned income tax

credit without having to apply for SNAP. The pilot shall be implemented no earlier than August 1, 2010.

(b) The commissioner of taxes shall provide taxpayers receiving the earned income tax credit a notice, including proof of eligibility of the earned income tax credit, explaining that the notice may be presented to the school district of the dependent's children for enrollment in school nutrition programs pursuant to the school nutrition program pilot project created by this act.

(c) The proof of eligibility issued by the commissioner shall in no way preclude the commissioner from assessing or collecting a tax nor shall such proof be admissible as evidence in any action by the commissioner to assess or collect a tax.

Sec. E.322.2 SUPPLEMENTAL NUTRITION ASSISTANCE; AGENCY ERRORS

(a) No later than July 1, 2009, the department for children and families shall submit a cost analysis to the Food and Nutrition Service (FNS) for permission to not establish an overpayment in the supplemental nutrition assistance program, called 3SquaresVt, when the overpayment to the household resulted from agency error and the overpayment amount is \$500 or less.

Sec. E.323 33 V.S.A. § 1103(c)(8) is added to read:

(8) An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

Sec. E.323.2 33 V.S.A. § 1203a is added to read:

§ 1203a. APPLICATION OF 21 U.S.C. § 862a

An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP (Sec. B.324, #3440090000)

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$350,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2009, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available.

An equivalent amount shall be returned to the home weatherization fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance fund be necessary for the 2009–2010 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2009, and if LIHEAP funds awarded as of December 31, 2009 for fiscal year 2010 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2010. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2009, the commissioner of finance and management may anticipate receipts into the home weatherization assistance fund.

Sec. E.324.2 33 V.S.A. § 2606 is amended to read:

§ 2606. APPLICATION PERIOD; ASSISTANCE

~~(a) In order to make a timely determination of benefit levels, there shall be an application period during which all beneficiaries shall apply for home heating fuel assistance for the ensuing heating season. The application period shall be from July 15 through August 31. The secretary shall establish by rule procedures for application, determination of eligibility, and issuance of benefits.~~

~~(b) The secretary shall accept applications after the application period has closed, but no later than the last day of February. No qualified applicant shall be penalized through a reduction of benefits for a late filed application, except that such applicant shall not be entitled to benefits for any period prior to the month of application.~~

~~(c) The director of home energy assistance shall supply or contract for staff to carry out application-processing and related tasks including assisting households in applying and providing required information, and locating and contacting fuel suppliers certified under section 2607 of this title.~~

Sec. E.325 Department for children and families - office of economic opportunity (Sec. B.325, #3440100000)

(a) Of the general fund appropriation in this section, \$792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney emergency shelter funds. Grant decisions shall be made with assistance from the coalition of homeless Vermonters.

Sec. E.326 Department for children and families - OEO - weatherization assistance (Sec. B.326, #3440110000)

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) As part of the administration's annual budget testimony before the house and senate committees on appropriations, the office of economic opportunity shall report on appropriations utilizing existing resources within state government available in the office of economic opportunity's weatherization data management system that compiles performance data available on households weatherized in the past year to include:

(1) the number of households weatherized;

(2) the average program expenditure per household for energy efficiency;

(3) the average percent in energy savings;

(4) the energy and non-energy benefits combined;

(5) the benefits saved for every dollar spent;

(6) the average savings per unit for heating fuels;

(7) the gallons of oil saved related to the equivalent number of homes heated;

(8) projected number of households to be weatherized in the current program year; and

(9) the projected program expenditures for the current program year ending March 31.

(c) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. § 305a.

Sec. E.326.1 FISCAL YEAR 2010 STATE WEATHERIZATION EFFORTS

(a) The general assembly recognizes the importance of weatherization activities as a key component of housing affordability in Vermont. To this end, for fiscal year 2010, the following state resources shall be targeted to furthering weatherization efforts:

(1) \$5,160,000 of proceeds from the gross receipts tax to the weatherization trust fund to support weatherization activities of the office of economic opportunity;

(2) \$3,496,000 of Regional Greenhouse Gas Initiative (RGGI) funds through the Vermont department of public service and through the electric efficiency fund to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers to help meet the state's building efficiency goals established by 10 V.S.A. § 581.

(b) The Vermont housing conservation board and the Vermont housing finance agency shall carry out its affordable housing activities, to the extent possible, to improve weatherization and building envelope efficiency.

(c) In carrying out its affordable housing activities, to the maximum extent feasible, the Vermont housing and conservation board shall utilize appropriate amounts from the funds authorized in this act together with other available weatherization resources and programs in Vermont to ensure that new construction and rehabilitation of affordable apartments and homes with funding support from the board will achieve increased short and long term energy efficiencies.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living (Sec. B.330, #3460020000)

(a) Of this appropriation, \$100,000 shall be granted to support a supportive housing demonstration project managed by Cathedral Square Corporation. It is the intent of the general assembly that these funds be used as matching funds for a two-year period for grants to conduct research on cost-efficient and quality services in senior housing. Cathedral Square, in conjunction with the department of disabilities, aging, and independent living, shall identify the programmatic interventions intended to achieve measurable outcomes including savings from services not needed because of the demonstration project services or improvements in participants' physical and mental well-being. The general assembly recognizes the imperative to develop a long-term care system in Vermont designed to meet the needs of a senior population projected to double by the year 2030. The general assembly endorses this demonstration project as the potential foundation for a home-centered long-term care policy in Vermont. The department and demonstration shall report to the health access oversight committee no less than every six months on the progress of the demonstration project.

(b) Certification of adult day providers shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region and does not have an adverse impact on existing adult day services.

(c) Of this appropriation, \$23,655 in general funds shall be allocated for special assistance to adult day service providers. The department shall develop criteria on the use of these funds in consultation with the adult day programs.

Funds remaining in this allocation after March 30, 2009 shall be distributed on an equitable basis to adult day programs by the close of the fiscal year.

(d) Of this appropriation, \$109,995 in general funds shall be allocated for base funds to adult day programs in the same proportion as they were allocated in fiscal year 2009.

Sec. E.337 Corrections – correctional education (Sec. B.337, # 3480003000)

(a) The appropriation in this section shall be notwithstanding 28 V.S.A. § 120(g).

Sec. E.338 Corrections – correctional services (Sec. B.338, # 3480004000)

(a) Of this general fund appropriation, \$106,820 shall be used as a grant to Dismas House of Vermont, Inc.

(b) The department of corrections is authorized to institute medical co-payments.

(c) Up to \$8,000 of the funds appropriated shall be for equipment purchased for the “wood warms” program in Bennington.

Sec. E.342 Vermont veterans’ home – care and support services (Sec. B.342, #3300010000)

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans’ home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans’ home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

* * * Labor * * *

Sec. E.400 DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; LEGISLATIVE COMMITTEE

(a) A committee of the following members is created: the speaker of the house shall appoint one member from the house committee on government operations, one member from the house committee on general, housing, and military affairs, one member of the house committee on commerce, and one other member of the house; the president pro tempore of the senate shall appoint two members of the senate committee on government operations and two members from the senate committee on economic development, housing and general affairs. The speaker of the house and the president pro tempore of the senate shall appoint one of these members to serve as chair of the committee.

(b) The committee shall make recommendations for the possible restructuring of the agency of commerce and community development and the department of labor so that these agencies are better able to serve their respective constituencies by:

(1) Identifying areas for enhanced collaboration and increased efficiencies, including combining information technology resources and fiscal and accounting services and sharing regional information and common customer resource and service management.

(2) Reviewing funding sources for the agency and the department, the requirements and limitations for those sources, and evaluating how they will be affected by the restructuring plan.

(3) Examining the likelihood of general fund savings resulting from restructuring.

(4) Identifying staffing and compliance issues resulting from the receipt of federal funding.

(5) Examining management structures, including the duties and responsibilities of commissioners, deputy commissioners, and exempt division directors.

(6) Recommending a new organizational structure, possibly with a focus on grouping divisions or departments around common functions and constituencies.

(7) Examining alternative co-locations for administrative and operational functions located in Montpelier and regionally.

(8) Considering other areas of state government that might appropriately be included in the recommended structure.

(9) Establishing a time line for restructuring that provides the least disruption of essential services, particularly at a time of high unemployment, and that may contemplate a phased implementation plan.

(10) Gathering information on other models in other states.

(c) Prior to making its recommendations, the committee shall meet with, seek input from, and discuss restructuring with potentially affected constituencies, including: the secretary of commerce and community development, the commissioners of the departments of the agency of commerce and community development, the commissioner of labor, employees of the agency of commerce and community development and the department of labor, all state entities connected with these agencies, the Vermont league of cities and towns, municipalities, private planners and

community development consultants, regional planning commissions, regional development corporations, chambers of commerce, historic preservationists, workforce investment boards, the Vermont Bar Association's workers' compensation committee, labor unions, training and education providers, housing entities, the Vermont institute on government effectiveness, and the general business community. The committee shall also utilize and build upon existing studies and research.

(d) The committee shall meet with the joint legislative government accountability committee in order to coordinate recommendations.

(e) The committee may meet up to eight times while the legislature is not in session.

(f) The legislative council shall provide professional and administrative support to the committee. Committee members are entitled to compensation and reimbursement of expenses as provided under section 406 of Title 2.

(g) The committee shall submit its recommendations to the legislative committees of jurisdiction no later than January 15, 2010.

Sec. E. 400.1 UNEMPLOYMENT INSURANCE

(a) The general assembly recognizes that Vermont's unemployment insurance trust fund is not funded sufficiently to cover unemployment benefits for fiscal year 2010. In 2008, Vermont paid \$112,300,000 in unemployment benefits while collecting contributions of \$64,500,000. The general assembly intends that current benefits shall be maintained during fiscal year 2010, and the general assembly shall provide funding or adjust fund revenues to ensure sufficient resources are available to make these payments.

Sec. E.401 Labor - programs (Sec. B.401, 4100500000)

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

Sec. E.401.1 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioner of labor shall make awards to the following:

(1) Training Programs. Public, private, and nonprofit entities for existing or new innovative training programs. There shall be a preference for programs that include training for newly created or vacant positions. Awards may be made to programs that retrain incumbent workers. ~~The department shall ensure there are resources available in each quarter of the fiscal year.~~

Awards under this subdivision shall be made to programs or projects that do all the following:

* * *

* * * K-12 Education * * *

Sec. E.500 Education – finance and administration (Sec. B.500, #5100010000)

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.500.1 THE AMERICAN RECOVERY AND INVESTMENT ACT OF 2009; EDUCATION

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

(1) The American Recovery and Reinvestment Act of 2009 (ARRA) provides billions of dollars in federal funds to stimulate the economy in the short term and to invest in education and other essential public services necessary to ensure the long-term economic health of the nation.

(2) Four principles guide distribution of ARRA funds:

(A) Spend funds quickly to save and create jobs.

(B) Improve student achievement through school reform.

(C) Ensure transparency, reporting, and accountability.

(D) Invest one-time ARRA funds thoughtfully to minimize unsustainable recurring costs in the future.

(b) Title VIII of the ARRA. In Title VIII, the ARRA appropriates additional funding to supervisory unions and school districts through existing federal programs, such as Title I of the Elementary and Secondary Education Act (Title I) and the Individuals with Disabilities Education Act (IDEA), to enhance and develop educational practices and outcomes for students who are disadvantaged or disabled, to provide supports for the lowest performing schools, and to promote innovation and improvement in education for all students.

(c) Department of education. The general assembly recognizes that, if it has the capacity, the department of education shall help supervisory unions and school districts to use IDEA, Title I, and other federal stimulus funds, both within and among these entities, in coordinated, fiscally prudent ways that

advance the educational purposes of the ARRA. Therefore, it is the intent of the general assembly to ensure that the department has the positions and funding that it needs to help supervisory unions and school districts. Examples of departmental assistance include:

(1) Developing, coordinating, or providing professional development models to assist implementation of evidence-based strategies to:

(A) Increase student participation and achievement levels, such as through responsiveness to intervention (RTI), positive behavioral supports (PBS), differentiated instruction (DI), the Vermont integrated instructional model (VIIM), and the formative assessment project.

(B) Provide effective prevention and intervention strategies to support students at risk of not completing high school.

(C) Promote secondary school transformation.

(D) Support early intervention and early childhood education.

(2) Coordinating early intervention and early education services statewide.

(3) Aiding school districts to provide assistive technology equipment not otherwise available to them through existing funding sources.

(d) Supervisory unions and school districts. It is the intent of the general assembly that federal IDEA, Title I, and any other federal stimulus funds received by supervisory unions or school districts are used in fiscally prudent ways to advance the purposes of the ARRA as it relates to education without creating unsustainable recurring costs, such as:

(1) To provide intensive professional development opportunities in special education and general education that focus on implementing innovative, evidence-based, schoolwide strategies in reading, math, and science and in the use of positive behavioral interventions and supports.

(2) To establish a system to identify and train highly effective teachers to serve as instructional leaders and mentors.

(3) To implement innovative, flexible, evidence-based programs and practices to identify and support students who are at risk of not completing high school.

(4) To implement student progress monitoring systems to assist teachers and administrators to collect and use data to improve instruction and learning for all students.

(5) To provide intensive training and coaching to teachers, administrators, and para-educators to improve services provided to students with disabilities, including autism and emotional behavioral disorders.

(6) To provide additional intervention services for children with disabilities who are eligible for early childhood education as that term is defined in 16 V.S.A. § 11(a)(31).

(7) To support the training and certification of early childhood educators working in a program offered by or through a school district.

(8) To increase the federal share of special education costs.

Sec. E.500.2 FIVE LIMITED SERVICE POSITIONS WITHIN THE DEPARTMENT OF EDUCATION

(a) Five limited service positions are authorized within the department of education to support implementation of Sec. E.500.1 of this act, including one exempt attorney position to specialize in special education law, one program coordinator I position, and three education consultant II positions.

(b) The sum of \$325,000 is appropriated to the department of education from the special fund created in subsection 2959a(b) of Title 16 through an allocation made pursuant to subsection 2959a(f) of that title.

Sec. E.501 Education – education services (Sec. B.501 #510003000)

(a) In fiscal year 2010 and fiscal year 2011, \$1,131,751 is added to the education fund for early education initiative grants for at-risk preschoolers. In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

Sec. E 501.1 EDUCATIONAL TRANSFORMATION

(a) The general assembly is committed to promote the flexibility needed to transform Vermont's educational structure and authorizes the commissioner of education to provide waivers for compliance with any rules authorized by 16 V.S.A. § 165, the standards of quality for public schools, promulgated under the Administrative Procedures Act or any other rule that might be authorized by Title 16 of the Vermont Statutes Annotated that the commissioner can demonstrate is duplicative or impedes the efficient operation of the district or supervisory union or the use of innovative and effective methods to promote learning through which a student may achieve or exceed the expectations of the Vermont Framework of Standards and Learning Opportunities.

(b) The commissioner shall present a report on the reasons and results of any such waivers to the house and senate committees on education and on

appropriations by March 1, 2010 and options for increasing flexibility in the statutory and policy framework for Vermont's education system.

Sec. E.502 Education-special education formula grants (Sec. B.502, #5100040000)

(a) The education fund appropriated in this section shall be notwithstanding 16 V.S.A. §§ 2963(c)(3) and 2967(b).

Sec. E.503 Education – state-placed students (Sec. B.503, #5100050000)

(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education-adult education and literacy (Sec. B.504, #5100060000)

(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. 1049a(c).

Sec. E.505 COMMUNITY HIGH SCHOOL OF VERMONT GRANT

(a) From the education funds appropriated in Sec. B.505 in fiscal year 2010 and fiscal year 2011, a base education payment shall be paid to the community high school of Vermont for full-time equivalent students studying high school equivalency coursework. For fiscal year 2010, this total grant shall be set at the base education payment for 355 full-time equivalent pupils. This amount shall be transferred from the funds appropriated in Sec. B.505 to the department of corrections - correctional education program. These payments shall be made notwithstanding 16 V.S.A. § 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly

Sec. E.506 TRANSPORTATION GUIDELINES

(a) The commissioner of education, in consultation with the board of education, shall establish guidelines and recommendations for school transportation services and policies. Establishment of these guidelines shall take into account the safety of passengers and other persons, relevant costs, and environmental impacts.

Sec. E.511 Education-technical education (Sec. B.511, #5100200000)

(a) The appropriation in this section shall be authorized, notwithstanding 16 V.S.A. Sec. 1564.

Sec. E.511.1 REPEAL

(a) 16 V.S.A. § 1564 (equipment replacement fund) is repealed.

Sec. E.512 Education – No. 117 of the Acts of 2000 – cost containment (Sec. B.512, #5100310000)

(a) Notwithstanding any other provisions of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the state's 60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 EDUCATION FUND TRANSFER ADJUSTMENT FOR ARRA FUND OFFSET

(a) Notwithstanding 16 V.S.A. § 4025(2), for fiscal year 2010 the general fund transfer to the education fund shall be \$259,203,945.

(b) It is the intent of the general assembly that the fiscal year 2011 general fund transfer shall be as required in 16 V.S.A. § 4025(2) less any offset for federal state fiscal stabilization funds.

(c) Any calculations required to identify funding levels for the education fund budget stabilization reserve under 16 V.S.A. § 4026(b) shall be calculated as if in fiscal year 2010 those revenues and expenditures included \$38,575,036 in additional revenues and \$38,575,036 in additional expenditures.

Sec. E.513.1 16 V.S.A. § 4025(b) is amended to read:

(b) Moneys in the education fund shall be used for the following:

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, other provisions of this chapter, and the provisions of chapter 135 of Title 32.

(2) To cover the cost of fund auditing, accounting and of short term borrowing to meet fund cash flow requirements.

(3) To make payments required under subdivisions 6066(a)(1) and (2) of Title 32 and only that portion attributable to education taxes, as determined by the commissioner of taxes, of payments required under subdivisions 6066(a)(3) and 6066(b) of Title 32.

* * *

Sec. E.514 State teachers' retirement system (Sec. B.514, #1265010000)

(a) In accordance with 16 V.S.A. § 1944(g)(2), the amount of annual contribution to the Vermont state teachers' retirement system shall be \$41,503,002 in fiscal year 2010.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$19,821,109 is the “normal contribution,” and \$21,681,893 is the “accrued liability contribution.”

(c) The general assembly is proposing that a combination of \$40,303,002 in general funds and an estimated \$1,200,000 of Medicare Part D reimbursement funds be utilized to achieve funding at the actuarially recommended level.

* * * Higher Education * * *

Sec. E.600 University of Vermont (Sec. B.600, #1110006000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$396,115 shall be transferred to EPSCoR (Experimental Program To Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the university of Vermont shall be maintained through the general fund or other state funding sources.

(d) The university of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The university of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

Sec. E.602 Vermont state colleges (Sec. B.602, #1110009000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$446,652 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. E.603 Vermont state colleges – allied health (Sec. B.603, #1110010000)

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

Sec. E.605 Vermont student assistance corporation (Sec. B.605, #1110012000)

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont student assistance corporation to be deposited into the trust fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 100 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont student assistance corporation pursuant to Sec. E.215(a) and E.1100(a)(3)(B) of this act, \$242,500 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

* * * Natural Resources * * *

Sec. E.700 Natural Resource – Agency of Natural Resources - Administration

(a) Of the funds appropriated on Sec. B 700, \$25,000 is for water management typing for the White River basin and the West, Williams, and Saxons river basin.

(1) \$12,500 shall be granted to the Two Rivers Ottaquechee Regional Commission for the purpose developing recommended water management type designations for the White River Basin. In adopting its recommendations, the Two Rivers Ottaquechee Regional Commission shall consult with the agency of natural resources watershed coordinator for the White River basin and shall consider the most recent information for the watershed available from the agency of natural resources and other sources.

(2) \$12,500 shall be granted to the Windham Regional Commission for the purpose of developing recommended water management type designations for the West, Williams and Saxons River Basin. In adopting its recommendations, the Windham Regional Commission shall consult with the agency of natural resources watershed coordinator for the White River basin

and shall consider the most recent information for the watershed available from the agency of natural resources and other sources.

Sec. E.700.1 REPORT AND RULEMAKING ON WATER MANAGEMENT TYPING FOR THE WHITE RIVER BASIN AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, 2011, the Two Rivers Ottaquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E. 700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under subsections (a) and (b), the agency of natural resources shall post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) Within three months of receipt of the recommended water management type designations under this section, the natural resources board shall initiate rulemaking to amend the Vermont water quality standards in order to consider the recommended water management type designations for the White River basin and the West, Williams and Saxons River Basin.

Sec. E.705 FUNDING GOALS FOR FISH & WILDLIFE

(a) It is the intent of the general assembly that the department of fish and wildlife be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

(b) The department shall seek to access to the maximum amount the state may be eligible for of Pittman-Robertson, Dingell-Johnson and other federal revenues. The department shall establish and administer a grant program for Vermont organizations and citizens to utilize the Pittman-Robertson funds for the construction of new public sport shooting ranges and the improvement or modification of existing sport shooting ranges. Sport shooting ranges are defined as per 10 V.S.A. § 5227.

Sec. E.707 FUNDING GOALS FOR FORESTS, PARKS AND RECREATION

(a) It is the intent of the general assembly that the department of forests, parks and recreation be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

Sec. E.717 Natural resources board (Sec. B.717, #6215000000)

(a) It is the intent of the general assembly that should the level of funding provided in Sec. B.717 of this act require reductions in personal service expenses in fiscal year 2010, any such reductions shall apply only to exempt positions supported by this appropriation.

* * * Commerce and Community Development * * *

Sec. E.800 COMMUNITY DEVELOPMENT PROGRAM; FUND CONSOLIDATION PLAN; IMPLEMENTATION

(a) Consistent with the requirements of subchapter 1 of chapter 29 of Title 10, a committee consisting of the executive directors of the Vermont housing finance agency, Vermont economic development authority, and the secretary of the agency of commerce and community development shall develop a proposal for consolidating community development grants funded through the community development block grant (CDBG) program authorized by Title I of the federal Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et. seq. The purpose of the proposal is to maximize the availability of CDBG funding for economic development and housing programs offered through Vermont's municipalities. The proposal shall include criteria and processes for standardizing the administration and oversight of CDBG funds, while preserving a municipality's ability to access funds.

(b) The consolidation proposal developed under subsection (a) of this section shall be developed with input from the Vermont housing and conservation board, the regional development corporations, the Vermont league of cities and towns, the Vermont bankers association, and any other entity deemed appropriate by the committee.

(c) The committee is authorized to implement the consolidation proposal prior to January 1, 2010, provided it meets the approval of each of the entities referenced in subsection (b) of this section, and subject to the approval of the joint fiscal committee.

Sec. E.800.1 CFED; INTERIM STUDY COMMITTEE; SUSPENSION

(a) The chair of the commission on the future of economic development (CFED), as established in 10 V.S.A. § 1, shall convene and chair an interim study committee composed of seven members. In addition to the current CFED chair, members of the study committee shall include the commissioner of commerce and economic development, three other current members of CFED appointed by the chair, and the existing legislative members.

(b) The committee may meet no more than seven times during the 2009 legislative interim. The committee shall cease to exist December 15, 2009.

(c) The committee shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office, the Vermont state economists, and the legislative council.

(d) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406; other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(e) The committee shall:

(1) Determine the best model for an entity responsible for developing and overseeing economic planning in Vermont. The entity's responsibilities would include: establishing a statewide, comprehensive economic development plan; making policy recommendations to the general assembly and governor; analyzing existing programs and policies in terms of the benchmarks and the four principal goals established by CFED; amending and updating the plan, benchmarks, and goals as necessary; and reporting annually to the general assembly and governor on the status of economic development in Vermont.

(2) Study models of economic development used in other states, such as the private-public-nonprofit coordinating board used in Arizona (Arizona Economic Resource Organization) and the North Carolina economic development board.

(3) Propose ways of improving the value and usefulness of the unified economic development budget required under 10 V.S.A. § 2.

(4) Work with the state economists to refine the benchmarks set by CFED for the purpose of measuring the state's position and specific program outcomes relative to Vermont's economic development goals.

(f) The committee shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor no later than December 1, 2009.

(g) CFED, notwithstanding its responsibilities as provided in 10 V.S.A. § 1, shall suspend its activities until January 1, 2010.

Sec. E.801 Housing and community affairs (Sec. B.801, #7110010000)

(a) Of this appropriation, \$60,000 shall be granted to the First Stop Program.

Sec. E.804 Community development block grants (Sec. B.804, #7110030000)

(a) Community development block grants shall carry forward until expended.

(b) Community development block grant (CDBG) funds shall be expended in accordance with and in the order of the following priorities:

(1) The greatest priority for the use of CDBG funds will be the creation and retention of affordable housing and jobs.

(2) The overarching priority and fundamental objective in the use of funds for all affordable housing is to achieve perpetual affordability through the use of mechanisms that produce housing resources that will continue to remain affordable over time. It is the goal of the state to maintain at least 45 to 55 percent of CDBG funds for affordable housing applications.

(3) Among affordable housing applications, the highest priorities are to preserve and increase the supply of affordable family housing, to reduce and strive to eliminate childhood homelessness, and to serve families and individuals at or below 30 percent of HUD Area Median Income and people with special needs as described in the Consolidated Plan. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) Projects which address the ongoing deterioration of the existing housing stock through acquisition, preservation, and rehabilitation of units shall comply with housing quality standards with priority given to lead hazard reduction and energy efficiency.

(5) Preference shall be given to projects that maintain the historic settlement pattern of compact village and downtown centers separated by a rural working landscape. Funds generally should not be awarded to projects that promote or constitute sprawl, defined as dispersed development outside compact urban and village centers, along highways, and in rural countryside.

(c) No less than 50 percent of CDBG-generated loan repayments shall remain available to municipalities awarded community development block grant funds.

(d) The department of housing and community affairs may not restrict CDBG applications for housing to projects which have been previously awarded federal low income housing tax credits.

Sec. E.813 10 V.S.A. § 311 is amended to read:

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under chapter 73 of Title 8.

~~(b) The board shall consist of nine members, including ex officio the secretary of agriculture, food and markets, the secretary of commerce and community development, the secretary of natural resources and the executive director of the Vermont housing finance agency, or their designees, and five public members who shall be residents of the state and who shall in the opinion of the governor be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreational lands. At least one member shall be a representative of lower income Vermonters and one member shall be a farmer as defined in 32 V.S.A. § 3752(7). The public members shall be appointed by the governor with the advice and consent of the senate for three year terms beginning on February 1 of the year in which the appointment is made, except that the first members appointed by the governor to the board shall be appointed, one for a term of one year, two for a term of two years and two for a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

The board shall consist of the following 11 members:

- (1) The secretary of agriculture, food and markets or his or her designee.
- (2) The secretary of human services or his or her designee.
- (3) The secretary of natural resources or his or her designee.
- (4) The executive director of the Vermont housing finance agency or his or her designee.
- (5) Three public members appointed by the governor who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in subdivision 3752(7) of Title 32.
- (6) One public member appointed by the speaker of the house, who may not be a member of the general assembly at the time of appointment.

(7) One public member appointed by the senate committee on committees, who shall not be member of the general assembly at the time of appointment.

(8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

(c) The public members shall serve terms of three years beginning July 1 of the year of appointment. However, two of the public members first appointed by the governor shall serve initial terms of one year; and the public members first appointed by the speaker and committee on committees shall serve initial terms of two years. A vacancy occurring among the public members shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed.

~~(e)~~(d) Annually, the board shall elect from among its public members a chair and vicechair. The board may elect ~~such~~ officers as it may determine. Meetings shall be held at the call of the chair or at the request of three members. A majority of the sitting members shall constitute a quorum and action taken by the board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

~~(e)~~(e) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each ~~such~~ member shall be reimbursed from the fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

~~(e)~~(f) The board shall employ an executive director to administer, manage and direct the affairs and business of the board, subject to the policies, control and direction of the members. The board may employ technical experts and ~~such~~ other officers, agents and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties and compensation. The board shall use the office of the attorney general for legal services.

Sec. E.813.1 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

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

(1) upon application from an eligible applicant in a form prescribed by the board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this state to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter;

(4) transfer funds to the department of housing and community affairs to carry out the purposes of this chapter.

(b) The board shall seek out and fund not-for-profit organizations and municipalities that can assist any region of the state which has high housing prices, high unemployment and low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing. The board shall administer the "HOME" affordable housing program which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The state of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and outcomes that the board will annually report on to the Vermont department of housing and community affairs.

(c) On behalf of the state of Vermont, the board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund which was enacted under HR 3221, Title 1, Subtitle B, Section 1228 of the Federal Housing Finance Regulatory Reform Act of 2008 to increase perpetually affordable rental housing and home ownership for low and very low income families.

~~(e)~~(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter.

~~(d)~~(e) The board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and state bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. E.813.2 GRANT STATUS; JFO #2370

(a) In accordance with the legislature's authority under 32 V.S.A. § 5, the U.S. Department of Housing and Urban Development Neighborhood Stabilization Program (NSP) grant (JFO #2370) is not accepted. The grant, as submitted, failed to incorporate priorities outlined in the November 24, 2008 letter from the joint fiscal committee to the secretary of administration. The agency of commerce and community development is hereby instructed to request modification of the grant terms as follows and then resubmit the grant for acceptance under the above statute. The specific requested modifications are as follows:

(1) \$2,000,000 of the \$19,600,000 shall be transferred to the Vermont housing and conservation board (VHCB) for direct administration in a manner consistent with the provisions and intent of the U.S. Department of Housing and Urban Development Neighborhood Stabilization Program (NSP).

(2) The VHCB shall have full authority to commit NSP funds in accordance with the provisions of chapter 15 of Title 10 of the Vermont Statutes Annotated and the state consolidated plan. VHCB may replace or add to existing project commitments. VHCB may also award funds in communities that receive municipal NSP awards.

* * * Transportation * * *

Sec. E.900 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR SUPPORT OF GOVERNMENT THE DEPARTMENT OF PUBLIC SAFETY

(a) The maximum amount of No transportation funds that may shall be appropriated for the support of government, other than for the agency of transportation, the transportation board, transportation pay act funds,

construction of transportation capital facilities used by the agency of transportation, and transportation debt service shall not exceed \$32,852,807.00, and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

- (1) in fiscal year 2010 not exceed \$30,850,000.00;
- (2) in fiscal year 2011 not exceed \$28,350,000.00; and
- (3) in fiscal year 2012 not exceed \$25,250,000.00.

Sec. E.910 Transportation – central garage (Sec. B.910, #8110000200)

(a) Of this appropriation, \$6,216,757 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.916 Transportation – town highway aid program (Sec. B.916, #810003000)

(a) This appropriation is authorized notwithstanding 19 V.S.A. § 306(a).

* * * Debt Service * * *

Sec. E.1000 DEBT SERVICE – BOND PREMIUM APPLICATION

(a) In addition to funds appropriated in Sec. B.1000 of this act, \$1,176,792 of the funds available in the general fund bond premium reserve will be appropriated and applied to the state's long-term bonded debt service expenses in fiscal year 2010.

* * * Miscellaneous * * *

Sec. E.1100 FISCAL YEAR 2010 NEXT GENERATION FUND ALLOCATIONS (Sec. B.1100(a))

(a) The \$7,293,000 appropriated in Sec. B.1100(a) of this act from the next generation initiative fund created in 16 V.S.A. § 2887 shall be as follows:

(1) Workforce development, \$3,220,500, as follows:

(A) Workforce education training fund (WETF). The sum of \$1,472,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent of the funds may be used for administration of the program.

(B) Vermont training program. The sum of \$712,500 is appropriated to the agency of commerce and community development. This appropriation is for the Vermont training program for the issuance of grants pursuant to 10 V.S.A. § 531.

(C) Career and alternative workforce education. The amount of \$387,500 is appropriated to the department of labor. This appropriation shall be to support out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education to provide:

(i) Grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12.

(ii) Grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and nonprofit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

(D) Adult technical education programs. The amount of \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(E) UVM technology transfer program. The amount of \$237,500 is appropriated to the University of Vermont. Of this appropriation, \$180,000 shall be transferred to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont. The remainder is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(2) Loan repayment \$475,000 as follows:

(A) The sum of \$475,000 is appropriated to the agency of human services-Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants \$3,597,500 as follows:

(A) Nondegree VSAC grants. The amount of \$712,500 is appropriated to the Vermont student assistance corporation. This appropriation shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical

education that is not part of a degree or accredited certificate program. A portion of this appropriation shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of this appropriation shall be used for administrative overhead.

(B) The sum of \$2,600,000 is appropriated for awarding need-based scholarships to Vermont residents. The first \$142,500 shall be distributed to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856. The amount of \$819,166 shall be distributed to the university of Vermont, \$819,166 to the Vermont state colleges, and \$819,168 to the Vermont student assistance corporation. The Vermont student assistance corporation shall reserve these funds for students attending institutions other than the university of Vermont or the Vermont state colleges. The university of Vermont and the Vermont state colleges shall each reserve \$12,000 of the funds allocated in this subdivision for the state “2+2” agricultural scholarship program in fiscal year 2010. None of the \$2,600,000 appropriation shall be used for administrative overhead.

(C) Dual enrollment programs. The sum of \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better suited academically or geographically to student need.

Sec. E.1103. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will be impacting the Vermont state budget and a desire to avert unnecessary layoffs, the general assembly strongly urges the Vermont state employees’ association and the secretary of administration to negotiate contract changes and other personnel adjustments to achieve \$14,700,000 in general fund savings and \$1,400,000 in transportation fund savings as well as other reductions in special funds and federal funds consistent with any contract modification agreed to between the Vermont state employees’ association and the state of Vermont in fiscal year 2010.

(b) The general assembly recommends the parties consider the following in achieving a contract modification to produce the savings sought in subsection (a) of this section:

(1) Acceptance of the union proposals to:

(i) Forego the fiscal year 2010 cost of living increase.

(ii) Postpone any steps eligibility 12 months from when it would otherwise occur.

(iii) Eliminate the employee wellness program

(iv) Extend the contract one year with no cost of living increase in fiscal year 2011.

(2) Inclusion of the following additional proposals:

(i) Reduce general fund contracted expenditures for fiscal year 2010 by \$1,260,000.

(ii) The application of 10 furlough days per year.

(iii) The elimination of five executive branch exempt positions at salary levels in excess \$60,000 per year.

(3) The recommendations in subdivisions (b)(1) and (2) of this section shall apply to all state employees in all branches of government. Agency or department heads may adjust the salaries or furloughs of exempt employees who have already taken furloughs or salary reductions in excess of these amounts to make them consistent with the reductions outlined above.

(4) As part of this proposal, the cost of living adjustment for members of the general assembly shall be treated in accordance with the contract revision.

(5) For fiscal year 2010, notwithstanding existing pay plans, no bonuses, salary increases, or pay plan adjustments shall be made for nonbargaining unit employees, nor shall employees who change positions or take on added responsibilities receive increases in salaries accompanying this change.

(c) In the event that no agreement is reached, the secretary of administration shall not have the authority to reduce appropriations and positions to achieve the savings in subsection (a) of this section unless the secretary has submitted the reduction plan to the house and senate committees on appropriations by May 1, 2009 and that plan is enacted by the general assembly.

(d) The secretary of administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the joint committee on corrections oversight and the joint fiscal committee.

Sec. E.1104 APRIL 24, 2009 REVENUE REVISION

(a) The senate recognizes this fiscal year 2010 budget proposal is being developed and approved just prior to the April 24, 2009 official revenue forecast revision. It is extremely likely that this revision will result in a general

fund and transportation fund revenue downgrade for fiscal years 2009 and 2010.

(b) To the extent that a general fund downgrade does result, the budget conference committee is directed to look to the following among options to address the general fund shortfall:

(1) Potential reduction in the general fund transfer to the education fund not to exceed the administration's \$23,000,000 cost shift.

(2) Potential K-12 expense reallocations to the education fund and a limited version of the administration's proposed cost shift of the teachers' retirement obligation to the education fund, including a potential transfer of current liabilities and current retiree or new employee health care obligations, and limitations to the base education payment.

(3) Further reductions to health care provider payments, including Medicaid reimbursement for cross-over claims.

(4) Possible Medicaid or Medicaid waiver program benefit changes or elimination of any eligibility expansions to Catamount health assistance.

(5) To the extent that no agreement is reached on state employee reductions in accordance with the legislative intent under section E.1103 of this act, further position reductions.

(6) Addition of agency of natural resources' costs to the pilot special fund.

(7) Elimination of tax expenditures.

(8) Reductions of other state programmatic support.

(c) To the extent that a transportation fund downgrade does result, the transportation conference committee is directed to consider the following principles in addressing the transportation fund shortfall. Expenditure reductions:

(1) Shall not disproportionately impact town highway aid.

(2) Shall preserve Vermont's ability to maximize the draw down of federal funds.

(3) Shall be consistent with the legislature priority setting and transportation planning process.

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.101, C.102, C.104, C.105, D.103, D.105, D.106, D.108, D.109, E.102.1, E.209(c), E.307.1, E.322.2, and E.330(c) shall take effect on passage.

* * * Proposed Miscellaneous Tax Amendments * * *

Sec. H.1 INCREASING THE NUMBER OF COMPLIANCE PERSONNEL
IN THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, two collectors, and one desk audit supervisor.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department \$935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. H.2 ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT
OF LABOR

(a) In addition to any other funds appropriated to the department of labor in fiscal year 2010, there is appropriated from the general fund to the department \$308,212.00 in fiscal year 2010 for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Tax Amnesty * * *

Sec. H.3 TAX AMNESTY

(a) Notwithstanding any law to the contrary, the commissioner of taxes shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner may be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect if the taxpayer, prior to the expiration of the amnesty period, files proper returns for any tax types and any period for which the taxpayer has or had a filing obligation and pays the full amount of tax shown on such return together with all interest due thereon. The amnesty program shall be established for a period of six consecutive weeks to be determined by the commissioner, to expire not later than October 2, 2009.

(b) The amnesty program shall apply to a tax liability of any tax type for any periods for which the due date of the return was before January 26, 2009 but shall not apply to those penalties which the commissioner would not have the sole authority to waive, including fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes.

(c)(1) The commissioner shall maintain records of the amnesty provided under this section, including:

(A) the number of taxpayers provided with amnesty;

(B) the types of tax liability for which amnesty was provided and, for each type of liability:

(i) the amount of tax liability collected by the commissioner; and

(ii) the amount of penalties forgone by virtue of the amnesty; and

(iii) the total outstanding tax liability due to the state, for the period through June 30, 2009, after the collection of all funds under this section.

(2) The commissioner shall file a report detailing the information required by subdivision (1) of this subsection with the clerk of the house of representatives and the secretary of the senate, the joint fiscal committee, the

house committee on ways and means, and the senate committee on finance not later than December 15, 2009; provided, however, that the report shall not contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

Sec. H.4 APPROPRIATION

In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$132,000.00 in fiscal year 2010 for the purpose of marketing the tax amnesty program provided for in Sec. 3 of this act. In order to help stimulate the local economy, the legislature asks in determining what resources or marketing firms to use, the department give priority to Vermont-based firms.

* * * Sale of State-Owned Personal Property * * *

Sec. H.5 SALE OF STATE-OWNED SURPLUS PERSONAL PROPERTY

In order to raise capital and to free space in buildings owned or leased by the state, the commissioner of buildings and general services is authorized and directed to conduct a "spring cleaning" to identify and sell surplus personal property of the state. Each department and agency of the state shall, in accordance with section 1556 of Title 29, transfer all surplus personal property to the commissioner, who is authorized to sell such surplus personal property pursuant to subdivision 1556(6). Notwithstanding section 1557 of Title 29, the proceeds of such sale, net of the commissioner's administrative costs, shall be deposited into the general fund.

* * * Department of Revenue * * *

Sec. H.6 DEPARTMENT OF TAXES; DEPARTMENT OF REVENUE; TRANSITION

(a) In accordance with the report of the commissioner of taxes dated January 22, 2007, the department of taxes shall be converted into a department of revenue no later than June 30, 2012.

(b) To accomplish the requirement set out in subsection (a) of this section, there is hereby established a revenue transition committee to review and approve the commissioner's plan to transition the department of taxes to a department of revenue, which shall be responsible for collecting taxes, fees, levies, and other assessments as determined pursuant to subsection (c) of this section. The revenue transition committee shall be composed of the following seven members:

- (1) The commissioner of finance and management or designee;
- (2) The state treasurer or designee;

(3) A member of the house committee on ways and means, appointed by the speaker of the house;

(4) A member of the house committee on government operations, appointed by the speaker of the house;

(5) A member of the senate committee on finance, appointed by the committee on committees;

(6) A member of the senate committee on government operations, appointed by the committee on committees;

(7) The court administrator or designee.

(c) The commissioner shall review each state revenue source and determine whether the management of such revenue source should:

(1) remain substantially as is;

(2) be transferred to the treasurer's lockbox services contract;

(3) be transferred to the department of taxes, which shall ultimately be redesignated the department of revenue; or

(4) be transferred to another entity.

(d) The revenue transition committee shall meet as needed to review and approve the commissioner's implementation plan for the transition to a revenue department. The commissioner shall report to the revenue transition committee the findings and recommendations required pursuant to subsection (c) of this section, and the commissioner will implement any changes upon the approval of the revenue transition committee.

(e) No later than February 15 of each of the three years following the effective date of this act, the committee shall issue a report to the general assembly on its findings and containing specific recommendations concerning the implementation of the transition, efficiencies, technology, staffing issues, and recommendations with respect to subsection (c) of this section.

(f) The legislative members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided to members of standing committees under 2 V.S.A. § 406 for attendance at a meeting when the general assembly is not in session.

Sec. H.7 STATUTORY REVISION

After June 30, 2012, the legislative council is directed to revise the Vermont Statutes Annotated to reflect the redesignation of the department of taxes as the department of revenue. When applicable, the term "commissioner of taxes" shall be substituted with the term "commissioner of revenue"; and when

applicable, the term “department of taxes” shall be substituted with the term “department of revenue.”

* * * Blue Ribbon Tax Structure Study Committee * * *

Sec. H.8 TAX STRUCTURE STUDY

(a) Composition of committee. There is hereby established a tax structure study committee composed of three to five members to be selected as follows:

(1) The speaker of the house, the president pro tempore of the senate, and the governor shall each appoint one member; and

(2) The three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members.

(b) The tax structure study committee shall be appointed as soon as possible after the effective date of this act. The panel shall elect a chair and vice chair from among its members.

(c) Purpose and goals. The tax structure study committee shall study the state’s revenue system with the goal of determining whether the current system:

(1) Raises enough revenue to sustain spending needs now and in the future;

(2) Provides equity among the state’s diverse taxpayers;

(3) Provides incentives that further the state’s goals; and

(4) Enhances the state’s competitiveness by attracting labor, capital, and entrepreneurs.

(d) Tax incidence study. As a first step in fulfilling its goals, the tax structure study committee shall hire one or more consultants to conduct a thorough and independent review and analysis of tax incidence in Vermont. The consultants shall report to the tax structure study committee by October 15, 2009. The consultants shall have the assistance of the department of taxes. Specifically, the report to the tax structure study committee shall provide information regarding the distribution of state and local taxes, including income taxes, sales and use taxes, and property taxes, in relation to taxpayer income and provide the tax structure study committee information on the equity of the overall distribution. Additionally, the report shall include information on how the total state and local tax burden on Vermont households varies by income range and how the burden of each component of the overall state and local tax system is distributed across Vermont households. The report shall also include information on taxes with an initial impact on

businesses, such as the corporate franchise tax and the sales tax on business purchases.

(e) Report to committee; follow-up. The tax structure study committee shall have the assistance of the department of taxes and shall meet as needed to evaluate the tax incidence study and oversee the hiring of additional consultants, as needed, to evaluate the tax incidence study required by subsection (d) of this section and provide recommendations regarding the sustainability and stability of the state's revenue system to the general assembly no later than January 15, 2010. The tax structure study committee and any independent consultants it hires shall develop proposals for changes to the state's revenue system, if any, and provide the legislature with plans for implementation of any proposed changes.

(f) In preparation for the study required by subsection (d) of this section, the department of taxes shall provide data to the consultants, which shall prepare reports on the following:

(1) Changes in personal income, arranged by decile, over the last five years;

(2) House site and homestead value arranged by adjusted gross income (AGI) and, where available, household income;

(3) Gross and net school taxes paid, arranged by adjusted gross income and, where available, by household income.

(f) For attendance at a meeting of the tax structure study committee members shall be entitled to per diem compensation and reimbursement of expenses as allowed by state law.

Sec. H.9 APPROPRIATION

In addition to any other funds appropriated to the department of taxes, there is appropriated from the general fund \$200,000.00 in fiscal year 2010 for the purposes outlined in Sec. 8 of this act.

* * * Tax Expenditure Reporting Requirement * * *

Sec. H.10 32 V.S.A. § 306 is amended to read:

§ 306. BUDGET REPORT

(a) The governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her estimates, requests and recommendations for appropriations or other authorizations for expenditures from the state treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year.

(b) The governor shall also submit to the general assembly, not later than the third Tuesday of each session of every biennium, a tax expenditure budget which shall embody his or her estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the state treasury appropriating tax expenditures as contained in the report provided for in section 312 of this chapter. The tax expenditure budget shall be provided to the members of the house committee on ways and means and the senate committee on finance, which committees will review the tax expenditures and recommend appropriations for the tax expenditures to their respective committees on appropriations.

Sec. H.11 32 V.S.A. § 307 is amended to read:

§ 307. FORM OF BUDGET

(a) The budget shall be arranged and classified so as to show separately the following estimates and recommendations:

(1) Expenses of state administration.

(2) Deficiencies, overdrafts, and unexpended balances in appropriations of former years.

(3) Bonded debt, loans and interest charges.

(4) All requests and proposals for expenditures for new projects, new construction, additions, improvements, and other capital outlay.

(5) With respect to the tax expenditure budget required under section 306(b) of this chapter, all requests and proposals for new, amended, or continued tax expenditures as reported under section 312 of this chapter.

* * *

* * * Repeal of Certain Tax Credits * * *

Sec. H.12 REPEAL

(a) 32 V.S.A. § 5930v (providing an income tax credit for eligible venture capital investment) is repealed effective for tax years beginning on or after January 1, 2010.

(b) 32 V.S.A. § 3802(13) (exempting fallout shelters from property tax) is repealed for grand lists prepared for April 1, 2010 and after.

* * * Vermont State-Sponsored Credit Card Program * * *

Sec. H.13 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED CREDIT CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in a financial institution credit card program for the benefit of the residents of this state upon his or her determination that such a program is feasible and may be procured at rates and terms in the best interest of the residents of this state. In selecting a credit card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration credit card features which will enhance the promotion of the state-sponsored credit card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored credit card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating Vermont credit card holders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored credit card program.

* * * Government Licenses and Employment * * *

Sec. H.14 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE OR, GOVERNMENTAL CONTRACT, OR EMPLOYMENT

* * *

(c) Every agency shall, upon request of the commissioner, furnish a list of licenses and contracts issued or renewed by such agency during the reporting period; provided, however, that the secretary of state shall, with respect to certificates of authority to transact business issued to foreign corporations,

furnish to the commissioner only those certificates originally issued by the secretary of state during the reporting period and not renewals of such certificates. The lists ~~should~~ shall include the name, address, ~~social security~~ Social Security or federal identification number of such licensee or provider, and such other information as the commissioner may require.

* * *

(i) No agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date such declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the state of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in such position or who returns to any position in state government as a result of a placement right or reduction in force recall right.

* * * Unclaimed Property * * *

Sec. H.15 32 V.S.A. § 3113a is added to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX LIABILITIES

The commissioner may request from the office of the treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to section 1249 of Title 27. If any such owner owes taxes to the state, the commissioner, after notice to the owner, may request and the treasurer shall transfer the abandoned property of such owner to the department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy.

* * * Mapping Program * * *

Sec. H.16 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the ~~director shall prepare~~ center shall provide regional planning commissions, state agencies, and the general public with

orthophotographic maps of the state at a scale appropriate for the production and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The ~~director~~ center shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by ~~the director~~ it of the total area of that town. Any map shall be available, without charge, for public inspection ~~both in the office of the Vermont mapping program and in the office of the~~ town clerk to whom the map was supplied.

(2) The ~~director~~ may state of Vermont shall retain the copyright of any map prepared ~~under this section~~ by the Vermont mapping program and the center and the Vermont mapping program shall jointly own the copyright to any map prepared on or after the effective date of this act.

(3) A person; who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.

(4) At a reasonable charge to be established by the center and the director, the ~~director~~ center shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section.

* * * Unorganized Towns and Gores and Unified Towns and Gores * * *

Sec. H.17 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

(b) Ad hoc board for unorganized towns and gores and unified towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:

(1) the supervisor; and

(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority,

representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor.

(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority.

* * * Education Property Tax Information Insert * * *

Sec. H.18 32 V.S.A. § 5402(b)(1) is amended to read:

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. ~~Each homestead property tax bill shall include a copy of the document entitled "About Your 20XX Taxes "The more you spend the more you pay", updated annually for each town by the commissioner of taxes.~~

* * * Declaration of Homestead * * *

Sec. H.19 32 V.S.A. § 5410 is amended to read:

§ 5410. DECLARATION OF HOMESTEAD

(a) A homestead owner shall declare ownership of a homestead for purposes of education property tax.

(b) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made for property that was acquired by the declarant or was made the declarant's homestead during the previous year. The declaration of homestead shall remain in effect until the earlier of:

- (1) the transfer of title of all or any portion of the homestead; or
- (2) that time that the property ceases to qualify as a homestead.

(c) In the event that an unsigned but otherwise completed homestead declaration is filed at the same time as the declarant's signed state income tax return, the commissioner may treat such declaration as signed by the declarant.

* * * Unrelated Business Income of Nonprofit Corporations * * *

Sec. H.20 32 V.S.A. § 5811(3) is amended to read:

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

~~(A) Railroad and insurance, surety and guaranty companies, mutual or otherwise that are taxed under chapter 211 of this title;~~

~~(B) Life, fire and marine insurance companies and mutual life, fire and marine insurance companies;~~

~~(C) Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water, mutual or cooperative telephone companies or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;~~

~~(D) Farmers', fruit growers', or like associations organized and operated on a cooperative basis:~~

~~(i) for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses, on the basis of either quantity or the value of the products furnished by them;~~

~~(ii) for the purpose of purchasing supplies and equipment for the use of the members and other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; or~~

~~(iii) for the purpose of processing, preparing for market, or marketing handcraft products as defined in section 991 of Title 11 of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses;~~

~~(E) Credit unions organized under chapter 71 of Title 8 and federal credit unions;~~

~~(F)~~(C) Nonprofit hospital service corporations organized under chapter 123 of Title 8;

~~(G)(D)~~ Nonprofit medical service corporations organized under chapter 125 of Title 8;

~~(H)~~ Free public library corporations organized under chapter 3 of Title 22;

~~(I)~~ Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;

~~(J)~~ Sanitary corporations and corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

~~(K)~~ Business organizations, chambers of commerce or boards of trade and area development organizations not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;

~~(L)~~ Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;

~~(M)~~ Clubs organized and operated exclusively for pleasure and recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; or

~~(N)~~ Any political organization which is exempt from or does not owe any federal income taxes as provided in the federal internal revenue code.

Sec. H.21 32 V.S.A. § 5811(18) is amended to read:

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

* * *

(D) For a corporation with federal exempt status, “Vermont net income” means all income that is subject to federal income tax, including unrelated business income under Section 511 of the Internal Revenue Code and any income arising from debt-financed property subject to taxation under Section 514 of the Internal Revenue Code.

* * * Annual Update of Links to Federal Law * * *

Sec. H.22 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2007~~ 2008, but without regard to federal income tax

rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Digital Business Entities* * *

Sec. H.23 LEGISLATIVE INTENT

The purpose of the following sections of this act concerning digital business entities is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. H.24 32 V.S.A. § 5811(26) is added to read:

(26) “Digital business entity” means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this state which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. H.25 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) \$250.00 for all other corporations.

Sec. H.26 32 V.S.A. § 5911 is amended to read:

§ 5911. TAXATION OF AN S CORPORATION AND ITS SHAREHOLDERS

(a) An S corporation shall not be subject to the tax imposed by section 5832 of this title, except to the extent of income taxable to the corporation under the provisions of the Internal Revenue Code.

(b) For the purposes of section 5823 of this title, each shareholder's pro rata share of the S corporation's income attributable to Vermont and each resident shareholder's pro rata share of the S corporation's income not attributable to Vermont shall be taken into account by the shareholder in the manner provided in Section 1366 of the Code.

(c) An S corporation and its shareholders shall not be subject to the tax imposed by section 5832 of this title or to the provisions of this subchapter if the S corporation qualifies as and elects to be taxed as a digital business for the taxable year; but such corporation shall be subject to the reporting requirements of this chapter, and its shareholders shall file a report of income received from such S corporation during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. H.27 32 V.S.A. § 5921a is added to read:

§ 5921a. DIGITAL BUSINESS ENTITY ELECTION

A partnership or limited liability company and its partners or members shall not be subject to the tax imposed by section 5832 of this title or to provisions of this subchapter if the partnership or company qualifies as and elects to be taxed as a digital business entity for the taxable year; but such partnership shall be subject to the reporting requirements of this chapter, and its partners shall file a report of income received from such partnership during the taxable year with the commissioner at the same time as returns are due under section 5861 of this chapter.

Sec. H.28 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall report its income to the commissioner as provided in section 5862 of this chapter.

* * * Trustee Process * * *

Sec. H.29 32 V.S.A. § 5892 is amended to read:

§ 5892. ACTION TO COLLECT TAXES; LIMITATIONS

(a) Action may be brought by the attorney general of the state at the instance of the commissioner in the name of the state to recover the amount of the tax liability of any taxpayer, if the action is brought within six years after the date the tax liability was collectible under section 5886 of this title. The action shall be returnable in the county where the taxpayer resides or has a place of business, and if the taxpayer neither resides nor has a place of business in this state, the action shall be returnable in Washington ~~county~~ County.

(b) Notwithstanding sections 3167 and 3168 of Title 12, a motion may be brought by the attorney general of the state at the instance of the commissioner in the name of the state for issuance of trustee process at the same time as an action is brought under subsection (a) of this section, and, if judgment is granted in that action, the court may proceed immediately to hear and render a decision on the trustee process.

* * * Property Tax Adjustments * * *

Sec. H.30 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive total adjustments under this chapter in excess of ~~\$8,000.00~~ \$10,000.00 related to any one property tax year.

Sec. H.31 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by September 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~December 31~~ September 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

* * *

(4) If the property tax adjustment amount as described in subsection ~~(b)~~(e) of this section exceeds the property tax, penalties and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification by the commissioner of education, whichever is later.

* * *

* * * Estate Tax * * *

Sec. H.32 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be a sum equal to the amount ~~by which~~ of the credit for state death taxes allowable to a decedent's

estate under Section 2011, ~~as in effect on January 1, 2001,~~ of the Internal Revenue Code, ~~hereinafter sometimes referred to as the "credit," exceeds the lesser of as in effect on January 1, 2001.~~ This base amount shall be reduced by the lesser of the following:

(1) The total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this state. The amount of this tax shall be a sum equal to the proportion of the ~~credit~~ base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this state bears to the value of the decedent's total gross estate for federal estate tax purposes.

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by Section 2001 of the Internal Revenue Service Code calculated using the applicable credit amount under Section 2010 as in effect on January 1, 2008, with no deduction under Section 2058.

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. H.33 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

In all cases where ~~the federal gross estate at the time of the death of the decedent exceeds the applicable federal exclusion amount or where the estate is subject to federal estate tax~~ a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the estate tax imposed by this chapter. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the commissioner such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. H.34 32 V.S.A. § 7445 is amended to read:

§ 7445. COPIES OF FEDERAL ESTATE TAX RETURNS TO BE FILED

It shall be the duty of the executor of every person who may die a resident of Vermont or a nonresident with real estate or tangible personal property having an actual situs in Vermont to file with the commissioner a duplicate of all federal estate tax returns which he or she is required to make to the federal authorities, or, if no federal estate tax return is required, a pro forma federal estate tax return for the estate of a decedent with a Vermont estate tax liability shall be filed with the commissioner.

Sec. H.35 32 V.S.A. § 7446 is amended to read:

§ 7446. WHEN RETURNS TO BE FILED

The estate tax return required under section 7444 of this title shall be filed ~~at the time the federal estate tax return is required to be filed under the laws of the United States, including any extensions of time for filing granted by the federal authorities~~ within nine months of the death of the decedent. Prior to expiration of the filing period, executors may apply for a six-month extension.

Sec. H.36 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on January 1, ~~2008~~ 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) ~~with~~ the credit for state death taxes shall remain as provided for under Section Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001;

(2) the applicable credit amount shall remain as provided for under section 2010 of the Internal Revenue Code, as in effect on January 1, 2008;
and

(3) ~~without any the~~ deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

* * * Tobacco Tax * * *

Sec. H.37a 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

* * *

(13) “Moist snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of no less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

* * *

(15) “Tobacco products” means ~~eigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse seraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner; but shall not include cigarettes, little cigars, roll-your-own tobacco, moist snuff, or new smokeless tobacco as defined in this section.

* * *

(20) “New smokeless tobacco” means any tobacco product manufactured from, derived from, or containing tobacco that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units.

Sec. H.37b 32 V.S.A. § 7771(c) is amended to read:

(c) The tax imposed under this section shall be at the rate of ~~89.5~~ 112 mills per cigarette or little cigar and for each 0.09 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. H.37c 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax ~~on~~ is intended to be imposed only once upon the wholesale sale of any tobacco ~~products~~ product and shall be at the

rate of ~~41~~ 92 percent of the wholesale price for all tobacco products except moist snuff, which shall be taxed at \$1.66 per ounce, or fractional part thereof, ~~and is intended to be imposed only once upon any tobacco product and new smokeless tobacco, which shall be taxed at the greater of \$1.66 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of \$1.99 per package.~~ Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. H.38 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

* * *

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and on which cigarette stamps have been affixed before July 1, ~~2006~~ following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.60~~ \$0.24 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2006~~ following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2006~~ following enactment of this act, and thereafter shall bear interest at the rate established under section

3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * * Electronic Filing of Property Transfer Tax * * *

Sec. H.39 DEVELOPMENT OF ELECTRONIC SYSTEM FOR FILING AND PAYING PROPERTY TRANSFER TAXES

No later than August 1, 2009, the department of taxes shall file with the joint fiscal committee an implementation plan for the electronic filing of property transfer tax returns and the electronic payment of property transfer taxes.

* * *

* * * Sales and Use Tax on Digital Downloads * * *

Sec. H.40 32 V.S.A. § 9701(45), (46), and (47) are added to read:

(45) Transferred electronically: means obtained by the purchaser by means other than tangible storage media.

(46) Specified digital products: means digital audio-visual works, digital audio works, digital books, or ringtones that are transferred electronically.

(A) Digital audio-visual works: means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) Digital audio works: means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones;

(C) Digital books: means works that are generally recognized in the ordinary and usual sense as "books."

(D) Ringtones: means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(47) End user: means any person other than a person who received by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

* * *

Sec. H.41 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this state. The tax shall be paid at the rate of six percent of the sales price charged for, but in no case shall any one transaction be taxed under more than one of, the following:

* * *

(8) Specified digital products transferred electronically to an end user.

Sec. H.41a 32 V.S.A. § 9772 is amended to read:

§ 9772. AMOUNT OF TAX TO BE COLLECTED

(a) For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the vendor shall ~~use either the calculation in subdivision (1) of this subsection or the formula in subdivision (2). The tax required to be remitted shall be the rate specified in section 9771 of this title multiplied by the total sales price of all the taxable transactions; provided, however, the tax required to be remitted shall be no more than the amount required to be collected. The vendor shall be entitled to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter.~~

~~(1) The multiply the total sales price of all the transaction multiplied transactions taxable by the rate specified in section 9771 of this title carried to the third decimal place and rounded up to the nearest whole cent if the third decimal point is greater than four and rounded down to the nearest whole cent if the third decimal point is four or less. The tax may be computed on either the total invoice amount or on each taxable item.~~

Amount of Sale	Amount of Tax
\$0.01-0.10	No Tax
0.11-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-1.00	.06

~~In addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the following formula:~~

\$ 0.01-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-0.99	.06

* * *

Sec. H.42 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this state, except as otherwise exempted under this chapter:

* * *

(2) Of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business; ~~and~~

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; and

(4) Specified digital products transferred electronically to an end user.

* * * Sales Tax on Clothing Costing \$110.00 or More * * *

Sec. H.42a 32 V.S.A. § 9741(45) is amended to read:

(45) ~~Clothing~~ Each article of clothing with a purchase price of \$110.00 or less; but clothing shall not include clothing accessories or equipment, protective equipment, or sport or recreational equipment.

* * * Returns Upon Business Closing * * *

Sec. H.43 32 V.S.A. § 9775 is amended to read:

§ 9775. RETURNS

(a) Except as otherwise provided in this section, every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) \$500.00 or less, pay the tax imposed by this chapter in one annual payment on or before the 25th day of January of each year. Every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$500.00 but less than \$2,500.00, pay the tax imposed by this chapter in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December of each year. In all other cases, except as provided in ~~subsection~~ subsections (e) and (g) of this section, the tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. Payment by electronic funds transfer does not affect the requirement to file returns. The return of a vendor of tangible personal property shall show such information as the commissioner may require.

* * *

(g) A person required to report sales and use tax annually who cancels his, her, or its sales and use tax account shall file a final return not later than 60 days after such cancellation.

* * * Land Gains Tax * * *

Sec. H.44 32 V.S.A. § 10009(b) is amended to read:

(b) All the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the commissioner of the withholding tax and the income tax, and of chapter 103, including those relating to interest and penalty charges, shall apply to the tax imposed by this chapter.

* * * Education Property Tax Rates * * *

Sec. H.45 FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATE REDUCTION

(a) For fiscal year 2010 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.34 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.85 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized property value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2010 only, "applicable percentage" in subdivision 6066(a)(2) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

* * * VHFA: Moral Obligation for Pledged Equity Funds * * *

Sec. H.46 FINDINGS AND INTENT

Moral obligation of the state is used by municipal bond insurers, such as the Vermont Housing and Finance Agency (VHFA), as a discretionary capitalization obligation. By expanding VHFA's ability to pledge the state's existing commitment of moral obligation without increasing the amount of the state's existing potential obligation, the general assembly can provide VHFA with another tool to increase confidence and attract new financial partners so that the agency can continue its housing programs for low- and moderate-income Vermonters, even in these challenging economic times.

Sec. H.47 10 V.S.A. § 631(f) is amended to read:

(f) The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, ~~which shall thereupon be cancelled,~~ at a price ~~not exceeding;~~ as shall be determined in the economic best interests of the agency.

~~(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or~~

~~(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.~~

Sec. H.48 REPEAL

10 V.S.A. § 632 (authorizing the Vermont housing and finance agency to establish reserve funds) is repealed.

Sec. H.49 10 V.S.A. § 632a is added to read:

§ 632a. RESERVE AND PLEDGED EQUITY FUNDS

(a) The agency may create and establish one or more special funds, herein referred to as “debt service reserve funds” or “pledged equity funds.”

(b) The agency shall pay into each debt service reserve fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing their issuance; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any debt service reserve fund created and established under this section except as hereinafter provided shall be used, as required, solely for the payment of the principal of the bonds, notes, or other debt instruments secured in whole or in part by such fund or of the payments with respect to the bonds, notes, or other debt instruments specified in any resolution of the agency as a sinking fund payment, the purchase or redemption of the bonds, the payment of interest on the bonds, notes, or other debt instruments, or the payment of any redemption premium required to be paid when the bonds, notes, or other debt instruments are redeemed prior to maturity, or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the agency’s behalf; provided, however, that the moneys or financial instruments in any such debt reserve fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the agency for such fund as provided in this section except for the purpose of paying, when due, with respect to bonds secured in whole or in part by such fund, the principal, interest, redemption premiums, and sinking fund payments and of reimbursing, when due, the issuer of any credit enhancement for any such payments made by it, for the payment of which other moneys of the agency are not available. Any income or interest earned by or increment to any debt service reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(c) The agency shall pay into each pledged equity fund:

(1) any moneys appropriated and made available by the state for the purpose of such fund;

(2) any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof; and

(3) any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any pledged equity fund created and established under this section except as provided in this section shall be used, as required, solely to provide pledged equity or over-collateralization of any trust estate of the agency to the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement obtained by the agency; provided, however, that the moneys or financial instruments in any pledged such equity fund shall not be drawn upon or withdrawn from such fund at any time in such amounts as would reduce the amount of such funds to less than the pledged equity requirement established by resolution of the agency for such fund as provided in this section except for the purposes set forth in and in accordance with the governing resolution. Any income or interest earned by or increment to, any pledged equity fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such pledged equity fund below the requirement for such fund. Anything in this subdivision to the contrary notwithstanding, upon the defeasance of the bonds, notes, or other debt instruments with respect to which the pledged equity requirement was established, the agency may transfer amounts in such fund to another fund or account of the agency proportionately to the amount of such defeasance; provided that the agency shall repay to the state any amount appropriated by the state pursuant to subsection (f) of this section.

(d) The debt service reserve and pledged equity requirements for any fund established under this section shall be established by resolution of the agency prior to the issuance of any bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or prior to entering into any credit enhancement agreement and shall be the amount determined by the agency to be reasonably required in light of the facts and circumstances of the particular debt issue or credit enhancement; provided that the maximum amount of the state's commitment with respect to any pledged equity fund shall be determined by the agency at or prior to entering into any credit enhancement agreement related to such pledged equity fund. The agency shall not at any time issue bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or enter into any credit enhancement

agreement that requires establishment of a pledged equity fund created and established under this section unless:

(1) the agency at the time of such issuance or execution shall deposit in such fund from the proceeds of such bonds, notes, or other debt instruments or from other sources an amount which, together with the amount then in such fund, will not be less than the requirement established for such fund at that time;

(2) the agency has made a determination at the time of the authorization of the issuance of such bonds, notes, or other debt instruments or at the time of entering into such credit enhancement agreement that the agency will derive revenues or other income from the mortgage loans that secure such bonds, notes, or other debt instruments or that relate to any credit enhancement agreement sufficient to provide, together with all other available revenues and income of the agency other than any amounts appropriated by the state pursuant to this section for the payment or purchase of such bonds, notes, and other debt instruments and reimbursement to the issuer of any credit enhancement the payment of any expected deposits into any pledged equity fund established with respect to such credit enhancement, and the payment of all costs and expenses incurred by the agency with respect to the program or purpose for which such bonds, notes, or other debt instruments are issued; and

(3) the state treasurer or his or her designee has provided written approval to the agency that the agency may issue such bonds, notes, or other debt instruments and enter into any related credit enhancement agreement.

(e) In computing the amount of the debt service reserve or pledged equity funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as that term is defined by resolution of the agency, if purchased at other than par.

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the

funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. H.50 SAVINGS CLAUSE

Nothing in Sec. 49 of this act shall be construed to impair the obligation of any preexisting contract or contracts entered into by the agency or by the state.

* * * Tax on Spirituous Liquor * * *

Sec. H.51 7. V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of spirituous liquor as defined in section 2 of this title other than fortified wine, sold by or through the liquor control board in accordance with the provisions

of this title. A tax of ~~25~~ 35 percent of the gross revenues is hereby assessed on the sale of fortified wine so sold.

* * * Flavored Malt Beverages * * *

Sec. H.52 7 V.S.A. § 2(33) is added to read:

(33) "Flavored malt beverage" a beverage that complies with all the following:

(A) The beverage contains at least 0.5 percent alcohol.

(B) The beverage is processed by filtration or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as defined in 27 C.F.R. Sec. 25.55.

(C) A flavoring or other ingredient additive that contains alcohol, except for a hop extract, has been added to the beverage.

(D) The producer is required to file a formula for approval with the U.S. Alcohol and Tobacco Trade and Tax Bureau pursuant to 27 C.F.R. Sec. 25.55, or the beverage is not exempt under 27 C.F.R. Sec. 25.55(f).

Sec. H.53 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT ~~AND~~ BEVERAGES, VINOUS BEVERAGES, AND FLAVORED MALT BEVERAGES

(a) Every bottler and wholesaler shall pay to the commissioner of taxes the following amounts for beverages sold to retailers:

(1) For malt beverages containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit, the sum of 26 and one-half cents per gallon for every gallon or its equivalent of ~~malt beverage containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the state and~~

(2) For malt beverages containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and for vinous beverages, the sum of 55 cents per gallon for ~~each gallon of malt beverage containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the state and shall also pay to the liquor control board all fees for bottler's and wholesaler's licenses.~~

(3) For flavored malt beverages, the sum of \$1.54 per gallon.

* * *

* * * Capital Gains Tax Exemption * * *

Sec. H.54 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations; and

(ii) the first \$5,000.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code ~~40 percent of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code, but the total amount of decrease under this subdivision (ii) shall not exceed 40 percent of federal taxable income.~~

* * * Reduction of Income Tax Rates * * *

Sec. H.55 REDUCTION OF PERSONAL INCOME TAX RATES

For taxable year 2009 and subsequent taxable years, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

For taxable income which, without this amendment, would be subject to tax at the following rate:

3.60%
7.20%
8.50%
9.00%
9.50%

That taxable income shall instead be taxed at the following rate:

3.50%
7.10%
8.25%
8.75%
8.95%

* * * Satellite Television Tax * * *

Sec. H.56 32 V.S.A. chapter 242 is added to read:

CHAPTER 242. TAX ON SATELLITE TELEVISION PROGRAMMING

Subchapter 1. General Provisions

§ 10401. DEFINITIONS

Unless otherwise provided, the following terms when used in this chapter have the following definitions:

(1) "Distributor" means any person engaged in the business of making satellite programming available for purchase by subscribers.

(2) "Satellite programming" means radio and television audio and video programming services distributed or broadcast by satellite directly to the subscriber's receiving equipment.

§ 10402. GENERAL POWERS OF THE COMMISSIONER

In addition to other powers granted in this chapter, the commissioner may:

(1) Prescribe methods for determining the amount of gross receipts subject to tax.

(2) Require any person required to pay the tax imposed under this chapter to keep detailed records of all receipts received, charged, or accrued, including those claimed to be nontaxable, and of other facts relevant in determining the amount of tax due and to furnish that information upon request to the commissioner.

§ 10403. LIABILITY FOR TAX

Every distributor required by this chapter to pay the tax imposed by this chapter shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title; and if the distributor is a corporation or other entity, the personal liability shall extend and be applicable to any officer or agent of the corporation or entity who as an officer or agent of the same is under a duty to collect the tax and transmit it to the commissioner as required in this chapter.

§ 10404. RECORDS TO BE KEPT

Every person required to collect any tax imposed by this chapter shall keep records of its gross receipts and of the tax payable thereon in such form as the commissioner may by regulation require. The records shall be available for inspection and examination at any time upon demand by the commissioner or his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the commissioner may consent to their destruction within that period or may require that they be kept longer.

Subchapter 2. Exemptions

§ 10441. TRANSACTIONS NOT COVERED

This chapter shall not cover the following transactions:

(1) Transactions that are not within the taxing power of this state under the Constitution of the United States.

(2) The provision of satellite programming to a person for resale in the ordinary course of business.

Subchapter 3. Imposition, Rate, and Payment of Tax§ 10471. IMPOSITION OF TAX

Except as otherwise provided in this chapter, there is imposed a tax on the provision of satellite programming to a subscriber located in this state. The tax shall be paid by the distributor at the rate of five percent of all gross receipts derived by the distributor from the provision of satellite programming to the subscribers within this state.

§ 10472. RETURNS

(a) Except as otherwise provided in this section, every distributor subject to taxation under section 10471 of this title shall file a return with the commissioner stating the gross receipts derived by the distributor during each calendar quarter on or before the 25th day of the calendar month following such calendar quarter.

(b) The commissioner may permit or require returns to be made covering other periods and upon such dates as he or she may specify. In addition, the commissioner may require payments of tax liability at the intervals and based upon the classifications as he or she may designate. In prescribing the other periods to be covered by the return or intervals or classifications for payment of tax liability, the commissioner may take into account the dollar volume of tax involved as well as the need for ensuring the prompt and orderly collection of the taxes imposed.

(c) The form of returns shall be prescribed by the commissioner and shall contain such information as he or she may deem necessary for the proper administration of this chapter. The commissioner may require returns and amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(d) Upon the failure of a taxpayer to file any return required under this chapter within 20 days of the date of a notice to the taxpayer under subsection (c) of this section, the commissioner may petition a judge of the superior court in the county wherein the taxpayer has a place of business or, if the taxpayer has no place of business in this state, the commissioner may petition the Washington superior court, and upon the petition of the commissioner and a hearing, the judge shall issue a citation requiring the taxpayer and, if the taxpayer is a corporation, any principal officer of such corporation to file a proper return in accordance with this chapter upon pain of contempt. The order of notice upon the petition shall be returnable not later than 20 days after the filing of the petition. The petition shall be heard and determined on the return day or on a day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the

parties. The judgment shall include costs in favor of the prevailing party. The commissioner's authority to petition under this subsection is in addition to the commissioner's authority under subsection 10475(a) of this chapter to compute the tax liability of a taxpayer who fails to file a required return or files an incorrect or insufficient return.

§ 10473. PAYMENT OF TAX

Every person required to file a return under this chapter shall, at the time of filing the return, pay to the commissioner the tax imposed by this chapter. The commissioner may require payment by electronic funds transfer from any taxpayer who is required by federal tax law to pay any federal tax in that manner or from any taxpayer who has submitted to the tax department two or more protested or otherwise uncollectible checks with regard to any state tax payment in the prior two years. All the taxes for the period for which a return is required to be filed or for such lesser interval as shall have been designated by the commissioner shall be due and payable to the commissioner on the date limited for the filing of the return for that period or on the date limited for such lesser interval as the commissioner has designated, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of gross receipts or the taxes due thereon.

§ 10474. DETERMINATION OF TAX OR PENALTY

(a) If a return required by this chapter is not filed or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the commissioner from any information available. Notice of the determination shall be given to the person liable for the payment of the tax. The determination shall finally and irrevocably fix the tax within 60 days after giving notice of the determination unless the person against whom it is assessed shall apply in writing to the commissioner for a hearing or unless the commissioner of his or her own motion shall redetermine the tax. After the hearing the commissioner shall give notice of his or her determination to the person against whom the tax is assessed.

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner, if he or she believes the collection from a taxpayer of any deficiency, penalty, or interest to be in jeopardy, may demand in writing that the taxpayer pay the deficiency, penalty, or interest forthwith. The demand may be made concurrently with or after the notice of deficiency or the assessment of penalty or interest given to the taxpayer under subsection (a) of this section. The amount of deficiency, penalty, or interest shall be collectible by the commissioner on the date of the demand unless the taxpayer files with the commissioner a bond in an amount equal to the deficiency, penalty, or

interest sought to be collected as security for such amount as finally may be determined.

§ 10475. REFUNDS

(a) As provided in this section, the commissioner shall refund or credit any tax, penalty, or interest erroneously, illegally, or unconstitutionally paid if application to the commissioner for the refund shall be made within three years from the date the return was required to be filed; provided that the application is made within three years of the payment. The commissioner may, in lieu of any refund, allow credit on payments due from the applicant.

(b) A person shall not be entitled to a revision, refund, or credit under this section of a tax, interest, or penalty which had been determined to be due pursuant to the provisions of section 10474 of this title where he or she has had a hearing or an opportunity for a hearing as provided in that section or has failed to avail himself or herself of the remedies therein provided. No refund or credit shall be made of a tax, interest, or penalty paid after a determination by the commissioner made under section 10474 unless it is found that the determination was erroneous, illegal, or unconstitutional or otherwise improper pursuant to law, in which event refund or credit shall be made of the tax, interest, or penalty found to have been overpaid.

(c) If the commissioner determines on a petition for refund or otherwise that a taxpayer has paid an amount of tax under this chapter which, as of the date of the determination, exceeds the amount of tax liability owing from the taxpayer to the state with respect to the current and all preceding taxable periods under any provision of this title, the commissioner shall forthwith refund the excess amount to the taxpayer together with interest at the rate per annum established from time to time by the commissioner pursuant to section 3108 of this title. That interest shall be computed from 45 days after the date the return was filed or from 45 days after the date the return was due, including any extensions of time thereto, with respect to which the excess payment was made, whichever is the later date.

Subchapter 4. Enforcement and Penalties

§ 10511. PROCEEDINGS TO RECOVER TAX

(a) Whenever any person required to pay a tax under this chapter shall fail to pay any tax, penalty, or interest imposed by this chapter, the attorney general shall, upon the request of the commissioner, enforce the payment thereof on behalf of the state in any court of the state or of any other state of the United States.

(b) As an additional or alternate remedy, the commissioner may issue a warrant, directed to the sheriff of any county commanding him or her to levy

upon and sell the real and personal property of any person liable for the tax, which may be found within his or her county, for the payment of the amount thereof with any penalties and interest and the cost of executing the warrant and to return the warrant to the commissioner and to pay to him or her the money collected by virtue thereof within 60 days after the receipt of the warrant. The sheriff shall within five days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon the clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax, penalties, and interest for which the warrant is issued and the date on which the copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and, for services in executing the warrant, he or she shall be entitled to the same fees which he or she may collect in the same manner. If a warrant is returned not satisfied in full, the commissioner may from time to time issue new warrants and shall also have the same remedies to enforce the amount due as if the state had recovered judgment therefor and execution had been returned unsatisfied.

§ 10512. ACTIONS FOR COLLECTION OF TAX

Action may be brought by the attorney general at the instance of the commissioner in the name of the state to recover the amount of taxes, penalties, and interest due from a distributor, provided such action is brought within six years after the same are due. Such action shall be returnable in the county where the distributor has a place of business or, if the distributor has no place of business in this state, the action shall be returnable to Washington County. The limitation of six years in this section shall not apply to a suit to collect taxes, penalties, interest, and costs when the distributor filed a fraudulent return or failed to file a return when due.

§ 10513. PRESUMPTIONS AND BURDEN OF PROOF

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all gross receipts from the provision of satellite programming are subject to tax until the contrary is established, and the burden of proving that any receipt or amusement charge is not taxable hereunder shall be upon the person required to collect tax.

(b) The certificate of the commissioner to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied under this chapter shall be presumptive evidence thereof.

§ 10514. CRIMINAL PENALTIES

(a) Failure to file; failure to remit. Any person who knowingly fails to file a return or fails to remit a tax required under this subchapter shall be imprisoned not more than three years or fined not more than \$10,000.00 or both.

(b) Any person who knowingly makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than \$1,000.00 or both. Any person who with intent to evade a tax liability makes, signs, verifies, or files with the commissioner a false or fraudulent tax return shall, if the amount of tax evaded is in excess of \$500.00, be imprisoned not more than three years or fined not more than \$10,000.00 or both.

§ 10515. NOTICE AND LIMITATIONS OF TIME

(a) Any notice under this chapter may be given by mailing it to the person for whom it is intended in a postpaid envelope addressed to that person at the address given in the last return filed by him or her under this chapter or in any application made by him or her or, if no return has been filed or application made, then to any address obtainable. The mailing of the notice shall be presumptive evidence of its receipt by the person to whom it is addressed. Any period of time which is determined under this chapter by the giving of notice shall commence to run from the date of mailing of the notice.

(b) The provisions of law relating to limitations of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken by the state or the commissioner to levy, appraise, assess, determine, or enforce the collection of any tax or penalty under this chapter. However, except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the later of the date of the filing of a return or the date a return is due; provided, however, that when no return has been filed as provided by law, the tax may be assessed at any time and further provided that where tax collected under this chapter has been underreported by 20 percent or more, such tax may be assessed at any time before the expiration of six years from the date of the filing of the return.

(c) When, before the expiration of the period prescribed herein for the assessment of an additional tax, a taxpayer has consented in writing that the period be extended, the amount of the additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period. If a taxpayer has consented in writing to the extension of the period for assessment, the period for filing an application for credit or refund

pursuant to section 10476 of this title shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the consent to extend the time for assessment of additional tax.

§ 10516. REVIEW OF COMMISSIONER'S DECISION

(a) Any aggrieved taxpayer may, within 30 days after any decision, order, finding, assessment, or action of the commissioner made under this chapter, appeal to the superior court. The appellant shall give security, approved by the commissioner, conditioned to pay the tax levied, if it remains unpaid, with interest and costs, as set forth in subsection (c) of this section.

(b) The appeal provided by this section shall be the exclusive remedy available to any taxpayer for review of a decision of the commissioner determining the liability of the taxpayer for the taxes imposed.

(c) Notwithstanding any restrictions on the assessment and collection of deficiencies, the commissioner may assess a deficiency after the expiration of the period specified in subsection (a) of this section, notwithstanding that a notice of appeal regarding the deficiency has been filed by the taxpayer unless the taxpayer, prior to the time the notice of appeal is filed, has paid the deficiency, has deposited with the commissioner the amount of the deficiency, or has filed with the commissioner a bond, which may be a jeopardy bond, in the amount of the portion of the deficiency including interest and other amounts in respect of which review is sought and all costs and charges which may accrue against the taxpayer in the prosecution of the proceeding, including costs of all appeals, and with surety approved by the county court conditioned upon the payment of the deficiency including interest and other amounts as finally determined and all costs and charges. If, as a result of a waiver of the restrictions on the assessment and collection of a deficiency, any part of the amount determined by the commissioner is paid after the filing of the appeal bond, the bond shall, at the request of the taxpayer, be proportionately reduced.

§ 10517. LIENS

If any person required to pay a tax under this chapter neglects or refuses to pay the same after demand, the amount, together with all penalties and interest provided for in this chapter and together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Vermont upon all property and rights to property, whether real or personal, belonging to such person. Such lien shall arise at the time demand is made by the commissioner of taxes and shall continue until the liability for such sum with interest and costs is satisfied or becomes unenforceable. Such lien shall have the same force and effect as the lien for taxes under chapter 151 of this title as provided in section 5895 of this title, and notice of such lien shall be recorded as is

provided in that section. Certificates of release of such lien shall also be given by the commissioner as in the case of the aforesaid tax liens.

* * * Limitation on Use Value Property Tax Reduction * * *

Sec. H.57 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the per-acre fair market value of the total enrolled acres in any one parcel exceeds \$4,000.00, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner under chapter 154 of this title; and the payment to any municipality under section 3760 of this chapter shall be adjusted accordingly.

Sec. H.58 EFFECTIVE DATES

This act shall take effect upon passage, except:

(1) Sec. H.17 (establishing an ad hoc board of civil authority for unorganized towns and gores and unified towns and gores) shall apply to appeals filed on or after July 1, 2009.

(2) Sec. H.18 (repealing tax information insert) shall apply to homestead property tax bills mailed in 2009 and after.

(3) Sec. H.19 (homestead declaration) shall apply to homestead declarations filed for tax year 2008 and after.

(4) Secs. H.20 and H.21 (taxation of unrelated business income of nonprofit corporations) shall take effect for taxable years beginning on and after January 1, 2010.

(5) Sec. H.22 (update of link to federal income tax laws) shall apply to taxable years beginning on and after January 1, 2008.

(6) Secs. H.24–H.28a (digital business entities) shall take effect on January 1, 2010.

(7) Sec. H.30 (income sensitivity adjustment limit) shall apply to income sensitivity adjustments made in 2009 and after.

(8) Sec. H.31 (deadline for notice from department to towns regarding adjustment amounts) shall apply to homestead declarations filed in 2009 and after.

(9) Secs. H.32–H.36 (estate taxes) shall apply to estates of individuals dying on or after January 1, 2009.

(10) Secs. H.37–H.38 (tobacco tax) shall take effect July 1, 2009.

(11) Secs. H.40–H.42 (sales and use tax on digital downloads) shall take effect on July 1, 2009.

(12) Sec. H.43 (cancellation of sales and use tax account) shall take effect with respect to cancellations on or after July 1, 2009.

(13) Sec. H.51 (tax on spirituous liquor) shall take effect on July 1, 2009.

(14) Secs. H.52 and H.53 (flavored malt beverages) shall take effect on July 1, 2009.;

(15) Sec. H.54 (capital gains exemption) shall take effect for taxable years beginning on or after January 1, 2009.

(16) Sec. H.56 (satellite television tax) shall take effect on July 1, 2009.

(17) Sec. H.57 (limitation on use value property tax reduction) shall apply to property tax bills issued in calendar 2010 and thereafter.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Appropriations?, Senator Mullin moved to amend the proposal of amendment of the Committee on Appropriations by adding Secs. F.100 through F.110 to read as follows:

Sec. F.100. BALANCED BUDGET WITH NO TAX INCREASES

The purpose of the adjustments in this section is to present a balanced budget for fiscal year 2010 without raising taxes, with two exceptions being a reduction of the household income eligibility cap for property tax adjustments from \$90,000 to \$80,000, and a cap on the current use subsidy for very high-valued property. The additional education tax revenue from the lowered household income cap would be used to fund an additional portion of teacher retirement; and the current use savings in the education fund is used to reduce the general fund transfer to the education fund. In addition, \$5 million is cut from Vermont housing and conservation board funding, with their remaining funding to be used only for housing purposes. And finally, these adjustments allow for balancing the budget without the tax increases which have been

proposed for fiscal year 2010, by cutting spending provisions as shown in the following sections.

Sec. F.101. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of ~~\$90,000.00~~ \$80,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than ~~\$90,000.00~~ \$80,000.00 but more than \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the applicable percentage of household income for the taxable year.

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the applicable percentage of household income for the taxable year; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

(D) A claimant whose household income does not exceed ~~\$90,000.00~~ \$80,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.

Sec. F.102. By increasing education fund sources for teachers' retirement by \$5.9 million

In Sec. B.514, by striking out the following: "40,303,002" and inserting in lieu thereof the following: 34,403,002, and by adding under Source of funds: Education fund \$5,900,000

Sec. F. 103. 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the listed value, divided by the most recent common level of appraisal, of the total enrolled acres in any one parcel exceeds \$4,000.00 per acre, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner under chapter 154 of this title. Beginning in fiscal year 2011, the payment to any municipality under section 3760 of this chapter shall be adjusted to take into account the limitation in this section.

Sec. F.104. Reduce the general fund transfer to the education fund by \$2.5 million (the education fund saves \$2.5 million through the current use cap in Sec. 103)

In B.513, by striking out the following: "297,778,980" in both instances and inserting in lieu thereof the following: 295,278,980 and by striking out the following: "274,778,980" and inserting in lieu thereof the following: 272,278,980

Sec. F.105. Vermont Housing and Conservation Board appropriation reduced by \$5 million

In Sec. B.813, by striking out the following "22,933,436" in both instances and inserting in lieu thereof the following 17,933,436 and by striking out the following: "11,326,662" and inserting in lieu thereof the following: 6,326,662; and by inserting the following: Vermont housing and conservation funding in fiscal year 2010 shall be used only for housing purposes.

Sec. F.106. Property transfer tax dedicated to the VHCB trust fund reduced by \$5 million, and excess amounts flow to general fund

In Sec. D.100, by inserting the following:

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$9,101,662~~ \$4,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$9,101,662~~ \$4,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

* * *

Sec. F.107. Cut tobacco cessation funding by \$714,000

In Sec. B.312, by striking out the following: “74,842,314” in both instances and inserting in lieu thereof the following: 74,128,314 and by striking out the following: “1,906,916” and inserting in lieu thereof the following: 1,192,916

In Sec. B.301, by striking out the following: “70,206,046” and inserting in lieu thereof the following: 69,492,046 and by striking out the following: “34,911,760” and inserting in lieu thereof the following: 35,625,760

Sec. F.108. Move \$714,000.00 saved from tobacco cessation funding to Global Commitment, allowing reduction of general fund monies to Global Commitment

In Sec. E.312, by inserting the following:

(c) Funding for the tobacco programs in fiscal year 2010 shall consist of the ~~\$1,917,516~~ \$1,203,516 in tobacco funds and \$1,059,409 in Global Commitment funds appropriated in Sec. B.312 of this act; and \$212,709 of the tobacco funds appropriated in Sec. B.300 of this act. This total ~~\$3,189,634~~ \$2,475,634 shall be utilized according to the provisions of 18 V.S.A. chapter 225 as follows:

(1) community-based programs - \$850,300;

(2) media and public education - \$837,200;

(3) tobacco cessation programs - ~~\$1,163,200~~ \$449,200; these funds may also be used to provide tobacco cessation counseling services to persons incarcerated in Vermont correctional facilities, and \$80,000 shall be used to make nicotine replacement therapies available to all persons enrolled in tobacco cessation counseling, \$91,400 shall be allocated to programs that serve

pregnant women, and \$12,500 shall be granted to the Washington County Mental Health Agency, Inc. for a special cessation program;

(4) surveillance and evaluation activities - \$276,600;

(5) statewide provider education - \$62,334.

Sec. F.109. Cut legislative budget \$200,000 by reduction in funding of Health Care Reform Commission

In Sec. B.127, by striking out the following: “7,301,391” in both instances and inserting in lieu thereof the following: 7,101,391, and by striking out the following: “3,872,884” and inserting in lieu thereof the following: 1,192,916.

In Sec. E.127 by adding:

* * *

(b) The director of the commission on health care reform shall reduce expenditures on contracts and personal services by \$200,000.”

Sec. F.110. Full family sanctions for those on TANF for 60 months unless good cause shown

In Sec. B.323, by striking out the following: “49,842,356” in both instances and inserting in lieu thereof the following: 48,594,356 and by striking out the following: “16,124,726” and inserting in lieu thereof the following: 14,876,726, and by inserting the following: “Full family sanctions shall be imposed for those on TANF for 60 months unless good cause is shown.”

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Appropriations be amended as recommended by Senator Mullin?, Senator Mullin requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the pending question Shall the Senate propose to the House to amend the bill as recommended by the Committee on Appropriations?, was agreed to on a roll call, Yeas 27, Nays 3.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Mullin.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Bill Committed

H. 438.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Thereupon, pending the reading of the reports of the Committees on Transportation and on Finance, Senator Shumlin moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committees on Transportation and on Finance *intact*,

Which was agreed to.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until nine o'clock and thirty minutes in the morning.

THURSDAY, APRIL 23, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 63

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 297. An act relating to approval of the adoption of the charter of the Morristown Corners Water Corporation.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

H. 34. An act relating to automated external defibrillators.

And has severally concurred therein.

The House has considered Senate proposal of amendment to the following House bill:

H. 186. An act relating to authorizing the department of fish and wildlife to administer polygraph examinations to applicants for law enforcement positions.

And has severally concurred therein.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 30. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Rules Suspended; Bill Committed

H. 445.

Pending entry on the Calendar for notice, on motion of Senator Ayer, the rules were suspended and House bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Ayer moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Institutions *intact*,

Which was agreed to.

Recess

On motion of Senator Ayer the Senate recessed until the fall of the gavel.

Called to Order

At ten o'clock and forty minutes the Senate was called to order by the President.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 438.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to the state's transportation program.

Was taken up for immediate consideration.

Senator Mazza, for the Committee on Transportation, to which the bill was referred, reported recommending 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. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2010 transportation program appended to the agency of transportation's proposed fiscal year 2010 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading;

(4) the term "bonding" refers to the net proceeds of transportation bonds which were included in the agency's proposed fiscal year 2010 transportation program;

(5) the term "ARRA funds" refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

(6) the term "TIB funds" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f ; and

Sec. 2. TIB FUNDS

All spending of TIB funds authorized by this act with respect to an agency program and all appropriations of TIB funds shall be limited to eligible projects as defined in 19 V.S.A. § 11f(b) and shall further be limited in amounts to the monies deposited in the transportation infrastructure bond fund during the fiscal year in which the spending is authorized and the appropriation is made.

* * * Paving * * *

Sec. 3. PROGRAM DEVELOPMENT – PAVING

(a) Spending authority in the paving statewide preventive maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	500,000	0	-500,000
Total	500,000	0	-500,000
<u>Source of funds</u>			
State	500,000	0	-500,000
Total	500,000	0	-500,000

(b) Including the change in subsection (a) of this section, total spending authority in the paving program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	2,405,000	2,405,000	0
ROW	0	0	0
Construction	66,229,802	65,729,802	-500,000
Total	68,634,802	68,134,802	-500,000
<u>Source of funds</u>			
State	13,018,034	9,925,295	-3,092,739
TIB funds	0	2,592,739	2,592,739
Federal	55,616,768	55,616,768	0
Total	68,634,802	68,134,802	-500,000

* * * Roadway * * *

Sec. 4. PROGRAM DEVELOPMENT – ROADWAY

(a) Spending authority for the Cabot-Danville US 2 FEGC F 028-3(26)C/1 roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	4,000,000	2,500,000	-1,500,000
Other	0	0	0
Total	4,000,000	2,500,000	-1,500,000
<u>Source of funds</u>			
State	200,000	0	-200,000
TIB funds	0	125,000	125,000
Federal	3,800,000	2,375,000	-1,425,000
Total	4,000,000	2,500,000	-1,500,000

(b) Spending authority for the Morristown VT 100 STP F 029-1(2) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	200,000	200,000	0
ROW	500,000	2,000,000	1,500,000
Construction	0	0	0
Other	200,000	200,000	0
Total	900,000	2,400,000	1,500,000
<u>Source of funds</u>			
State	182,440	0	-182,440
TIB funds	0	482,440	482,440
Federal	717,560	1,917,560	1,200,000
Total	900,000	2,400,000	1,500,000

(c) Spending authority for the Winooski NH 089-3(65) roadway project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
ROW	0	0	0
Construction	1,000,000	1,000,000	0
Other	0	0	0
Total	1,100,000	1,100,000	0
<u>Source of funds</u>			
State	110,000	0	-110,000
TIB funds	0	10,000	10,000
Federal	990,000	1,090,000	100,000
Total	1,100,000	1,100,000	0

(d) Spending authority for the Derby IM 091-3(45) roadway border crossing project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	287,500	0	-287,500
Total	287,500	0	-287,500
<u>Source of funds</u>			
State	287,500	0	-287,500
Federal	0	0	0
Total	287,500	0	-287,500

(e) Including the changes made in subsections (a) through (d) of this section, total spending authority in the roadway program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,446,892	5,446,892	0
ROW	7,115,000	8,615,000	1,500,000

Construction	43,752,270	42,252,270	-1,500,000
Other	1,087,500	800,000	-287,500
Total	57,401,662	57,114,162	-287,500
<u>Source of funds</u>			
State	2,749,362	500,000	-2,249,362
Bonding	4,390,980	0	-4,390,980
TIB funds	0	6,477,842	6,477,842
Federal	48,710,890	48,585,890	-125,000
Local	1,550,430	1,550,430	0
Total	57,401,662	57,114,162	-287,500

* * * State Bridge * * *

Sec. 5. PROGRAM DEVELOPMENT – STATE BRIDGE

(a) Spending authority in the state bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,550,576	3,550,576	0
ROW	1,181,202	1,181,202	0
Construction	19,002,022	19,002,022	0
Total	23,733,800	23,733,800	0
<u>Source of funds</u>			
State	0	4,219,920	4,219,920
Bonding	5,186,420	0	-5,186,420
TIB funds	0	966,500	966,500
Federal	18,547,380	18,547,380	0
Total	23,733,800	23,733,800	0

* * * Interstate Bridge * * *

Sec. 6. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

(a) Spending authority in the interstate bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	607,500	607,500	0
ROW	26,000	26,000	0
Construction	5,315,000	5,315,000	0
Other	0	0	0
Total	5,948,500	5,948,500	0
<u>Source of funds</u>			
State	0	594,850	594,850
Bonding	594,850	0	-594,850
TIB funds	0	0	0

Federal	5,353,650	5,353,650	0
Total	5,948,500	5,948,500	0

* * * Town Bridge * * *

Sec. 7. TOWN HIGHWAY BRIDGE

(a) Spending authority in the town highway bridge program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	1,663,952	1,663,952	0
ROW	588,278	588,278	0
Construction	18,418,870	18,418,870	0
Total	20,671,100	20,671,100	0
<u>Source of funds</u>			
State	1,540,899	500,000	-1,040,899
Bonding	1,500,000	0	-1,500,000
TIB funds	0	2,540,899	2,540,899
Federal	16,273,728	16,273,728	0
Local	1,356,473	1,356,473	0
Total	20,671,100	20,671,100	0

* * * Bridge Maintenance * * *

Sec. 8. BRIDGE MAINTENANCE

Spending authority in the bridge maintenance program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	410,000	410,000	0
ROW	21,500	21,500	0
Construction	17,192,200	17,192,200	0
Total	17,623,700	17,623,700	0
<u>Source of funds</u>			
State	6,844,140	2,979,620	-3,864,520
TIB funds	0	234,020	234,020
Federal	10,779,560	10,779,560	0
ARRA funds	0	3,630,500	3,630,500
Total	17,623,700	17,623,700	0

* * * Buildings * * *

Sec. 9. TRANSPORTATION BUILDINGS

(a) Spending authority for the transportation buildings Berlin project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	0	-100,000
ROW	200,000	0	-200,000
Construction	650,000	0	-650,000
Total	950,000	0	-950,000
<u>Source of funds</u>			
State	190,000	0	-190,000
Federal	760,000	0	-760,000
Total	950,000	0	-950,000

(b) The agency shall study alternatives for the siting of the materials testing lab and report to the house and senate committees on transportation by January 15, 2010.

* * * Department of Motor Vehicles * * *

Sec. 10. DEPARTMENT OF MOTOR VEHICLES

Spending authority for the department of motor vehicles is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	17,063,642	16,913,642	-150,000
Operating Expenses	8,176,673	8,176,673	0
Grants	50,000	50,000	0
Total	25,290,315	25,140,315	-150,000
<u>Source of funds</u>			
State	23,807,821	23,657,821	-150,000
Federal	1,482,494	1,482,494	0
Total	25,290,315	25,140,315	-150,000

* * * Rail * * *

Sec. 11. RAIL

(a) Spending authority for passenger rail service (Amtrak contract) is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000
<u>Source of funds</u>			
State	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000

(b) Spending authority for rail property lease and encroachment management is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	300,000	212,761	-87,239
Total	300,000	212,761	-87,239
<u>Source of funds</u>			
State	300,000	212,761	-87,239
Federal	0	0	0
Total	300,000	212,761	-87,239

* * * Finance and Management * * *

Sec. 12. FINANCE AND MANAGEMENT

Spending authority for the finance and management division is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal services	10,071,137	10,071,137	0
Operating expenses	2,538,262	2,438,262	-100,000
Total	12,609,399	12,509,399	-100,000
<u>Source of funds</u>			
State	12,109,399	12,009,399	-100,000
Federal	500,000	500,000	0
Total	12,609,399	12,509,399	-100,000

* * * Town Highway State Aid * * *

Sec. 13. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General state aid to town highways. An annual appropriation to class 1, 2 and 3 town highways shall be made. ~~This appropriation shall increase or decrease over the previous year's appropriation by the same percentage as any increase or decrease in the transportation agency's total appropriations funded by transportation fund revenues, excluding the town highway appropriations for that year.~~ The funds appropriated shall be distributed to towns as follows:

(1) six percent of the state's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the state;

(2) forty-four percent of the state's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the state;

(3) fifty percent of the state's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the state;

(4) moneys apportioned under subdivisions (1), (2), and (3) shall be distributed to each town in quarterly payments beginning July 15 in each year;

(5) each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the state, in a civil action brought by the attorney general, for making any unauthorized expenditures from money apportioned to the town under this section.

(b) As used in this subsection, the term "forecast" refers to a consensus forecast of transportation fund revenue for a fiscal year approved pursuant to 32 V.S.A. § 305a; the term "January baseline forecast" refers to a forecast approved in the January immediately preceding a fiscal year; and the term "distribution" refers to a quarterly distribution of town highway state aid during that fiscal year.

(1) If the forecast for a fiscal year as it is updated does not at any time vary from the January baseline forecast by 1 percent or more either higher or lower than the January baseline forecast, the town highway state aid appropriated under subsection (a) of this section shall be disbursed to towns in four equal installments commencing on July 15 of the fiscal year.

(2) If a forecast varies by more than 1 percent from the January baseline forecast, either higher or lower, the next scheduled distribution after the approval of the forecast shall be adjusted so that the sum of all prior distributions and the pending distribution is increased or decreased by the same proportion as the percentage change in the current forecast relative to the January baseline forecast; and the appropriation shall be adjusted accordingly.

~~(b)~~(c) Supplemental state aid for multilane class 1 town highways. There shall be an annual appropriation for supplemental aid to municipalities having class 1 town highways with more than two lanes. The agency shall distribute this aid on the basis of its measurement of the additional class 1 town highway lanes. The secretary may adopt rules to govern apportionment of supplemental aid.

~~(e)~~(d) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3

town highways. Annually the agency shall distribute these funds according to a program plan based upon applications submitted by the towns. With the approval of the agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including, but not limited to, construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access and substitution of other means of access.

~~(d)~~(e) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, or rebuilding class 1, 2, or 3 town highways and bridges damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The secretary of transportation shall determine that the disaster is of such magnitude that state aid is both reasonable and necessary to preserve the public good;

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 emergency relief program for federal-aid highways;

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater;

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the agency of transportation; and

(5) Such additional criteria as may be adopted by the agency of transportation through rulemaking under 3 V.S.A. chapter 25.

~~(e)~~(f) State aid for town highway structures. There shall be an annual appropriation for grants to municipalities for maintenance, including actions to extend life expectancy, and construction of bridges, culverts, and other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways. Each fiscal

year, the agency shall approve qualifying projects with a total estimated state share cost of \$3,490,000.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

~~(h)~~(g) Class 2 town highway roadway program. Class 2 town highway roadway program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$4,240,000.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway class 2 roadway program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid under the class 2 town highway roadway program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

~~(j)~~(h) Annual town plan. Within 60 days of adoption of the town's municipal budget, the selectboard of each town shall forward to the agency on forms provided by the agency a plan for the maintenance and construction of all highways under the selectboard's control for the following year. The plan shall be made with the advice of the district transportation administrator.

* * * ARRA Funding of Town Projects * * *

Sec. 14. ARRA FUNDING OF TOWN PROJECTS

Any town transportation project which as a matter of state law requires a local match shall retain the local match requirement regardless of the state's use of ARRA funds to fund the project.

* * * Passenger Rail Equipment * * *

Sec. 15. PASSENGER RAIL EQUIPMENT

In consultation with the joint fiscal office, the agency shall examine the alternatives and relative costs and benefits and service implications available to the state with respect to the purchase of passenger rail equipment to be used in place of the existing Amtrak equipment employed in the Vermonter and Ethan Allen services, including the purchase of refurbished equipment. The agency shall deliver a report of its analysis to the house and senate committees on transportation on or before January 15, 2010.

* * * Public Transit * * *

Sec. 16. PUBLIC TRANSIT

From the funds allocated to the public transit general capital program, \$100,000 in federal funds shall be held by the agency of transportation in reserve to cover shortfalls in the funding of the elders and persons with disabilities program (E&D) that occur as a result of unanticipated demand for non-Medicaid transportation services. Transit agencies that have grant agreements with the agency for the provision of E&D services shall be eligible to receive disbursements from the reserve. The agency shall develop a written policy to govern the evaluation and prioritization of applications for disbursements from the reserve to ensure access to the reserve funds is limited to transit agencies that have administered appropriately constrained E&D programs. The agency shall notify all transit agencies with grant agreements for the provision of E&D services of the policy no later than July 1, 2009, and all disbursements from the reserve shall be in accordance with the policy.

* * * ARRA Funds * * *

Sec. 17. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation-related projects. The allocation is subject to a requirement that 50 percent of a portion of the allocation be obligated by the state within a 120-day time period, and that the remaining funds be obligated by February 2010. To the extent the state needs to obligate ARRA funds to satisfy the February 2010 deadline, subject to the approval of the joint transportation oversight committee, the secretary is authorized to obligate ARRA funds:

(1) to eligible projects in the fiscal year 2010 transportation program; and

(2) to additional town highway projects that meet federal eligibility and readiness criteria.

(b) To the extent ARRA funds are proposed under subsection (a) of this section to be obligated to projects in place of previously authorized state funds or non-ARRA federal funds, the agency shall, subject to the approval of the joint transportation oversight committee, reallocate the authorized funds to advance other projects in the fiscal year 2010 transportation programs in the order of their priority ranking. If the secretary determines that such funds would be more efficiently spent advancing a lower-ranking project due to permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project.

(c) To the extent ARRA funds have been obligated and appropriated under other authority to projects in the fiscal year 2009 transportation program to projects in place of previously authorized and appropriated state funds or non-ARRA federal funds, the agency is authorized to reallocate the authorized funds to advance other projects in the fiscal year 2009 transportation program.

(d) The agency shall submit its proposal regarding the obligation of ARRA funds under subsection (a) of this section and its proposal regarding the reallocation of funds under subsection (b) of this section to the joint transportation oversight committee for approval. The agency shall in addition report to the committee on any reallocation of funds executed under authority of subsection (c) of this section.

(e) Up to \$66,369,500 of ARRA funds are authorized for expenditure by the agency in fiscal year 2010 to fund the spending approved by the joint transportation oversight committee under subsection (d) of this section. The agency shall report on the expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular and specially scheduled 2009 meetings.

(f) All reports from the agency to the joint transportation oversight committee (JTOC) required under this section when the legislature is not in session shall take place at meetings of the committee called by the chair.

Sec. 18. APPLYING FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS

The agency shall apply for a grant of rail infrastructure discretionary ARRA funds to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service to and from Burlington, Rutland,

Bennington and Albany, New York. In applying for a grant, the agency shall consider all possible all sources of non-federal match dollars which could be included in and would thereby strengthen the application. The grant application shall state that priority will be given to the improvements necessary to extend intercity passenger rail service to downtown Burlington and that projects would be constructed as described in the 2006 State Rail & Policy Plan.

* * * Joint Transportation Oversight Committee Chairs * * *

Sec. 19. 19 V.S.A. § 12b(a) is amended to read:

(a) There is created a joint transportation oversight committee composed of the chairs of the house and senate committees on appropriations, the house and senate committees on transportation, the house committee on ways and means, and the senate committee on finance. The committee shall be chaired alternately by the chairs of the house and senate committees on transportation, and the two year term shall run concurrently with the biennial session of the legislature. The chair of the house committee on transportation shall chair the committee during the 2009–2010 legislative session.

* * * Motor Fuel Transportation Infrastructure Assessments * * *

Sec. 20. 23 V.S.A. § 3003(a) is amended to read:

(a) A tax of ~~25 cents per gallon and \$0.25~~, a fee of ~~one cent per gallon is imposed on each gallon of fuel~~ \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a diesel fuel transportation infrastructure assessment in the amount of two percent of the wholesale price exclusive of all federal and state taxes is imposed upon on each gallon of diesel fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

Sec. 20a. 23 V.S.A. § 3003(d)(1) is amended to read:

(d)(1) For users, the following uses shall be exempt from ~~taxation~~ the tax and diesel fuel transportation infrastructure assessment imposed under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title.

Sec. 20b. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuel transportation infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax

of \$0.19 ~~per~~ upon each gallon of motor fuel sold by the distributor, and a motor fuel transportation infrastructure assessment in the amount of two percent of the wholesale price exclusive of all federal and state taxes upon each gallon of motor fuel sold by the distributor. The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same ~~amount~~ amounts upon each gallon of motor fuel used within the state by him or her.

Sec. 21. 19 V.S.A. § 11f is added to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special account within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

(b)(1) Monies in the fund may be used:

(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to section 972 of Title 32; and

(B) to pay for:

(i) the rehabilitation, reconstruction, or replacement of state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;

(ii) the rehabilitation, reconstruction, or replacement of municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and

(iii) up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.

(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in subsection 972(b) of Title 32.

(c) The assessments for motor fuel transportation infrastructure assessments paid pursuant to 23 V.S.A. §§ 3003(a) and 3106(a) shall not be reduced below the rates in effect at the time of issuance of any transportation

infrastructure bond until the principal, interest, and all costs which must be paid in order to retire the bond have been paid.

* * * Transportation Infrastructure Bonds * * *

Sec. 22. 32 V.S.A. chapter 13, subchapter 4 is added to read:

Subchapter 4. TRANSPORTATION INFRASTRUCTURE BONDS

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

(a) The treasurer may issue bonds pursuant to this subchapter from time to time in amounts authorized by the general assembly in its annual transportation bill. Bonds issued under this section shall be referred to as “transportation infrastructure bonds.”

(b) Principal and interest on the bonds and associated costs shall be paid from the transportation infrastructure bond fund established in 19 V.S.A. § 11f. Associated costs of bonds include sinking fund payments; reserves; redemption premiums; additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered to secure bonds; and related costs of issuance.

(c) Funds raised from bonds issued under this section may be used to pay for:

(1) the rehabilitation, reconstruction, or replacement of state bridges and culverts; and

(2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; and

(3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more;

(d) Pursuant to section 953 of this title, interest and the investment return on the bonds shall be exempt from taxation in this state.

(e) Bonds issued under this section shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. The bonds shall likewise be legal investments for all public officials authorized to invest in public funds.

§ 973. ISSUANCE OF BONDS

(a) Transportation infrastructure bonds may be issued at one time or in a series from time to time in any form permitted by law, in such manner and on such terms and conditions as the state treasurer may determine to be in the best

interests of the state, except that the state treasurer shall determine the following with the approval of the governor:

- (1) date of issuance;
- (2) place of payment;
- (3) rate of interest (which may be fixed or variable) or the manner of determining such rate of interest;
- (4) original stated value;
- (5) investment returns or manner of determining the investment returns;
- (6) maturity value, time of maturity, and provisions with respect to redemption prior to maturity;
- (7) whether to issue the bonds at par, premium, or discount;
- (8) sinking fund and reserve requirements;
- (9) amount and manner of issuance; and
- (10) other particulars as to the form of such bonds within the limitations of this subchapter.

(b) The state treasurer shall determine the annual payment schedule for the bonds, including debt service and sinking fund payments, if any, as he or she may deem to be in the best interests of the state. However, any bond issued under this subchapter shall mature not later than 30 years after the date of issuance. Installments on the bonds need not be payable in substantially equal or diminishing amounts. The last bond payment shall be made not later than 30 years after the date of issuance.

(c) The state treasurer may determine at the time of issuance to apply all or a portion of any net premium to the costs of issuance, other related financing costs, or the payment of the principal or interest to come due. If net premium is applied to costs of issuance, the amount of the premium shall not be included in the net proceeds of the issue. Net premium not applied to costs of issuance shall be included in the net proceeds of the issue and may be used for any of the authorized purposes of the bond proceeds.

(d) The principal, interest, investment returns, and maturity value of transportation infrastructure bonds shall be payable in lawful money of the United States or of the country in which the bonds are sold.

(e) Transportation infrastructure bonds shall be registered pursuant to section 981 of this title.

§ 974. SECURITY DOCUMENTS

(a) The state treasurer is authorized to secure bonds authorized under this subchapter by a trust agreement which pledges or assigns monies in the transportation infrastructure bond fund; by additional security, insurance, or other forms of credit enhancement which may be secured with the bonds on a parity or subordinate basis or by both.

(b) Any trust agreement or credit enhancement agreement entered into pursuant to this section shall be valid and binding from the time of the agreement without any physical delivery or further act and without any filing or recording under the Uniform Commercial Code or otherwise, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof.

(c) Any trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves; the issuance of additional or refunding bonds, whether or not secured on a parity basis; the application of receipts, monies, or funds pledged pursuant to the agreement; and other matters deemed necessary or desirable by the state treasurer for the security of the bonds, and may also regulate the custody, investment, and application of monies.

(d) For payment of principal, interest, investment returns, and maturity value of transportation infrastructure bonds, the full faith and credit of the state is hereby pledged. However:

(1) if pledging of full faith and credit of the state is not necessary to market a transportation infrastructure bond in the best interest of the state, the treasurer shall enter into an agreement which establishes that the full faith and credit of the state is not pledged for payment of principal, interest, investment returns, and maturity value of the bond. In determining whether to pledge the full faith and credit of the state, the state treasurer shall consider the anticipated effect of such a pledge on the credit standing of the state, the marketability of the transportation infrastructure bond, and other factors he or she deems appropriate; and

(2) the treasurer shall only use other revenues to pay for debt service and associated costs as defined in section 972 of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund are insufficient to pay for it.

§ 975. PROCEEDS

(a) Proceeds from the sale of bonds may be expended for the authorized purposes of the bonds; including the expenses of preparing, issuing, and marketing the bonds; any notes issued under section 976 of this title; and amounts for any reserves. However, no purchasers of the bonds shall be bound to see to the proper application of the proceeds thereof.

(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.

(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.

§ 976. ANTICIPATION OF PROCEEDS

(a) Pending the issue of transportation infrastructure bonds, the state treasurer with the approval of the governor may use any available cash in the transportation infrastructure bond fund for the purposes for which the bonds were authorized, and shall restore the borrowed funds from the proceeds of the bonds.

(b) The state treasurer, with the approval of the governor, may borrow upon notes of the state sums of money in anticipation of the proceeds of the bonds. Notes issued under this subsection shall be issued on such terms and at such times as the treasurer and governor may determine, and shall mature not more than three years from the date of issuance, provided that notes issued for a shorter period may be refunded from time to time by the issue of other such notes maturing within the required period of three years.

(c) The authority granted under this section is in addition to and not in limitation of any other authority.

§ 977. REFUNDING BONDS

The state treasurer with the approval of the governor is hereby authorized to issue transportation infrastructure bonds in order to refund all or any portion of outstanding transportation bonds at any time after the issuance of the bonds to be refunded pursuant to subsections 961(b), (c), and (d) of this title.

§ 978. PLEDGE

The general assembly hereby pledges and covenants with holders of the bonds issued under this subchapter that the state will fulfill the terms of any agreement made with the holders of transportation infrastructure bonds and will not in any way impair the rights or remedies of the holders of the bonds until the bonds, interest, and all costs associated with the bonds are fully paid.

§ 979. AUTHORITIES

In addition to the provisions of this subchapter, the following provisions of this title shall apply to transportation infrastructure bonds:

(1) sections 953, 956, 958, and 960;

(2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and

(3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to subdivision 974(e)(2) of this title.

Sec. 23. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding future appropriations only as approved by the general assembly.

Sec. 24. 32 V.S.A. § 1001(b) is amended to read:

(b)(1) Committee duties. The committee shall review annually the size and affordability of the net state tax-supported indebtedness; and submit to the governor and to the general assembly an estimate of the maximum amount of new long-term net state tax-supported debt that prudently may be authorized for the next fiscal year. The estimate of the committee shall be advisory and in no way bind the governor or the general assembly.

(2) The committee shall conduct ongoing reviews of the amount and condition of bonds, notes, and other obligations of instrumentalities of the state for which the state has a contingent or limited liability or for which the state

legislature is permitted to replenish reserve funds, and, when deemed appropriate, recommend limits on the occurrence of such additional obligations to the governor and to the general assembly.

(3) The committee shall conduct ongoing reviews of the amount and condition of the transportation infrastructure bond fund established in 19 V.S.A. § 11f and of bonds and notes issued against the fund for which the state has a contingent or limited liability.

Sec. 25. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

The capital debt affordability advisory committee shall prepare and submit, consistent with 2 V.S.A. § 20(a), a report on:

(1) general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) how many, if any, transportation infrastructure bonds have been issued and under what conditions.

* * * Motor Vehicle Fees * * *

Sec. 26. 23 V.S.A. § 114(a)(14) is amended to read:

(a) The commissioner shall be paid the following fees for miscellaneous transactions:

* * *

(14) Certified copy three-year operating record ~~10.00~~ 11.00

Sec. 27. 23 V.S.A. § 115(a) is amended to read:

(a) Any Vermont resident may make application to the commissioner and be issued an identification card which is attested by the commissioner as to true name, correct age, and any other identifying data as the commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the commissioner may require. The commissioner shall require payment of a fee of ~~\$15.00~~ \$17.00 at the time application for an identification card is made.

Sec. 28. 23 V.S.A. § 304(b) and (c) are amended to read:

(b) The authority to issue special motor vehicle number plates or receive applications or petitions for special number plates for safety organizations and service organizations shall reside with the commissioner. Determination of compliance with the criteria contained in this subsection shall be within the

discretion of the commissioner. Series of number plates for safety and service organizations which are authorized by the commissioner shall be issued in order of approval, subject to the operating considerations in the department as determined by the commissioner. The commissioner shall issue special number plates marked with initials, letters, or combination of numerals and letters, in the following manner:

(1) Except as otherwise provided, at the request of the registrant of any motor vehicle, upon application and upon payment of an annual fee of ~~\$35.00~~ \$38.00 in addition to the annual fee for registration. He or she may not issue two sets of special number plates bearing the same initials or letters unless the plates also contain a distinguishing number. Special number plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) For the purposes of this subdivision, "safety organizations" shall include groups which have at least 100 instate members in good standing and provide police and fire protection, rescue squads, national guard, together with those organizations required to respond to public emergencies. It shall include amateur radio operators licensed by the U.S. Federal Communications Commission. For purposes of this subdivision, "service organization" includes any group which (i) has as a primary purpose, service to the community through specific programs for the improvement of public health, education, or environmental awareness and conservation, and are not limited to social activities; (ii) has nonprofit status under Section 501(c)(3) or (10) of the United States Internal Revenue Code, as amended; (iii) is registered as a nonprofit corporation with the office of the secretary of state; and (iv) except for a military veterans group, has at least 100 instate members in good standing. "Service organization" also includes congressionally chartered and noncongressionally chartered United States military service veterans groups.

(A) At the request of the leader of a safety organization or service organization, upon application and payment of a fee of ~~\$10.00~~ \$15.00 for each set of plates in addition to the annual fee for registration, special plates indicating membership in one of the "safety organizations" or "service organizations" may be issued to registrants of vehicles registered at the pleasure car rate and of trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, who are members of these organizations. The applicant must provide a written statement from the appropriate official of the organization, authorizing the issuance of the plates.

(B) At the time that an organization requests the plates, it shall deposit ~~\$1,000.00~~ \$2,000.00 with the commissioner. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of

the plates against the fees collected and the balance shall be deposited in the transportation fund. For ~~each set~~ the first 100 sets of plates issued, ~~\$10.00~~ \$15.00 of this deposit shall be deemed to be the safety organization or service organization special plate fee for each authorized applicant. Five hundred dollars of this deposit shall be retained by the department to recover costs of developing the organization plate. When the initial deposit of ~~\$1,000.00~~ \$1,500.00 is depleted, applicants shall be required to pay the ~~\$10.00~~ \$15.00 fee as provided for in subdivision (1) of this subsection. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and shall remit the balance to the transportation fund. No organization shall charge its members any additional fee or premium charge for the authorization, right or privilege to display these special number plates. This provision shall not prevent any organization from recovering up to ~~\$1,000.00~~ \$1,500.00 from applicants for the special plates.

(C) After consulting with representatives of the safety or service organization, the commissioner shall determine the design of the special plates, on the basis that the primary purpose of motor vehicle number plates is vehicle identification. An organization applying for a special plate under this subsection shall present the commissioner with a name and emblem that is not obscene, offensive or confusing to the general public and does not promote, advertise or endorse a product, brand, or service provided for sale, or promote any specific religious belief or political party. The organization's name and emblem must not infringe or violate trademarks, trade names, service marks, copyrights, or other proprietary or property rights and the organization must have the right to use the name and emblem. The organization shall designate an officer or member to act as the principal contact and to submit a distinctive emblem for use on a special number plate, if authorized. An organization may have only one design, regardless of the number of individual organizational units within the state that may provide the same or substantially similar services. Nothing herein shall be construed as authorizing any individual squad, department, or unit to request a unique or specially designed plate different than the plate designed by the commissioner.

* * *

(c) The commissioner shall issue registration numbers 101 through 9999 which shall be known as reserved registration numbers for pleasure cars or motor trucks that are registered at the pleasure car rate in the following manner:

(1) A person holding a registration number between 101 and 9999 may retain the number for the ensuing registration period, provided application is made prior to or within 60 days of the expiration of the registration.

(2) If the registrant does not renew the registration, the number may be reassigned to a member of the immediate family if application is made within 60 days of the expiration of the registration. As used herein, "immediate family" means the spouse, household member, grandparents, parents, siblings, children, or grandchildren of the registrant.

(3) The commissioner shall restrict the issuance of these registrations to residents of this state and may restrict issuance to applicants who do not already have such a registration issued to them.

(4) A person holding a registration number between 101 and 9999 on a pleasure car may also have the same number on a truck that is registered at the pleasure car rate, and vice versa.

(5) An application for a reserved registration number shall be accompanied by an annual fee of \$38.00 in addition to the registration fee.

Sec. 29. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of ~~\$20.00~~ \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of ~~\$20.00~~ \$23.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new

conservation plates sold and the number of renewals, and recommendations for program enhancements.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$10.00~~ \$11.00 to the transportation fund.

(2) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(3) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(2) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(3) ~~\$2.00~~ \$3.00 to the transportation fund.

Sec. 30. 23 V.S.A. § 307 is amended to read:

§ 307. CARRYING OF REGISTRATION CERTIFICATE

A person shall not operate a motor vehicle nor draw a trailer or semi-trailer unless the registration certificate thereof is carried in some easily accessible place in such motor vehicle. In case of the loss, mutilation or destruction of such certificate the owner of the vehicle described therein shall forthwith notify the commissioner and remit a fee of ~~\$12.00~~ \$13.00 whereupon the commissioner shall furnish such owner with a duplicate certificate. A corrected registration certificate shall be furnished by the commissioner upon request and receipt of a fee of ~~\$12.00~~ \$13.00.

Sec. 31. 23 V.S.A. § 323 is amended to read:

§ 323. TRANSFER FEES

A person who transfers the ownership of a registered motor vehicle to another, upon the filing of a new application, and upon the payment of a fee of ~~\$20.00~~ \$22.00 may have registered in his or her name another motor vehicle for the remainder of the registration period without payment of any additional registration fee, provided the proper registration fee of the motor vehicle sought to be registered is the same as the registration fee of the transferred motor vehicle. However, if the proper registration fee of the motor vehicle sought to be registered by such person is greater than the registration fee of the

transferred motor vehicle, the applicant shall pay, in addition to such fee of ~~\$20.00~~ 22.00, the difference between the registration fee of the motor vehicle previously registered and the proper fee for the registration of the motor vehicle sought to be registered.

Sec. 32. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type, and all vehicles powered by electricity, shall be ~~\$59.00~~ \$64.00, and the biennial fee shall be ~~\$108.00~~ \$120.00.

Sec. 33. 23 V.S.A. § 364 is amended to read:

§ 364. MOTORCYCLES

The annual fee for registration of a motorcycle, with or without side car, shall be ~~\$36.00~~ \$40.00.

Sec. 34. 23 V.S.A. § 367(a)(1) is amended to read:

(a)(1) The annual fee for registration of tractors, truck-tractors, or motor trucks except truck cranes, truck shovels, road oilers, bituminous distributors, and farm trucks used as hereinafter specified shall be based on the total weight of the truck-tractor or motor truck including body and cab plus the heaviest load to be carried. In computing the fees for registration of tractors, truck-tractors or motor trucks with trailers or semi-trailers attached, except trailers or semi-trailers with a gross weight of less than 6,000 pounds, the fee shall be based upon the weight of the tractor, truck-tractor or motor truck, the weight of the trailer or semi-trailer, and the weight of the heaviest load to be carried by the combined vehicles. In addition to the fee set out in the following schedule, the fee for vehicles weighing between 10,000 and 25,999 pounds inclusive shall be an additional ~~\$29.00~~ \$31.47, the fee for vehicles weighing between 26,000 and 39,999 pounds inclusive shall be an additional ~~\$58.00~~ \$62.93, the fee for vehicles weighing between 40,000 and 59,999 pounds inclusive shall be an additional ~~\$203.04~~ \$220.30 and the fee for vehicles 60,000 pounds and over shall be an additional ~~\$319.07~~ \$346.19. The fee shall be computed at the following rates per thousand pounds of weight determined as above specified and rounded up to the nearest whole dollar, the minimum fee for registering a tractor, truck-tractor, or motor truck to 6,000 pounds shall be the same as for the pleasure car type:

~~\$12.42~~ \$13.48 when the weight exceeds 6,000 pounds but does not exceed 8,000 pounds.

~~\$14.21~~ \$15.42 when the weight exceeds 8,000 pounds but does not exceed 12,000 pounds.

~~\$15.67~~ \$17.00 when the weight exceeds 12,000 pounds but does not exceed 16,000 pounds.

~~\$16.76~~ \$18.18 when the weight exceeds 16,000 pounds but does not exceed 20,000 pounds.

~~\$17.53~~ \$19.02 when the weight exceeds 20,000 pounds but does not exceed 30,000 pounds.

~~\$17.92~~ \$19.44 when the weight exceeds 30,000 pounds but does not exceed 40,000 pounds.

~~\$18.34~~ \$19.90 when the weight exceeds 40,000 pounds but does not exceed 50,000 pounds.

~~\$18.51~~ \$20.08 when the weight exceeds 50,000 pounds but does not exceed 60,000 pounds.

~~\$19.14~~ \$20.77 when the weight exceeds 60,000 pounds but does not exceed 70,000 pounds.

~~\$19.78~~ \$21.46 when the weight exceeds 70,000 pounds but does not exceed 80,000 pounds.

~~\$20.42~~ \$22.16 when the weight exceeds 80,000 pounds but does not exceed 90,000 pounds.

Sec. 35. 23 V.S.A. § 371(a)(1) is amended to read:

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except contractor's trailer or farm trailer, shall be as follows:

(A) ~~\$20.00 and \$40.00~~ \$23.00 and \$45.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of less than 1,500 pounds;

(B) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of 1,500 pounds or more, and is drawn by a vehicle of the pleasure car type;

(C) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of 1,500 pounds or more, but not in excess of 3,000 pounds;

(D) ~~\$40.00 and \$80.00~~ \$46.00 and \$90.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply

to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

Sec. 36. 23 V.S.A. § 463 is amended to read:

§ 463. SALE OF VEHICLE TO GO OUT OF STATE

A registered motor vehicle dealer is authorized to issue an in-transit registration permit for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when these vehicles are sold in this state to be transported to and registered in another state or province. The commissioner of motor vehicles shall, upon request, provide registered motor vehicle dealers with such numbers of applications and special in-transit number plates for vehicles sold in this state to be transported to and registered in another state or province as shall be necessary. The commissioner is authorized to charge a fee of ~~\$3.00~~ \$5.00 for the processing of the plate application and the issuance of the plate. The dealer, upon the sale of a motor vehicle to be transported to and registered in another state or province shall cause the application to be filled out and transmitted to the commissioner and shall attach to the vehicle the in-transit number plate corresponding to the application. No registered motor vehicle dealer shall sell, exchange, give, or transfer any application or in-transit plate to any person other than the person to whom the dealer sells or exchanges a motor vehicle to be registered in another state or province. The application shall be in a form prescribed and furnished by the commissioner. The special in-transit number plate to be attached to the vehicle will be issued in the form and design as prescribed by the commissioner and shall be valid for a period of 30 days from the date of issue.

Sec. 37. 23 V.S.A. § 608(a) amended to read:

(a) The four-year fee required to be paid the commissioner for licensing an operator of motor vehicles shall be ~~\$40.00~~ \$45.00. The two-year fee required to be paid the commissioner for licensing an operator shall be ~~\$25.00~~ \$28.00 and the two-year fee for licensing a junior operator shall be ~~27.00~~ \$28.00.

Sec. 38. 23 V.S.A. §§ 617(b) and (d) are amended to read:

(b) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the commissioner of motor vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the commissioner. The commissioner shall require payment of a fee of \$17.00 at the time application is made. After the applicant has successfully passed all parts of the motorcycle endorsement examination, other than a skill test, the commissioner may issue to the applicant a learner's permit which entitles the applicant, subject to section 615(a) of this title, to operate a motorcycle upon

the public highways for a period of 120 days from the date of issuance. A motorcycle learner's permit may be renewed only twice upon payment of a \$17.00 fee. If during the original permit period and two renewals, the permittee has not successfully passed the skill test or the motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless he or she has successfully completed the motorcycle rider training course. This section shall not affect section 602 of this title. The fee for the examination shall be \$7.00.

(d) An applicant shall pay ~~\$15.00~~ \$17.00 to the commissioner for each learner's permit that is not a motorcycle learner's permit or a duplicate or renewal thereof.

Sec. 39. 23 V.S.A. § 634(a) is amended to read:

(a) The fee for an examination for a learner's permit shall be ~~\$25.00~~ \$28.00. The fee for an examination to obtain an operator's license when the applicant is required to pass an examination pursuant to section 632 of this title shall be ~~\$15.00~~ \$17.00.

Sec. 40. 23 V.S.A. § 675(a) is amended to read:

(a) Before a suspension or revocation issued by the commissioner of a person's operator's license or privilege of operating a motor vehicle may be terminated or before a person's operator's license or privilege of operating a motor vehicle may be reinstated, there shall be paid to the commissioner a fee of ~~\$65.00~~ \$71.00 in addition to any other fee required by statute. This section shall not apply to suspensions issued under the provisions of chapter 11 of this title nor suspensions issued for physical disabilities or failing to pass reexamination. The commissioner shall not reinstate the license of a driver whose license was suspended pursuant to section 1205 of this title until the commissioner receives certification from the court that the costs due the state have been paid.

Sec. 41. 23 V.S.A. § 1230 is amended to read:

For each inspection certificate issued by the department of motor vehicles, the commissioner shall be paid ~~\$3.00~~ \$4.00 provided that state and municipal inspection stations that inspect only state or municipally owned and registered vehicles shall not be required to pay a fee.

Sec. 42. 23 V.S.A. § 1392(17) is amended to read:

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load bearing axles and specially equipped for hauling unprocessed milk, unprocessed forest or unprocessed quarry products

shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways, subject to the following:

(A) The combination of vehicles must have as a minimum, a distance of 51 feet between extreme axles.

(B) The axle weight provisions of section 1391 of this title and subdivision 1392(6) of this section shall also apply to vehicles permitted under this subdivision.

(C) When determining the fine for a gross overweight violation of this subdivision, the fine for any portion of the first 10,000 pounds over the permitted weight shall be the same as provided in section 1391a of this title, and for overweight violations 10,001 pounds or more over the permitted weight, the fine schedule provided in section 1391a shall be doubled.

(D) The weight permitted by this subdivision shall be allowed for foreign trucks which are registered or permitted for 99,000 pounds in a state or province which recognizes Vermont vehicles for weights consistent with this subdivision.

(E) The provisions of this subdivision shall not apply to operation on the interstate and defense highway system.

(F) The fee for the annual permit as provided in this subdivision shall be ~~\$350.00~~ \$500.00.

(G) For the purposes of this subdivision, the following definitions shall apply:

(i) unprocessed milk products as defined in 23 V.S.A. § 4(55);

(ii) unprocessed forest products as defined in 23 V.S.A. § 1392(13);

(iii) unprocessed quarry products shall be quarried rock in block or blocks as it would be removed from the quarry.

Sec. 43. 23 V.S.A. §1402(a) and (b) are amended to read:

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength and overheight permits shall be signed by the commissioner or by his or her agent and a copy shall be kept in the office of the commissioner or in a location approved by the commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand

of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength and height limits established by this title is granted shall pay a fee of ~~\$20.00~~ \$35.00 for each single trip permit or ~~\$70.00~~ \$100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be ~~\$70.00~~ \$100.00 for the first unit and ~~\$1.00~~ \$5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for ~~\$70.00~~ \$100.00 for the first tractor and ~~\$1.00~~ \$5.00 for each additional tractor, up to a maximum fee of \$1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the vehicle-load are considered sufficiently excessive for the routing requested, the agency of transportation shall, on request of the commissioner, conduct an engineering inspection of the vehicle-load and route, for which a fee of \$300.00 will be added to the cost of the permit if the load is a manufactured home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be \$800.00 for any engineering inspection that requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be \$800.00 plus \$60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be \$2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be \$5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be \$10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the commissioner a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for property damage, all arising out of any one accident.

(b) Overlength permits. Except as provided in ~~subsection 1432(f)~~ subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

(1) For vehicles with a trailer or semitrailer which are longer than ~~68 feet but not longer than 72~~ 75 feet ~~off the truck network established in subsection 1432(e) of this title~~ and the distance between the steering axle and the rearmost tractor axle is ~~23~~ 25 feet or less. In such cases, the vehicle may be

operated with a single or multiple trip overlength permit issued by the department of motor vehicles at no cost or, for a fee, by an entity authorized under subsection 1400(d) of this title for routes approved by the agency of transportation.

(2) For vehicles with a trailer or semitrailer longer than ~~68 feet but not longer than 72~~ 75 feet ~~off the truck network established in subsection 1432(e) of this title~~ and the distance between the steering axle and the rearmost tractor axle is more than ~~23~~ 25 feet. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles at no cost for routes approved by the agency of transportation.

(3) For vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet anywhere in the state on highways approved by the agency of transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles for a fee of ~~\$10.00~~ \$25.00. If the vehicle is 100 feet or more in length, the permit applicant shall file with the commissioner of motor vehicles, a special certificate of insurance showing minimum coverage of \$250,000.00 for death or injury to one person, \$500,000.00 for death or injury to two or more persons and \$250,000.00 for property damage, all arising out of any one accident.

Sec. 44. 23 V.S.A. § 2002(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) For any certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;

(2) For each security interest noted upon a certificate of title, including a salvage certificate of title, ~~\$7.00~~ \$9.00;

(3) For a certificate of title after a transfer, ~~\$28.00~~ \$31.00;

(4) For each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;

(5) For a duplicate certificate of title, including a salvage certificate of title, ~~\$28.00~~ \$31.00;

(6) For an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$28.00~~ \$31.00;

(7) For filing a notice of security interest, ~~\$7.00~~ \$9.00;

(8) For a certificate of search of the records of the motor vehicle department, for each motor vehicle searched against, \$20.00;

(9) For filing an assignment of a security interest, ~~\$7.00~~ \$9.00;

(10) For a certificate of title after a security interest has been released, ~~\$28.00~~ \$31.00;

(11) For a certificate of title for a motor vehicle granted a veteran by the veterans' administration and exempt from registration fees pursuant to section 378 of this title, no fee;

(12) For a corrected certificate of title, ~~\$28.00~~ \$31.00.

Sec. 45. 23 V.S.A. § 3802(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) for filing an application for a first certificate of title, ~~\$15.00~~ \$19.00;

(2) for each security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;

(3) for a certificate of title after a transfer, ~~\$15.00~~ \$19.00;

(4) for each assignment of a security interest noted upon a certificate of title, ~~\$7.00~~ \$9.00;

(5) for a duplicate certificate of title, ~~\$15.00~~ \$19.00;

(6) for an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~\$15.00~~ \$19.00;

(7) for filing a notice of security interest, ~~\$7.00~~ \$9.00;

(8) for a certificate of search of the records of the motor vehicle department for each vessel, snowmobile or all-terrain vehicle searched against, \$20.00;

(9) for filing an assignment of a security interest, ~~\$7.00~~ \$9.00;

(10) for a certificate of clear title after the security interest or interests have been released, ~~\$15.00~~ \$19.00;

(11) for a corrected certificate of title, ~~\$15.00~~ \$19.00.

Sec. 46. 32 V.S.A. § 8903(a), (b), and (d) are amended to read:

(a)(1) There is hereby imposed upon the purchase in Vermont of a motor vehicle by a resident a tax at the time of such purchase, payable as hereinafter provided. The amount of the tax shall be six percent of the taxable cost of a:
pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of the motor vehicle or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, except that pleasure cars which are purchased, leased or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

(b)(1) There is hereby imposed upon the use within this state a tax of six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of a motor vehicle, or ~~\$1,680.00~~ \$1,850.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided, except no use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car which was purchased, leased or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this state, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the commissioner. The amount of the tax shall be ~~seven~~ nine percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this state for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section.

Sec. 47. 23 V.S.A. § 476 is added to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of \$5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, mopeds, or the living portion of recreation vehicles, or trucks with a gross vehicle weight over 12,000 pounds.

Sec. 48. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

(a) Fees. Registration fees for snowmobiles other than as provided for in subsection (b) of this section are ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents. Duplicate registration certificates may be obtained upon payment of ~~\$2.00~~ \$5.00.

(b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted pursuant to subsection 3205(d) of this title, any person engaged in the manufacture or sale of snowmobiles shall obtain registration certificates and identifying number plates subject to such rules as may be adopted by the commissioner which shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows or races when no charge is made for such use.

(2) Fees. Fees for dealer registration certificates shall be \$40.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be \$1.00 for each plate issued.

(c) Temporary registration pending issuance of permanent registration. The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, shall provide for the issuance of temporary registrations of snowmobiles pending issuance of the permanent registration. VAST shall be an agent of the commissioner for the issuance of such temporary registrations. The fees for the temporary registrations shall be ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents and shall also constitute payment of the registration fee required by subsection (a) of this section. Temporary registrations shall be kept with the snowmobile while being operated and shall authorize operation without the registration decal being affixed for a period not to exceed 60 days from the date of issue.

* * *

Sec. 49. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, are is hereby allocated to the agency of natural resources for use by VAST for development and maintenance of the statewide snowmobile trail program

(SSTP), for trails' liability insurance, and an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to \$11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

* * *

Sec. 50. 23 V.S.A. § 3305(b) is amended to read:

(b) Annually, the owner of each motorboat required to be registered by this state shall file an application for a number with the commissioner of motor vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ~~\$17.00~~ \$22.00 and a surcharge of \$5.00 for a motorboat in class A; by a fee of ~~\$28.00~~ \$33.00 and a surcharge of \$10.00 for a motorboat in class 1; by a fee of ~~\$55.00~~ \$60.00 and a surcharge of \$10.00 for a motorboat in class 2; by a fee of ~~\$121.00~~ \$126.00 and a surcharge of \$10.00 for a motorboat in class 3. Upon receipt of the application in approved form, the commissioner shall enter the application upon the records of the department of motor vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$2.00 to the commissioner. Notwithstanding section 3319 of this chapter, \$5.00 of each registration fee shall be allocated to the transportation fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

Sec. 51. 10 V.S.A. § 501 is amended to read:

§ 501. FEES

Subject to the provisions of ~~section~~ subsection 486(c) of this title, an applicant for an official business directional sign or an information plaza plaque shall pay to the travel information council an initial license fee and an annual renewal fee as established by this section.

(1) Initial license fees shall be as follows:

(A) for full-sized or half-sized business directional signs, ~~\$75.00~~ \$175.00 per sign;

(B) for information plaza plaques, \$25.00 per plaque; however, if more than one plaque is requested by a business at the same time, a ten percent discount shall be given on the second and subsequent plaques.

(2) Annual renewal fees shall be as follows: ~~the amount, rounded to the next higher even whole dollar, determined by dividing the estimated cost of maintenance and administration of the official business directional sign and information plaza programs during the following fiscal year by the total number of licensed signs and plaques eligible for renewal during the following fiscal year; except that the renewal fees shall not exceed the following amounts:~~

(A) ~~for~~ full and half-sized official business directional signs, ~~\$60.00~~ \$125.00 per sign;

(B) ~~for~~ information plaza plaques, \$25.00 per plaque.

* * * Fine For Overweight Violations on Interstates * * *

Sec. 52. 23 V.S.A. § 1391a(e) is added to read:

(e) A fine of \$1.00 shall be imposed for violations of this section which occur on the interstate highway system, provided operation of the same vehicle and load is legal off the interstate system.

* * * Cancellation of Projects * * *

Sec. 53. CANCELLATION OF PROJECTS

Pursuant to 19 V.S.A. § 10g(f) (legislative approval for cancellation of projects), the general assembly approves cancellation of the following projects:

(1) Town highway bridges:

(A) Albany BRO 1449(23) (BR 30 on TH 25/Poor Farm Road, over Black River) (town has requested termination);

(B) Chester BRO 1442(31) (BR 63 on TH 9/First Avenue, over Williams River) (town has requested termination);

(C) Richford TH3 0305 (BR 28 on TH 18/Noyes Street, over Loveland Brook) (town has requested termination); and

(D) Woodstock BRO 1444(33) (BR 37 on TH 66, over Kedron Brook) (town has requested termination).

(2) Bicycle and pedestrian facilities:

(A) Irasburg STP WALK(16) (installation of sidewalks and curbs along VT 58) (town has requested termination);

(B) Ludlow STP BIKE(44)S (bike/ped path along Black River) (agency has requested termination); and

(C) Ludlow STP WALK () (adaptive re-use of historic truss bridge on bike/ped path, over Black River) (agency has requested termination).

* * * Transportation fund; sales of surplus property * * *

Sec. 54. 19 V.S.A. § 11(8) is amended to read:

(8) other miscellaneous sources including the sale of maps, plans and reports, fees collected by the travel information council ~~and~~, leases for property at state-owned airports and railroads, proceeds from the sale of state surplus property under the provisions of 29 V.S.A. §§ 1556 and 1557, and proceeds from the sale of recycled materials.

Sec. 55. 29 V.S.A. § 1557(b) is amended to read:

(b) Transfer charges and credits shall be made against the appropriation of the respective department or agency. Funds credited shall be classified as special funds, and managed in accordance with subchapter 5 of chapter 7 of Title 32, provided, however, that any funds credited to the agency of transportation shall be transferred to the transportation fund.

* * * Relinquishment of State Highway Segments
to Municipal Control * * *

Sec. 56. RELINQUISHMENT OF VERMONT ROUTE 15 IN THE
VILLAGE OF ESSEX JUNCTION

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the village of Essex Junction to relinquish to the village's jurisdiction a segment of the state highway known as Vermont Route 15 (Pearl Street) in the village of Essex Junction starting at the Essex Junction village boundary, near the intersection with Susie Wilson Road (TH #4), and extending in an easterly direction for

1.004 miles, connecting to existing class 1 town highway TH #1 at a point 0.261 miles west of West Hillcrest Road (TH #551). The relinquishment shall include the Vermont Route 15 approaches to West Street Extension (TH #5). Upon relinquishment, the former state highway shall become a class 1 town highway.

(b) Control of the highway, not including ownership of the lands or easements within the highway right-of-way, shall be relinquished to the village of Essex Junction. The village of Essex Junction shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.

* * * Authority to Sell Salt Shed Property in Montpelier * * *

Sec. 57. AUTHORIZATION TO CONVEY "SALT SHED" PROPERTY IN MONTPELIER

(a) Upon receiving satisfactory evidence of release of any interest of the Washington County Railroad Company, the secretary of transportation, as agent for the state of Vermont, is authorized to convey to Connor Brothers Stonecutters, LLC (Connor) for fair market value a parcel of land in the city of Montpelier between Stone Cutters Way and the Winooski River. Conveyance of this parcel of land, sometimes known as 575 Stone Cutters Way or the "salt shed property," shall include the state's interest in a December 16, 1999 lease, as amended, between the state of Vermont, agency of transportation, joined by Washington County Railroad Company, and the Pyralisk Arts Center, Inc. The secretary, in his or her discretion, may adjust the boundaries of the land to be conveyed to Connor to accommodate the building plans of Connor. Connor shall be responsible for obtaining any necessary survey and subdivision approvals. In determining fair market value for this transfer, the secretary shall consider the undertaking of Connor, either through itself or through others, to provide remediation of hazardous wastes and materials on the subject property pursuant to the so-called "Corrective Action Plan (Salt Shed)" dated April 13, 2005, prepared by The Johnson Company, Inc. for Central Vermont Regional Planning Commission, as amended with Connor's consent from time to time.

(b) The authority granted by this section shall expire on June 30, 2011.

* * * Transportation Enhancement Grants * * *

Sec. 58. ENHANCEMENT GRANTS; FISCAL YEAR 2010

(a) Notwithstanding 19 V.S.A. § 38, the transportation enhancement grant committee shall award grants up to fiscal year 2010 in the amount of federal funds made available to the state under the American Recovery and Reinvestment Act of 2009 (ARRA) which are exclusively reserved for

enhancement projects as defined in 23 U.S.C. § 101(a)(35), estimated to be \$3,773,739. The transportation enhancement grant committee shall award grants authorized in this section in a separate grant round before June 30, 2009. The agency shall notify potential applicants of the separate grant round and fix a deadline for the filing of applications of May 15, 2009. All enhancement grant awards authorized in this section shall require a local match in accordance with the same rules that apply to annual enhancement grants.

(b) Any amounts authorized in subsection (a) of this section that are not awarded by the committee by June 30, 2009, up to \$3,773,739, shall be included in the fiscal year 2010 enhancement grant program.

(c) To the extent that any grants awarded using ARRA enhancement funds cannot be fully obligated by November 30, 2009, and to the extent necessary to satisfy any deadlines for obligation of ARRA enhancement funds, the secretary of transportation is authorized to obligate ARRA federal funds made available to the state which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35) to eligible projects in the approved fiscal year 2010 transportation program. The following projects are added to program development – bike and pedestrian facilities – candidates list:

Statewide - STP RAMP (1) – Reconstruction of curb ramps on state highway system to comply with ADA requirements.

Statewide - STP NWRT (1) – Rehabilitate aggregate surfaces on rail trails.

* * * Town Highways * * *

Sec. 59. 19 V.S.A. § 305(g) is amended to read:

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, ~~and 3,~~ and 4 highway, as well as each trail, and such other information as the agency deems appropriate.

Sec. 60. 19 V.S.A. § 305(i) is amended to read:

(i)(1) Prior to a vote to discontinue town highways provided in subsection (h) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 30 days prior to the hearing in at least two public places within the municipality and in the town clerk's office. The notice shall include the most recently available map of all town highways prepared by the agency of transportation pursuant to subsection (g) of this section. At least 30 days prior to the hearing, the legislative body shall also deliver the warning and map together with proof of receipt or mail by certified mail, return receipt requested, to each of the following:

(A) The chair of any municipal planning commission in the municipality;

(B) The chair of a conservation commission, established under chapter 118 of Title 24, in the municipality;

(C) The chair of the legislative body of each abutting municipality;

(D) The executive director of the regional planning commission of the area in which the municipality is located; ~~and~~

(E) The commissioner of forests, parks and recreation; and

(F) The secretary of transportation.

(2) The hearing shall be held within the 10 days preceding the meeting at which the legislative body will vote whether to discontinue all town highways as provided in subsection (h) of this section.

* * * Trucks and Buses; Use of Tire Chains * * *

Sec. 61. 23 V.S.A. § 1006c is added to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE REQUIREMENTS

(a) The traffic committee may require the use of tire chains or winter tires on specified portions of state highways during periods of winter weather for motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations.

(b) When tire chains or winter tires are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains or winter tires are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

(c) Under chapter 25 of Title 3, the traffic committee may promulgate such rules as are necessary to administer this section and may delegate this authority to the secretary.

Sec. 62. USE OF CHAINS; IMPLEMENTATION

The use of chains shall not be required until signage and designated areas are available for vehicles to affix tire chains before proceeding further. Advanced public notice of these requirements shall be given to interested parties in the most feasible manner possible.

* * * Public Transportation Planning * * *

Sec. 63. 24 V.S.A. § 5089 is amended to read:

§ 5089. PLANNING

~~(a) By January 31, 1996, all public transit systems shall have completed a short range public transit plan. In the meantime, the agency of transportation may continue to provide funding for capital, statewide operating and new services.~~

~~(b) The short range public transit plans must be coordinated with the efforts of the regional planning commission under the transportation plan.~~

~~(c) The agency of transportation's public transit plan for the state shall be updated amended no less frequently than every five years so as to include, and incorporate the public transportation elements of regional plans that have not been disapproved under the provisions of chapter 117 of this title. The development of the state public transit plan shall include consultation with public transit providers, the metropolitan planning organization, and the regional planning commissions and their transportation advisory committees to ensure the integration of transit planning with the transportation planning initiative as well as conformance with chapter 117 of Title 24, (municipal and regional planning and development). Regional plans, together with the agency of transportation's public transit plan shall function to coordinate the provision of public, private nonprofit, and private for-profit regional public transit services, in order to ensure effective local, regional and statewide delivery of services.~~

(b) Recognizing that the growing demand for new regional and commuter services must be considered within the context of the continuing need for local transit services that meet basic mobility needs, the agency of transportation shall consult annually with the regional planning commissions and public transit providers in advance of the award of available planning funds. The agency shall maintain a working list of both short- and long-term planning needs, goals, and objectives that balances the needs for regional service with the need for local service. Available planning funds shall be awarded in accordance with state and federal law and as deemed necessary and appropriate by the agency following consultation with the regional planning commissions and the public transit providers. The agency shall report annually to the general assembly on planning needs, expenditures, and cooperative planning efforts.

* * * Issuance of a Single Registration Plate * * *

Sec. 64. 23 V.S.A. § 304(a) is amended to read:

(a) The commissioner shall issue to the registrant of a motor vehicle a certificate of registration in the form the commissioner may prescribe, on which shall appear the name of the registrant, his or her address, a brief description of the vehicle registered, and the date of registration. The commissioner shall also assign to each motor vehicle registered a distinctive

number and issue a number plate ~~or plates~~ showing the assigned number. The number plate ~~or plates~~ issued shall be of the material, size, shape and color, and with the numerals or letters thereon, the commissioner may determine, and shall be reflectorized in part or in whole. The certificate and number ~~plates~~ plate shall be delivered free of charge by the commissioner to the registrant as soon as may be after receipt and acceptance of application for registration.

Sec. 65. 23 V.S.A. § 305(b) is amended to read:

(b) The commissioner of motor vehicles shall issue a registration certificate and a number ~~plates~~ plate for each motor vehicle owned by the state for a period of five years. ~~Such~~ The motor vehicle shall be considered as properly registered while the ~~plates so issued are attached thereto~~ plate is attached to the rear of the vehicle. The commissioner may replace ~~such~~ number plates when in his or her discretion their condition requires.

Sec. 66. 23 V.S.A. § 310 is amended to read:

§ 310. LOANING OR PERMITTING THE USE OF NUMBER PLATES

A person shall not loan or permit the use of the number ~~plates~~ plate assigned by the commissioner to a motor vehicle owned by ~~such~~ the person.

Sec. 67. 23 V.S.A. § 321 is amended to read:

§ 321. PROCEDURE UPON TRANSFER

Upon the transfer of ownership of any registered motor vehicle its registration shall expire. The person in whose name the transferred vehicle was registered shall immediately return direct to the commissioner the registration certificate assigned to the transferred vehicle, with the date of sale and the name and residence of the new owner endorsed on the back. However, the commissioner may accept any other satisfactory evidence of the above required information. The transferor shall forthwith remove the registration number ~~plates~~ plate from the transferred vehicle and may attach the same to another unregistered motor vehicle owned by him or her. Upon the transfer of a registration ~~plates~~ plate from a motor vehicle, the registration of which has expired as above provided, to another motor vehicle, owned by the transferor, the owner or operator shall not, for a period of 30 days, be subject to a fine for the operation of the latter motor vehicle without the proper registration certificate, provided he or she has, within 24 hours of the transfer, made application, as provided in section 323 of this title, for transfer of the registration number plates. If ~~such~~ the application for transfer is not so received by the commissioner, the number ~~plates~~ plate shall be returned to the commissioner at the end of five days after the transfer of ownership.

Sec. 68. 23 V.S.A. § 324 is amended to read:

§ 324. USE OF OLD NUMBER PLATES

When ownership of a motor vehicle is transferred, the transferer may attach the registration number ~~plates~~ plate to another motor vehicle owned by him or her, and register the same in accordance with the provisions of sections 321, 323, and 325 of this title only if ~~such~~ the transferred vehicle and such other vehicle are both of the pleasure car type, both motor trucks or tractors, both motor buses, or both motorcycles, except that a pleasure car registration and a truck registration shall be mutually transferable on payment of the difference in registration fees.

Sec. 69. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

A motor vehicle operated on any highway shall have ~~displayed in a conspicuous place either one or two number plates as the commissioner of motor vehicles may require~~ one number plate displayed on the rear of the vehicle. ~~Such~~ The number ~~plates~~ plate shall be furnished by the commissioner of motor vehicles, showing the number assigned to ~~such~~ the vehicle by the commissioner. ~~If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle.~~ The number ~~plates~~ plate shall be kept entirely unobscured, the numerals and the letters thereon shall be plainly legible at all times. ~~They~~ It shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device which would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided ~~such~~ the device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges ~~thereof~~ shall be established by the commissioner pursuant to the provisions of chapter 25 of Title 3. A person shall not operate a motor vehicle unless the number ~~plates are~~ plate is displayed as provided in this section.

Sec. 70. 23 V.S.A. § 514(a) is amended to read:

(a) In case of the loss of a number plate, the owner of the motor vehicle to which it was assigned shall forthwith notify the commissioner of motor vehicles of ~~such~~ the loss, and he or she shall furnish ~~such~~ the owner with a new plate. The fees charged shall be \$10.00 for each plate. ~~The owner of a motor vehicle who has lost one number plate may operate his or her vehicle with one number plate attached thereto, until a new plate is furnished him or her, provided he or she has notified the commissioner of motor vehicles as required in this section.~~

* * * Special Registration Plates * * *

Sec. 71. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING BRIGHT SPACES FOR BRIGHT FUTURES FUND

(a) The commissioner shall, upon application, issue “building bright spaces for bright futures fund,” hereinafter referred to as “the bright futures fund,” registration plates for use only on vehicles registered at the pleasure car rate, ~~and on trucks registered for less than 26,001 pounds, on plates registered to state agencies under section 376 of this title,~~ and excluding vehicles registered under the International Registration Plan. ~~Plates so acquired~~ The plate shall be mounted on the ~~front and~~ rear of the vehicle. The commissioner of motor vehicles shall utilize the graphic design recommended by the commissioner of social and rehabilitation services for the special plates to enhance the public awareness of the state’s interest in supporting children’s services. Applicants shall apply on forms prescribed by the commissioner of motor vehicles, and shall pay an initial fee of \$20.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a bright futures fund plate shall pay a renewal fee of \$20.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * *

* * * Sidewalks; Landowner Liability * * *

Sec. 72. Chapter 23 of Title 19 is redesignated to read:

CHAPTER 23. BICYCLE ROUTES AND SIDEWALKS

Sec. 73. 19 V.S.A. § 2301 is amended to read:

§ 2301. DEFINITIONS

* * *

(6) “Sidewalk” means the portion of a street or highway right-of-way designated for primary or exclusive pedestrian use.

Sec. 74. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner’s property pursuant to this chapter, unless the landowner charges a fee for the use of the property.

* * * All-Terrain Vehicles * * *

Sec. 75. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

(a) An all-terrain vehicle may not be operated unless registered pursuant to this chapter or any other section of this title; by the state of Vermont and unless the all-terrain vehicle displays a valid Vermont ATV Sportsman's Association (VASA) Trail Access Decal (TAD) when operating on a VASA trail, except when operated:

* * *

Sec. 76. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for development and maintenance of a statewide ATV trail program ~~on private property~~, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

* * *

* * * Year of Manufacture Plates * * *

Sec. 77. 23 V.S.A § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be \$15.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) Any motor vehicle of the age of 25 years or more from the date of manufacture may bear the registration plates of the year of manufacture instead of the plates issued under this section, if the current plates are maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

* * * Design-build contracts * * *

Sec. 78. 19 V.S.A. chapter 26 is added to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS

§ 2601. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings:

(1) “Best value” means the highest overall value to the state, considering quality and cost.

(2) “Design-build contracting” means a method of project delivery whereby a single entity is contractually responsible to perform design, construction, and related services.

(3) “Major participant” means any entity that would have a major role in the design or construction of the project as specified by the agency in the request for proposals.

(4) “Project” means the highway, bridge, railroad, airport, trail, transportation, building, or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties, and incidentals needed for a complete and functioning product.

(5) “Proposal” means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions for the price contained in the proposal.

(6) “Proposer” means an individual, firm, corporation, limited-liability company, partnership, joint venture, sole proprietorship, or other entity that submits a proposal. After contract execution, the successful proposer is the design-builder.

(7) “Quality” means those features that the agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and other factors that the agency considers to be in the best interest of the state.

§ 2602. AUTHORIZATION

(a) Notwithstanding section 10 of this title or any other provision of law, the agency may use design-build contracting to deliver projects. The agency may evaluate and select proposals on either a best-value or a low-bid basis. If the scope of work requires substantial engineering judgment, the quality of which may vary significantly as determined by the agency, then the basis of award shall be best-value.

(b) The agency shall identify those projects it believes are candidates for design-build contracting, including those involving extraordinary circumstances, such as emergency work, unscheduled projects, or loss of funding.

(c) The agency retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities, or to advertise for new proposals if the agency determines that it is in the best interest of the state.

§ 2603. PREQUALIFICATION

(a) The agency may require that entities be prequalified to submit proposals. If the agency requires prequalification, it shall give public notice requesting qualifications from interested entities electronically through the agency's publicly accessible website or through advertisements in newspapers. The agency shall issue a request-for-qualifications package to all entities requesting one in accordance with the notice.

(b) Interested entities shall supply for themselves and for all major participants all information required by the agency. The agency may investigate and verify all information received. All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the agency shall be confidential.

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project.

§ 2604. REQUEST FOR PROPOSALS

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the agency. The request for proposals shall include the criteria for acceptable proposals. For projects to be awarded on a best-value basis, the scoring

process and quality criteria must also be contained in the request for proposals. In the agency's discretion, the request for proposals may provide for a process, including the establishment of a team to review proposals, for the agency to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as nonresponsive. All such conceptual submittals and responses shall be confidential until award of the contract. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all request-for-proposals requirements.

§ 2605. LOW-BID AWARD

If the basis of the award of responsive proposals is low-bid, then each proposal, including the price or prices, shall be sealed by the proposer and submitted to the agency as one complete package. The agency shall award the design-build contract to the proposer that submits a responsive proposal with the lowest cost, if the proposal meets all request-for-proposals requirements.

§ 2606. BEST-VALUE AWARD

(a) If the basis of the award of responsive proposals is best-value, then each proposal shall be submitted by the proposer to the agency in two separate components: a sealed technical proposal and a sealed price proposal. These two components shall be submitted simultaneously. The agency shall first open, evaluate, and score each responsive technical proposal, based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality scores of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals shall remain sealed, and all technical proposals shall be confidential.

(b) After completion of the evaluation of the technical proposals, the agency shall open and review each price proposal. The agency shall develop a system for assessing the cost and quality criteria. The agency shall award the contract to the proposer of the project representing the best value to the agency.

Sec. 79. DESIGN-BUILD CONTRACTS; LIMITATIONS ON USE

During fiscal years 2010 and 2011, the agency of transportation shall limit its exercise of the authority granted by Sec. 78 of this act to not more than four projects. Of these four projects, not more than two shall be in cost estimate categories C–D (\$500,000 to \$2,500,000), not more than one shall be in cost estimate categories E–F (\$2,500,000 to \$10,000,000), and not more than one shall be in cost estimate category G (\$10,000,000 to \$25,000,000).

* * * State-Owned Railroad Property * * *

Sec. 80. Sec. 17(e) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(e) The authority granted by this section shall expire on ~~June 30~~ December 31, 2009.

* * * Transportation Buildings * * *

Sec. 81. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Consistent with the recommendations of the January 15, 2009 legislative report (Sec. 8(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008)) titled "VTrans' Plans for Maintenance Facilities in Chittenden and Addison Counties," the agency of transportation shall proceed with Option A (Stay at "Fort) for the Colchester "Fort" Facility project and shall proceed with Option B (Truck Inspection/Motorcycle Training Facility only) for the North Ferrisburgh Facility project.

(2) As part of the Colchester "Fort" Facility renovation project, the agency shall sell the 25 +/- acre property located off VT Route 117 with the proceeds credited as provided in 19 V.S.A. § 26.

* * * Town Local Match Requirements * * *

Sec. 82. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

* * *

(c) Notwithstanding subsections 309a(a), (b), and (c) of this title, a municipality may use a grant awarded under the town highway structures program or the class 2 town highway roadway program to provide the nonfederal matching funds required to draw down a federal earmark or to match grants provided to towns under the American Recovery and Reinvestment Act of 2009. In all such cases, the grant shall be matched by local funds as provided in this section. The intended use of a town highway grant as matching funds for a federal earmark or for grants provided to towns under the American Recovery and Reinvestment Act of 2009 shall not entitle a municipal grant applicant to any priority for a grant award in any fiscal year. When grants awarded under the town highway structures program or the class 2 town highway roadway program are used to satisfy nonfederal matching requirements for federal earmarks or for grants provided to towns under the

American Recovery and Reinvestment Act of 2009, the term “project costs” in subsections (a) and (b) of this section shall refer only to the nonfederal match for the federal earmark or for a grant provided to towns under the American Recovery and Reinvestment Act 2009.

* * * Central Garage * * *

Sec. 83. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), the amount of \$1,120,000 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 84. 23 V.S.A. § 372 is amended to read:

§ 372. MOTOR BUS

The annual fee for registration of a motor bus shall be based on the actual weight of such bus, plus passenger carrying capacity at 150 pounds per person, and shall be \$1.40 per 100 pounds of such weight, except for motor buses registered under section 372a or 376 of this title. Fractions of a hundred-weight shall be disregarded. The minimum fee for the registration of any motor bus shall be \$43.00.

Sec. 85. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE BUSES; FEE

(a) The annual registration fee for any motor bus used in local transit or public transportation service entirely within any city or town, or not over 10 miles beyond the boundaries thereof, shall be \$45.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) For the purposes of this section, a public transportation service bus is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a local transit bus is a motor bus used entirely within or not more than 10 miles beyond the boundaries of a city or town.

Sec. 86. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

* * *

(c) The commissioner may issue number plates to be used for a period of two or more years. ~~Validating stickers~~ One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. No plate is valid for the second and succeeding years unless the ~~stickers are~~ sticker is affixed to the rear plate in the manner prescribed by the commissioner.

* * * Burlington Airport Pilot Project; Creative Financing * * *

Sec. 87. PILOT PROJECT FOR BURLINGTON INTERNATIONAL AIRPORT; CREATIVE FINANCING

A pilot project to examine the potential for a public-private initiatives program shall be pursued for the advancing of an interchange on Interstate 89 along Vermont Route 116 in South Burlington to explore improving future access to the Burlington International Airport and to relieve the overburdened interchanges at Interstate 89 exits 12 and 14. Implementation of the pilot study shall be carried out in cooperation, consultation, and with the support of the Vermont agency of transportation, the Chittenden County metropolitan planning organization (CCMPO), and other affected local jurisdictions and project partners. The CCMPO, with the cooperation of the agency of transportation, is directed to prepare a creative financing plan for the advancement of a project to construct an interchange at the above-mentioned location and deliver the plan to the legislature by November 1, 2009.

* * * Rest Area Revitalization * * *

Sec. 88. LEGISLATIVE INTENT

It is the intent of the general assembly to require agencies to provide justification for reducing services to the public by:

- (1) analyzing current service delivery methods;
- (2) reexamining the assumptions that underlie the choice of the current delivery method;
- (3) right-sizing when necessary; and
- (4) exploring alternate delivery methods that could provide similar services at a lower cost to taxpayers.

Sec. 89. PERMANENT CLOSING OF REST AREA FACILITIES

(a) The commissioner of buildings and general services (BGS) is instructed to permanently close rest area facilities at Highgate on Interstate 89, at Sharon South on Interstate 89, at Hartford North on Interstate 91, and at Randolph North on Interstate 89. These four facilities and all operating and maintenance costs associated with them, including the costs of operating WiFi are hereby

transferred to the Vermont agency of transportation (VTrans) effective July 1, 2009.

(b) VTrans is hereby instructed to explore ways these buildings might be used for state purposes other than operating a rest area or those purposes that would meet with FHWA approval or, absent a public need, may have the structures removed. In the event VTrans decides to have the structures removed, it will notify the members of the Rest Area Advisory Committee established in 19 V.S.A. § 12c with 30-days' advance notice prior to removal.

(c) VTrans, at its discretion, may decide to close the sites to traffic or to have them remain open to either truck or pleasure car traffic or both. Responsibilities for maintaining the grounds will become the responsibility of VTrans. Erection of barriers to traffic or fencing as necessary to limit the public use of these facilities shall be the responsibility of VTrans.

Sec. 90. HOURS OF OPERATION

The commissioner of buildings and general services (BGS) is hereby authorized to adjust the hours of operation for all remaining rest areas. The commissioner shall make decisions on hours of operation based on budgetary considerations, numbers of visitors, and seasonal fluctuations.

Sec. 91. PILOT PROJECT FOR OPERATION OF INFORMATION CENTERS

(a) Pursuant to Sec. 19e(c) of No. 38 of the Acts of 1997, the commissioner of buildings and general services (BGS) is authorized to commence a three-year pilot project to operate facilities at Alburgh, Georgia North, and Georgia South.

(b) Pursuant to Sec. 39(3) of No. 18 of the Acts of 1999, the commissioner is authorized to explore the possibilities of creating privately operated travel information centers at exits along the interstate and along the state highway system. The secretary of transportation is instructed to support this initiative by working with BGS and the FHWA to explore a signage strategy that clearly directs travelers to these service opportunities.

Sec. 92. FUTURE CONSTRUCTION

The commissioner of buildings and general services (BGS) is instructed to take steps to plan for and build the Bennington welcome center at an amount not to exceed the federal earmarks and state matching funds identified for this project. It is the expectation of the house and senate committees on transportation that the site will be operated by the Bennington area chamber of commerce under Sec. 19e(c) of No 38 of the Acts of 1997 and under an agreement approved by the Federal Highway Administration. Therefore, the

commissioner of BGS and the chamber shall report back to the rest area advisory committee on or before January 15, 2010, as to the plan for operation and the proposed cost.

* * * Public Transit Report * * *

Sec. 93. PUBLIC TRANSIT REPORT

(a) Public transit report. Consistent with the goals, findings, and recommendations of the two most recent legislative reports prepared by VTrans regarding a review of potential changes to Vermont's public transit service delivery model (Sec. 35 and Sec. 45 reports), VTrans shall, in continued cooperation with the legislature's joint fiscal office, conduct such further analysis as is necessary to generate specific recommendations for improving the efficient and effective delivery of public transit services in Vermont.

(b) Goal of report. The goal of the report is to recommend a governance and funding structure for public transportation that creates the most efficient use of taxpayer funds while simultaneously creating the most efficient system of public transportation services consistent with the statutory policy goals in 24 V.S.A. § 5083. The report shall:

(1) Make use of the data and information currently available and assess the strengths and weaknesses of the public transit delivery system;

(2) Review the pros and cons of realistic alternative service delivery models;

(3) Present a recommendation for a systematic approach toward changing, evolving, or maintaining the existing service delivery model and propose a configuration under which the service delivery model maximizes state, federal, and local investments into the broad range of public transit services.

(c) The agency shall direct the report with the involvement of the agency of human services and of all public transit providers in the state who are direct grantees and subrecipients of state and federal funds.

(d) Consistent with federal United We Ride initiatives, the report shall consider all federal and state funding invested through or by state and federal agencies on public, human services, and related transportation programs and shall evaluate the potential for achieving greater efficiency through coordination of effort or consolidation of funding and effort.

(e) The report shall be delivered to the general assembly on or before February 15, 2010.

* * * Truck Permits * * *

Sec. 94. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; AUTHORIZED HIGHWAYS

(a) Operation of vehicles with or without a trailer or semitrailer. No motor vehicle without a trailer or semitrailer attached, which is longer than 46 feet overall, shall be operated upon any highway except under special permission from the commissioner of motor vehicles. A motor vehicle with a trailer or semitrailer shall be operated, with regard to the length of the vehicle, pursuant to this section. If there is a trailer or semitrailer, the distance between the kingpin of the semitrailer to the center of the rearmost axle group shall not exceed ~~43~~ 41 feet. An "axle group" is defined as two or more axles where the centers of all the axles are spaced at an equal distance apart.

~~(1) Vehicles with a trailer or semitrailer not exceeding 72 feet on the truck network. If the overall length of a vehicle with a trailer or semitrailer does not exceed 72 feet, it may be operated without a permit on the truck network established in subsection (e) of this section.~~

~~(2) Vehicles with a trailer or semitrailer not exceeding 68 feet off the truck network. If the overall length of a vehicle with a trailer or semitrailer does not exceed 68 feet, it may be operated without a permit off the truck network.~~

~~(3)~~(2) ~~Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor 23 feet or less. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is 23 feet or less, a permit may be issued pursuant to subdivision 1402(b)(1) of this title. A receiver or shipper of goods located in Vermont may request from the agency of transportation, access to a state highway, not on the truck network, for a commercial motor vehicle where the overall length exceeds 68 feet but is not longer than 72 feet. The~~ If the total vehicle length is in excess of 75 feet, or the distance from the steering axle to the rearmost tractor axle is longer than 25 feet, a permit may be requested from the commissioner. In that event, the agency of transportation shall review the route or routes requested, making its determination for approval based on safety and engineering considerations, after considering input from local government and regional planning commissions or the metropolitan planning organization. The agency shall maintain consistency in its application of acceptable highway geometry when approving other routes. The agency may authorize safety precautions on these highways, if warranted, which shall include, but not be limited to, precautionary signage, intelligent transportation system signage, special speed limits and use of flashing lights.

~~(4) Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor greater than 23 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is greater than 23 feet in length, a permit may be issued pursuant to subdivision 1402(b)(2) of this title.~~

~~(5)~~(3) Vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than ~~72~~ 75 feet, a permit may be issued pursuant to subdivision 1402(b)(3) of this title.

(b) Rear-end protective devices on trailers. A trailer or semitrailer not in excess of 53 feet may be operated provided the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface.

(c) ~~The truck network. The truck network shall consist of the following: U.S. Route 2 between the New Hampshire state line and the junction of U.S. Route 5; U.S. Route 2 from the junction of exit 21 on I 91 to exit 8 on Interstate 89; U.S. Route 2 between the New York state line and VT Route 78; VT Route 2A; U.S. Route 4 from the New York state line to the junction of VT Route 100 south; VT Route 279 from the New York state line to the junction of U.S. Route 7; U.S. Route 5 from the junction of U.S. Route 2 to the junction of exit 20 of I 91; U.S. Route 5 between I 91 at exit 22 to the south entrance of the St. Johnsbury Lyndonville industrial park; U.S. Route 5 south from I 91 at exit 22 to the intersection of St. Johnsbury Railroad Street and Hastings Hill Street; U.S. Route 7; VT Route 9 from the New York state line to the junction of exit 2 on I 91; VT Route 9 from the junction of exit 3 on I 91 to the New Hampshire state line; VT Route 18 from U.S. Route 2 to the New Hampshire state line; VT Route 22A between U.S. Route 4 and U.S. Route 7; VT Route 78; VT Route 103; VT Route 105 from the junction of U.S. Route 7 to the junction of VT Route 100, then southerly on VT Route 100 to the junction of VT Route 100 and VT Route 14, then easterly on VT Route 14 to the junction of VT Route 14 and U.S. Route 5, then northerly on U.S. Route 5 to the junction of U.S. Route 5 and VT Route 105, then easterly on VT Route 105 from the junction of U.S. Route 5 to the New Hampshire border; VT Route 104 from VT Route 105 to I 89 at exit 19; VT Route 253 from the New Hampshire border to the Canadian border; VT Route 289; and U.S. Route 302. The commissioner is authorized to place special restrictions applying to motor vehicles on any route of the truck network when, in his or her opinion, the restrictions would provide for the safe operation of all vehicles on the route.~~

~~(d)~~ Operation on U.S. Route 4. Vehicles Notwithstanding any other law to the contrary, vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet may be operated with a single or multiple trip overlength permit issued at no cost by the department of motor vehicles or, for a fee, by an entity authorized in subsection 1400(d) of this title on U.S. Route 4 from the New Hampshire state line to the junction of VT Route 100 south, provided the distance from the kingpin of the semitrailer to the center of the rearmost axle group is not greater than ~~43~~ 41 feet.

~~(e)~~(d) Operation of pole semitrailers. The provisions of this section shall not be construed to prevent the operation of so-called pole dinkeys or pole semitrailers when being used to support the ends of poles, timbers, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections, the overall length of which may exceed 60 feet under special permission from the commissioner of motor vehicles.

~~(f)~~(e) Operation on Interstate highways. Notwithstanding subsection (a) of this section, on the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, United States Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower National System of Interstate and Defense Highways for a distance of one mile, unless the agency of transportation finds the use of a specific highway to be unsafe, no overall length limits for tractor-semi-trailer or tractor semi-trailer-trailer combination shall apply. On these highways, no semi-trailer in a tractor-semi-trailer combination longer than 53 feet and no trailer or semi-trailer in a tractor-semi-trailer-trailer combination longer than 28 feet shall be operated. However, the limits established by this section shall not be construed in such a manner as to prohibit the use of semi-trailers in a tractor-semi-trailer combination of such dimensions as were in actual and lawful use in this state on December 1, 1982.

~~(g)~~(f) List of approved highways. The commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this state and, upon request, to any interested person.

* * * Transportation: Necessity/Condemnation Proceedings * * *

Sec. 95. 19 V.S.A. § 501 is amended to read:

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

(1) “Necessity” shall mean a reasonable need which considers the greatest public good and the least inconvenience and expense to the condemning party and to the property owner. Necessity shall not be measured merely by expense or convenience to the condemning party. Due consideration shall be given to the adequacy of other property and locations and to the quantity, kind and extent of cultivated and agricultural land which may be taken or rendered unfit for use by the proposed taking. In this matter the court shall view the problem from both a long range agricultural land use viewpoint as well as from the immediate taking of agricultural lands which may be involved. Consideration also shall be given to the effect upon home and homestead rights and the convenience of the owner of the land; to the effect of the highway upon the scenic and recreational values of the highway; to the need to accommodate present and future utility installations within the highway corridor; to the need to mitigate the environmental impacts of highway construction; and to the effect upon town grand lists and revenues.

(2) Damages resulting from the taking or use of property under the provisions of this chapter shall be the value for the most reasonable use of the property or right in the property, and of the business on the property, and the direct and proximate decrease in the value of the remaining property or right in the property and the business on the property. The added value, if any, to the remaining property or right in the property, which accrues directly to the owner of the property as a result of the taking or use, as distinguished from the general public benefit, shall be considered in the determination of damages.

(3) “Interested person” or “person interested in lands” means a person who has a legal interest of record in the property affected.

Sec. 96. 19 V.S.A. § 502 is amended to read:

§ 502. AUTHORITY; PRECONDEMNATION PROCEDURE

(a) The agency of transportation board, when in its judgment the interest of the state requires, ~~shall request the agency~~ may initiate proceedings under this chapter to take acquire any land or rights in land, including easements of access, air, view and light, deemed necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or improve any state highway including affected portions of town highways. All property rights shall be ~~taken~~ acquired in fee simple whenever practicable. In furtherance of these purposes, the agency may enter upon land adjacent to the proposed highway or upon other lands for the purpose of examination and making necessary surveys. However, that work shall be done with minimum damage to the land and disturbance to the owners.

(b) The agency, in the construction and maintenance of limited access highway facilities, may also ~~take~~ acquire any land or rights of the landowner in land under 9 V.S.A. chapter 93, subchapter 2, relating to advertising on limited access highways.

(c)(1) A public hearing shall be held for the purpose of receiving suggestions and recommendations from the public prior to the agency's initiating proceedings under this chapter for the acquisition of any lands or rights. The hearing shall be conducted by the agency. Public notice shall be given by printing the official notice not less than 30 days prior to the hearing in a newspaper having general circulation in the area affected. A copy of the notice shall be mailed to the board, the legislative bodies of the municipalities affected and a copy sent by certified mail to all known owners of lands and rights in land affected by the proposed improvement.

(2) The notice shall set forth the purpose for which the land or rights are desired and shall generally describe the improvement to be made.

~~The board may designate one or more members to attend the hearing and shall do so if a written request is filed with the board at least 10 days prior to the public hearing.~~

(3) At the hearing the agency shall set forth the reasons for the selection of the route intended and shall hear and consider all objections, suggestions for changes and recommendations made by any person interested.

~~If no board member attended the hearing, a written request may be filed with the board within 30 days after the public hearing asking the board to review the project and the record of the hearing. In such event, the board shall complete its review within 30 days after the request.~~

(4) Following the hearing, ~~unless otherwise directed by the board,~~ the agency may proceed to lay out the highway and survey and acquire the land to be taken or affected, giving consideration to any objections, suggestions and recommendations received from the public.

(d) The agency shall not ~~take~~ acquire land or any right in land that is owned by a town or union school district and being used for school purposes until the voters of the district have voted on the issue of ~~taking~~ acquisition at a meeting called for that purpose. A special meeting of the town or union school district shall be called promptly upon receiving notice of a public hearing unless the annual meeting is to be held within 30 days after receiving the notice of public hearing. Due consideration shall be given by the ~~court~~ board to the result of the vote, in addition to the other factors referred to in section 501 of this title, in determining necessity.

(e) In the interests of orderly and effective future planning, the agency may acquire land and rights in land to be used for highway purposes within the reasonably foreseeable future, including but not limited to future construction of four-lane highways on routes presently designed for construction of two lanes, and the construction of interchanges, bridges, and all other improvements to existing highways or highways presently scheduled for construction. In the case of the laying out of highways on a new location, "reasonably foreseeable future" means projects on which construction is to be commenced in a period not exceeding 15 years from the date of acquisition. In the event the agency determines that the land is no longer necessary for use as a highway, it shall immediately sell the property at public sale to private persons, giving consideration to the adjoining landowners.

Sec. 97. 19 V.S.A. §§ 504-510 are amended to read:

§ 504. PETITION FOR HEARING TO DETERMINE NECESSITY

Upon completion of the survey the agency may petition ~~a superior judge~~ the transportation board, setting forth in the petition that it proposes to acquire certain land, or rights in land, and describing the lands or rights, and the survey shall be attached to the petition and made a part of the petition. The petition shall set forth the purposes for which the land or rights are desired, and shall contain a request that the ~~judge~~ board fix a time and place when ~~he or she, or some other superior judge,~~ the board or a hearing examiner or single board member so appointed will hear all parties concerned and determine whether the taking is necessary.

§ 505. HEARING TO DETERMINE NECESSITY

(a) ~~The superior judge to whom the petition is presented~~ board shall fix the time for hearing, which shall not be more than 60 nor less than 40 days from the date ~~he or she~~ the board signs the order. Likewise, ~~he or she~~ the board shall fix the place for hearing, which shall be ~~the superior court or any other~~ at some place within the county in which the land in question is located. ~~If the superior judge to whom the petition is presented cannot hear the petition at the time set he or she shall call upon the administrative judge to assign another superior judge to hear the cause at the time and place assigned in the order.~~

(b) If the land proposed to be acquired extends into two or more counties, then a single hearing to determine necessity may be held in one of the counties. In fixing the place for hearing, the ~~superior judge to whom the petition is presented~~ board shall take into consideration the needs of the parties.

§ 506. SERVICE AND PUBLICATION OF NECESSITY PETITION AND NOTICE OF HEARING; ANSWER

(a) The agency shall prepare a notice of the necessity hearing. The notice shall include the names of the municipalities in which the lands to be taken or affected are located; the names of all interested persons within the meaning of subdivision 501(2) of this chapter; and a brief statement identifying the proposed project and its location, and the date, time and place of the necessity hearing. The agency shall make service of copies of the petition, the notice of hearing and the survey (for the purposes of this section, "survey" means a plan, profile, or cross-section of the proposed project) as follows:

(1) Upon interested persons in accordance with the Vermont Rules of Civil Procedure for service of process, except as stated in subsection (b) of this section and in section 519 of this title or, with respect to interested parties with no known residence or place of business within the state, by certified mail, return receipt requested. The copy of the survey that is served upon interested persons need include only the particular property in which those persons have an interest.

(2) One copy each upon the clerk, legislative body, and board of listers of each affected municipality by certified mail. The clerk shall record the notice of hearing in the municipal land records, at the agency's expense, and shall enter the names of the interested persons in the general index of transactions affecting the title to real estate.

(b) The agency also shall publish the notice of hearing in a newspaper of general circulation in the municipalities in which the proposed project lies. Publication shall be made once a week for three consecutive weeks on the same day of the week, the last publication to be not less than five days before the hearing. When service on an interested person cannot with due diligence be made within or outside the state, upon affidavit of the secretary of transportation or the secretary's designee that diligent inquiry has been made to find the interested person, the publication shall be deemed sufficient service on that person. The affidavit shall be accompanied by an affidavit of the person attempting service that the location of the interested person is unknown and that the interested person has no known agent upon whom service can be made.

(c) Compliance with these provisions of this title shall constitute sufficient notice to and service upon all interested persons and municipalities.

(d) No service need be made upon any interested person or municipality that has stipulated to necessity in accordance with section 508 of this chapter.

(e) Unless an answer denying the necessity or propriety of the proposed taking is filed by one or more parties served or appearing in the proceedings on or before the date set in the notice of hearing on the petition, the necessity and propriety shall be deemed to be conceded, and the ~~court~~ board shall so find.

§ 507. HEARING AND ORDER OF NECESSITY

(a) ~~At the time and place appointed for the hearing, the court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held~~ board shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the ~~court~~ board shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The ~~court~~ board may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the ~~court~~ board. The ~~court~~ board shall make findings of fact and ~~file them and any party in interest may appeal under the rules of appellate procedure adopted by the supreme court~~ conclusions of law. The ~~court~~ board shall, by its order, determine whether the necessity of the state requires the taking acquisition of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this section and may modify or alter the proposed taking in such respects as to the ~~court~~ board may seem proper.

(b) ~~By its order, the court may also direct the agency of transportation to install passes under the highway as specified in this chapter for the benefit of the large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle pass of reinforced concrete, metal or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than fifty milking cows is consistently maintained on the property, the court may direct that the~~

~~dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one fourth of the difference in overall cost between the standard cattle pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of transportation and the property owner from determining the specifications of a cattle pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so-called lease land.~~

§ 508. STIPULATION OF NECESSITY

(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.

(b)(1) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a form approved by the attorney general and shall include but not be limited to the following:

~~(1)(A)~~ a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;

~~(2)(B)~~ an explanation of the legal and property rights affected; and

~~(3)(C)~~ that the right of the person to adequate compensation is not affected by executing the stipulation.

(2) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted.

§ 509. PROCEDURE

(a) The stipulation shall be filed with the ~~appropriate superior court board~~, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The ~~court board~~ may also cite in additional parties in accordance with section 507 of this title.

(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the ~~court~~ board shall at the hearing determine if the person has an interest in lands or rights to be taken such as to be entitled to object to the proposed finding of necessity, and, if ~~he~~ the person is so affected or concerned, whether there is necessity for the taking, in accordance with section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The ~~court~~ board may continue the hearing to allow proper preparation by the agency of transportation and interested parties.

(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the ~~court~~ board may immediately issue an order of necessity.

(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.

(e) A copy of the order finding necessity shall be mailed by the agency to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.

(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with sections 511-514 of this title. However, the agency of transportation board may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity.

§ 510. ~~APPEAL FROM ORDER OF NECESSITY~~ JUDICIAL REVIEW

(a) If the state, municipal corporation or any owner affected by the order of the ~~court~~ board is aggrieved by the order, an appeal may be taken to the ~~supreme~~ superior court pursuant to subsection 5(c) of this title. In the event an appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:

- (1) that he or she has a likelihood of success on the merits;
- (2) that he or she will suffer irreparable harm in the absence of the requested stay;
- (3) that other interested parties will not be substantially harmed if a stay is granted; and
- (4) that the public interest supports a grant of the proposed stay.

(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.

(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the ~~court~~ board without further hearing or consideration of any question of the necessity of the taking. ~~In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

~~(b)~~(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one-year period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one-year necessity period.

Sec. 98. 19 V.S.A. § 520 is added to read:

§ 520. MUNICIPALITIES; USE OF CHAPTER 5 PROCEDURES

When the construction, reconstruction, alteration, or repair of a town highway involves the acquisition of private lands or rights in private land, the legislative body of the municipality may elect to follow the procedures outlined in chapter 5 of this title to acquire private lands or rights in land for state highways. In such event, the legislative body of the municipality shall carry out the functions of the agency and the board.

* * * Regional Planning Commissions * * *

Sec. 99. PROJECT PRIORITIZATION PROCESS AND PROPOSAL OF NEW PROJECTS FOR THE STATE TRANSPORTATION PROGRAM BY REGIONAL PLANNING COMMISSIONS

(a) To better reflect regional economic development, land use, and project priorities, the agency of transportation, in cooperation with the regional planning commissions, shall modify the existing project prioritization system to ensure that local input is assigned appropriate weighting in the system.

(b) The agency and the regional planning commissions shall jointly develop and adopt and the agency shall implement a written procedure that allows a regional planning commission to propose that a new project be substituted for an existing project or projects within the same region that are in the state transportation program. The procedure shall:

(1) ensure that the proposed new project for addition to the transportation program and the existing project or projects to be deleted from the program are roughly comparable in cost, using updated cost estimates;

(2) consider for removal from the transportation program only projects that are in candidate status;

(3) describe the project identification requirements and time line requirements that an RPC must satisfy to present the proposed change in the transportation program to the general assembly in a particular fiscal year; and

(4) describe the agency-regional planning commission communication protocols that will apply to the process.

(c) Each year, the agency's proposed transportation program shall include a separate report entitled "RPC Proposals" which shall describe all regional planning commission-proposed changes to the state's transportation program made in accordance with the procedure adopted pursuant to subsection (b) of this section.

(d) The agency and regional planning commissions shall report on the adopted procedure described in subsection (b) of this section and on changes made to the priority system in response to subsection (a) of this section to the committees on transportation by January 15, 2010.

* * * Annual Transportation Program * * *

Sec. 100. 19 V.S.A. § 10g(g) is added to read:

(g) The agency's annual transportation program shall include a separate report referencing this section describing all proposed projects in the program which would be new to the state transportation program if adopted.

* * * Diesel tax * * *

Sec. 101. 23 V.S.A. § 3003(d) is amended to read:

(d)(1) For users, the following uses shall be exempt from taxation under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title:

(A) uses, the taxation of which would be precluded by the laws and Constitution of the United States and this state;

(B) uses for agricultural purposes not conducted on the highways of the state;

(C) uses by any state, municipal, school district, fire district or other governmentally owned vehicles for official purposes;

(D) uses by any vehicle off the highways of the state; and

(E) ~~uses by motor buses registered in this state; and~~

~~(F)~~ uses by any vehicle registered as a farm truck under subsection 367(f) of this title.

(2) Provided, however, that no tax shall be due with respect to fuel for

use in any state, municipal, school district, fire district or other ~~governmentally-owned~~ vehicle owned, leased, or contracted for other than single-trip use by a government entity, as long as the distributor takes from the purchaser at the time of sale an exemption certificate in the form prescribed by the commissioner; and provided, further, that no tax shall be due with respect to fuel delivered for farm use to a farm bulk fuel storage tank.

Sec. 102. EFFECTIVE DATES

(a) The following sections of this act shall take effect from passage:

(1) Secs. 17–18 (ARRA funds).

(2) Sec. 57 (sale of salt shed in Montpelier).

(3) Sec. 58 (enhancement grants).

(4) Sec. 80 (sale of surplus rail property).

(b) Secs. 20–25 (motor fuels transportation infrastructure assessments and bond fund) shall take effect on June 1, 2009.

(c) Sec. 101 shall take effect on July 1, 2010.

(d) All other sections of this act not specifically enumerated in subsections (a), (b), and (c) of this section shall take effect on July 1, 2009.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator McCormack, for the Committee on Finance, to which the bill was referred, reported that it has considered the same and recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Transportation with the following amendment thereto:

In Sec. 28, 23 V.S.A. § 304(c) by striking out subdivision (5) in its entirety.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence with proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Transportation was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Transportation, as amended, was agreed to and third reading of the bill was ordered.

Rules Suspended; Consideration Interrupted by Adjournment

H. 445.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Shumlin moved that the Senate adjourn until three o'clock in the afternoon.

Called to Order

At three o'clock and fifteen minutes the Senate was called to order by the President.

Consideration Resumed; Proposal of Amendment; Third Reading Ordered

H. 445.

Consideration was resumed on House bill entitled:

An act relating to capital construction and state bonding.

Thereupon, Senator Scott, for the Committee on Institutions, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Capital Appropriations * * *

Sec. 1. STATE BUILDINGS

The following sums are appropriated in total to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

(1) Statewide, Americans with Disabilities Act (ADA) - for upgrades at the Emerson State Office Building in Newport: 100,000

<u>(2) Statewide, building reuse and planning:</u>	<u>125,000</u>
<u>(3) Statewide, contingency:</u>	<u>500,000</u>
<u>(4) Statewide, major maintenance:</u>	<u>8,006,508</u>
<u>(5) Statewide, asbestos and lead abatement:</u>	<u>300,000</u>
<u>(6) Statewide, elevator repairs and upgrades:</u>	<u>150,000</u>
<u>(7) Statewide, physical security enhancements:</u>	<u>250,000</u>
<u>(8) BGS engineering and architectural project costs:</u>	<u>750,000</u>
<u>(9) Springfield, state office building retaining wall, phase 3:</u>	<u>150,000</u>
<u>(10) Middlesex, to complete the secretary of state and state archives vault addition:</u>	<u>6,800,000</u>
<u>(11) Bennington State Office Building, 200 Veterans Drive. Demolish, design, and reuse the 1991 and 1978 portions of the building, an estimated 48,000 square feet. The commissioner shall use the building to house programs and services previously located in the building, except for agency of human services functions other than corrections and vocational rehabilitation functions; and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms:</u>	<u>8,000,000</u>
<u>(12) Newport, correctional facility roof replacement:</u>	<u>300,000</u>
<u>(13) Burlington, 32 Cherry St., HVAC Upgrades, phase 1:</u>	<u>500,000</u>
<u>(14) Burlington, 32 Cherry St., water intrusion repairs, phase 1:</u>	<u>825,000</u>
<u>(15) Sharon, welcome center, sidewalk repairs:</u>	<u>250,000</u>
<u>(16) Rutland, multimodal garage trench drains</u>	<u>250,000</u>
<u>(17) Statewide, major maintenance at information centers</u>	<u>150,000</u>
<u>(18) Repair and replacement of slate roofs on historic state buildings in the Waterbury complex. The commissioner shall strive to employ as many tradespeople as possible:</u>	<u>250,000</u>
<u>Total Appropriation – Section 1</u>	<u>\$27,656,508</u>

Sec. 2. ADMINISTRATION

The following sums are appropriated to the agency of administration for the projects described in this section:

<u>(1) for the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:</u>	<u>100,000</u>
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(2) for the department of information and innovation as a match for federal funds for phase I of installation of a Medicaid and health care data system to replace the access system that was installed in the 1980s: 1,700,000

(3) for the Vermont telecommunications authority to provide financial assistance for the purpose of expanding Vermont's mobile telecommunications and broadband infrastructure pursuant to Sec. 29 of this act: 1,000,000

Total Appropriation – Section 2 \$2,800,000

Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in total to the department of buildings and general services for the agency of human services for the projects described in this section.

(1) Vermont state hospital, ongoing safety renovations. The commissioner of the department of buildings and general services shall work with the secretary of the agency of human services to utilize the existing space without costly renovations. The commissioner and secretary may consider alternatives such as an increase in staff and changing staffing patterns, construction design, and techniques for effectively using the sprinkler system without moving it: 150,000

(2) Vermont state hospital, planning, design, and permitting for a 15-bed secure residential recovery facility in Waterbury: 500,000

(3) Vermont state hospital, to consider how to replace acute intensive psychiatric inpatient services provided by the current Vermont State hospital by building capacity to provide those functions at the Rutland Regional Medical Center (RRMC). However, the funds allocated under this subdivision shall not be used for the financial analysis obtained pursuant to Sec. 32(b)(1) of this act and shall not be encumbered until completion of the analysis, and provided that planning is not discontinued pursuant to Sec. 32(b)(4) of this act. Funds so encumbered shall be used to match funds provided by the Rutland Regional Medical Center to continue planning for providing acute intensive inpatient services at the RRMC on a one-to-one basis: 250,000

(4) Health lab, for analysis, feasibility studies, adaptation of past plans, and development of conceptual designs to provide the basis for an agreement with the University of Vermont to co-locate the department of health laboratory with its Colchester research facility: 500,000

(5) Corrections, continuation of suicide abatement project: 200,000

(6) Corrections, security upgrades: 180,000

(b) The following is appropriated to the Vermont housing and conservation board to support building of transitional housing for various populations such as victims of violence, people recently released from incarceration, and homeless people; for housing for people with particular needs such as housing with services for people with disabilities, those requiring treatment for substance abuse, or the elderly; and for improving downtown areas: 250,000

Total Appropriation – Section 3 \$2,030,000

Sec. 4. BUILDING COMMUNITIES GRANTS

The following sums are appropriated for building communities grants established in 24 V.S.A. chapter 137:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 200,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program: 200,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 200,000

(4) To the department of buildings and general services for the recreational facilities grant program: 200,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 200,000

Total appropriation - Section 4 \$1,000,000

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated to the department of buildings and general services for the agency of commerce and community development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 250,000

(2) Final state contribution to expand the visitors' center at the Calvin Coolidge state historic site in Plymouth Notch. These funds may be used as a match for a National Endowment for the Humanities Challenge Grant. The commissioner of finance and management may approve a request from the commissioner of buildings and general services for funds in anticipation of receipts of private donations for the Plymouth visitors center project:

1,500,000

(b) The following sums are appropriated to the agency of commerce and community development for the following projects:

<u>(1) Underwater preserves:</u>	<u>50,000</u>
<u>(2) Placement and replacement of roadside historic site markers:</u>	<u>15,000</u>
<u>Total Appropriation – Section 5</u>	<u>\$1,815,000</u>

Sec. 6. EDUCATION

(a) The following is appropriated in total to the department of education for the purposes described in this section:

(1) To pay the balance owed for the following addition and renovation projects, up to:

<u>(A) Brattleboro Union High and Area Middle schools;</u>	
<u>(B) Hanover High School and Frances C. Richmond School in Hanover, N.H.;</u>	
<u>(C) Williamstown Middle/High School;</u>	
<u>(D) Saxtons River Elementary School in Rockingham;</u>	
<u>(E) Central Elementary School in Rockingham; and</u>	
<u>(F) Thatcher Brook Primary School in Waterbury:</u>	<u>2,426,916</u>

(2) To pay one third of the balance owed for the following addition, renovation, and consolidation projects, up to:

<u>(A) Elm Hill School in Springfield;</u>	
<u>(B) Union Street School in Springfield;</u>	
<u>(C) Weathersfield Elementary and Middle Schools;</u>	
<u>(D) Newport Town School; and</u>	
<u>(E) Robinson Elementary School in Starksboro:</u>	<u>4,205,996</u>

(3) To pay the balance owed for the following energy performance contracts, up to:

<u>(A) Montpelier elementary, middle, and high schools;</u>	
<u>(B) Milton elementary, junior, and senior high schools;</u>	
<u>(C) Brattleboro elementary schools; and</u>	
<u>(D) Neshobe School in Brandon:</u>	<u>390,480</u>

(4) To pay the balance owed for the following biomass projects, up to:

(A) Camels Hump Middle School in Richmond; and

(B) Williamstown Middle/High School: 71,264

(5) To pay state aid for emergency school construction projects pursuant to subdivision 3448(a)(3)(A) of Title 16 which may arise during FY10, up to: 300,000

(6) To be divided evenly, along with any funds remaining after the projects listed in subdivisions (1) – (5) of this subsection have received funds, among the following for addition and renovation projects:

(A) Green Mountain Technology and Career Center in Hyde Park;

(B) Center for Technology in Essex Town; and

(C) North Country Career Center in Newport: 2,905,344

(b) The following is appropriated to the Department of Education for emergency shelters in schools paid pursuant to 16 V.S.A. § 3453a: 43,555

Total Appropriation – Section 6 \$10,343,555

Sec. 7. AUSTINE SCHOOL

The sum of \$227,937 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 7 \$227,937

Sec. 8. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, or maintenance projects.

Total Appropriation – Section 8 \$2,000,000

Sec. 9. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.

Total Appropriation – Section 9 \$2,000,000

Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in total to the agency of natural resources for water pollution control projects:

(1) For existing projects, the Springfield loan conversion, chapter 120 administrative support, and feasibility study planning advances necessary to operate the ongoing program for grants to municipalities pursuant to chapter 55 of Title 10 (aid to municipalities for water supply, pollution abatement, and

sewer separations) and chapter 120 of Title 24 (special environmental revolving fund): 475,000

(2) Municipal pollution control projects:

(A) Proctor for combined sewer overflow abatement: 160,000

(B) Enosburg Falls for combined sewer overflow abatement: 250,000

(C) St. Johnsbury for combined sewer overflow abatement: 240,000

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project: 140,000

(4) For the Vermont environmental protection agency pollution control revolving fund: 19,433,000

(b) The following sums are appropriated in total to the agency of natural resources for the drinking water state revolving fund:

(1) for engineering, oversight, and program management: 275,000

(2) for the Vermont environmental protection agency drinking water revolving fund in fiscal year 2010: 19,500,000

(c) The following sums are appropriated in total to the agency of natural resources for the clean and clear program to accelerate the reduction of phosphorus discharges into Lake Champlain and other waters of the state:

(1) Ecosystem restoration and protection: 1,700,000

(2) Unregulated stormwater management: 200,000

(3) Phosphorus treatment at the Proctor aerated lagoon facility: 510,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-two share of the federal match to conduct a three-year study of flood-control measures in the city of Montpelier. However, the state shall not enter into any commitment to pay for construction of flood control improvements without legislative approval: 142,000

(e) The following sums are appropriated to the agency of natural resources for the department of forests, parks and recreation. To the extent possible, the commissioner of forests, parks and recreation shall involve the Vermont Youth Conservation Corps in the following initiatives. Funds shall be used for:

(1) A parks conservation corps program to stimulate economic activity, create employment opportunities, and improve trails, buildings, and other state park infrastructure through geographically dispersed construction and renovation projects in Vermont state parks. To the extent feasible, these funds

shall be used to support small-scale projects being funded by resources made available through the American Recovery and Reinvestment Act of 2009 (ARRA), including a summer youth employment program in partnership with the department of labor. Projects may include construction of rustic cabins:

	<u>400,000</u>
(2) <u>Statewide, small-scale rehabilitation:</u>	<u>500,000</u>
(3) <u>Wastewater repairs and preventive improvements:</u>	<u>250,000</u>
(4) <u>Infrastructure improvements:</u>	<u>1,000,000</u>
(5) <u>Energy conservation and alternative energy projects in state parks:</u>	<u>1,000,000</u>
(6) <u>Rehabilitation of CCC structures in state parks:</u>	<u>1,000,000</u>
(7) <u>Upgrade of restrooms and bathhouses in state parks:</u>	<u>1,000,000</u>
(8) <u>Upgrade of the ranger residence and headquarters at Woodford State Park:</u>	<u>250,000</u>
(9) <u>Upgrade and maintenance of Maidstone Road, and other forest highways with any funds remaining after the upgrade of Maidstone Road:</u>	<u>600,000</u>
(10) <u>The Green Mountain Club, Inc. for the procurement in fee simple or by easement of properties along the Long Trail:</u>	<u>25,000</u>

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection. If possible, the secretary shall apply for ARRA funds for energy upgrades and shall report on any receipt of such funds to the senate committee on institutions and the house committee on corrections and institutions:

(1) <u>Backup generators for the Bald Hill or the Bennington Filter Building, or both:</u>	<u>125,000</u>
(2) <u>Buck Lake Camp facilities improvement:</u>	<u>84,000</u>
(3) <u>For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure:</u>	<u>25,000</u>
(4) <u>Immediate biosecurity at several of the fish hatcheries:</u>	<u>83,000</u>
(5) <u>Fish production improvements at the Grand Isle and Bennington hatcheries:</u>	<u>181,000</u>
(6) <u>Long-term biosecurity at the Grand Isle fish hatchery:</u>	<u>269,000</u>
(7) <u>Replace windows at Roxbury, Bennington, and Salisbury hatcheries</u>	<u>50,000</u>

(g) If more ARRA funds become available for pollution control, drinking water projects, or other natural-resource-related projects during fiscal year 2010, the secretary is encouraged to apply for them.

Total Appropriation – Section 10 \$49,867,000

Sec. 11. MILITARY

The following sums are appropriated in total to the department of the military for:

(1) Site acquisition for the combined northern field maintenance shop and Morrisville armory: 100,000

(2) Maintenance and renovations at state armories, including increased locker space at 12 armories, designs for latrines and ADA projects, ADA and sanitary facilities upgrades, and low roof design and construction at the Waterbury Armory 380,000

Total Appropriation – Section 11 \$480,000

Sec. 12. PUBLIC SAFETY

The following sums are appropriated in total to the department of buildings and general services for the department of public safety for:

(1) Complete construction of a new forensics lab in Waterbury: 2,057,821

(2) Design and construction of a new emergency operations center in Waterbury. This amount shall be used to match \$1,000,000 in federal funds for the project: 375,000

(3) Purchase of property, obtaining of permits, and design for the Brattleboro/Rockingham state police office: 750,000

Total Appropriation – Section 12 \$3,182,821

Sec. 13. FIRE SERVICE TRAINING

The following sums are appropriated for fire service training:

(1) To the department of public safety for the Vermont fire service training council for equipment for the VTC fire science degree program: 100,000

(2) To Vermont State Colleges as the state's financial contribution to the construction of a steel burn building at the Vermont Technical College campus in Randolph: 200,000

Total Appropriation – Section 13 \$300,000

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL

The sum of \$1,700,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to design and construct a new firing range, and purchase and locate a three-lane mobile firing unit in Pittsford.

Total Appropriation – Section 14 \$1,700,000

Sec. 15. AGRICULTURE, FOOD AND MARKETS

The following sums are appropriated in total to the agency of agriculture, food and markets for the purposes described in this section:

(1) For the best management practice implementation cost share program, to continue to develop best management practices on Vermont farms. Farmers participating in this program are eligible for cost share funds not to exceed \$75,000 or 80 percent of a project, whichever is less: 1,800,000

(2) For the agricultural buffer program, to install water quality conservation buffers 175,000

(3) For the agricultural fair capital projects competitive grants program. No single entity shall be awarded more than ten percent of this appropriation: 200,000

Total Appropriation – Section 15 \$2,175,000

Sec. 16. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television as the state match for the federally mandated legally required conversion of Vermont Public Television's facilities to digital format.

Total Appropriation – Section 16 \$500,000

Sec. 17. VERMONT INTERACTIVE TELEVISION

The sum of \$308,000 is appropriated to Vermont Interactive Television for video upgrades, monitor replacement, or any combination thereof, at Vermont Interactive Television sites.

Total Appropriation – Section 17 \$308,000

Sec. 18. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

Total Appropriation – Section 18 \$100,000

 Sec. 19. VERMONT VETERANS' HOME

The following sums are appropriated to the department of buildings and general services for the Vermont Veterans' Home for the purposes described in this section:

<u>(1) Cost increase for Phase II of geothermal HVAC renovations:</u>	<u>600,000</u>
<u>(2) North wing roof replacement:</u>	<u>200,000</u>
<u>Total Appropriation – Section 19</u>	<u>\$800,000</u>

Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

The sum of \$50,000 is appropriated to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic violence shelters. The Vermont Center for Crime Victim Services shall file with the commissioner of buildings and general services an annual report, on or before December 1, 2009, which details the status of the improvements funded in whole or in part by state capital appropriations.

<u>Total Appropriation – Section 20</u>	<u>\$50,000</u>
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* * * Financing this Act * * *

Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 of this act:

<u>(1) of the amount appropriated in Sec. 253(4) of No. 152 of the Acts of the 1999 Adj. Sess. (2000) (Springfield Correctional Facility):</u>	<u>461.14</u>
<u>(2) of the amount appropriated in Sec. 14 of No. 61 of the Acts of 2001 (Pittsford Wastewater System):</u>	<u>226,933.98</u>
<u>(3) of the amount appropriated by Sec. 12(b) of No. 43 of the Acts of 2005 (Public Safety):</u>	<u>2,105.00</u>
<u>(4) of the amount appropriated by Sec. 13(c) of No. 52 of the Acts of 2007 (Public Safety and Fire Service Training Council):</u>	<u>14,520.70</u>
<u>(5) of the amount appropriated by Sec. 26 of No. 52 of the Acts of 2007 (Sale of Condo Unit, Newport State Office Building):</u>	<u>163,800.00</u>
<u>Total Reallocations and Transfers – Section 21</u>	<u>\$407,820.82</u>

Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$69,995,000 for the purpose of funding the appropriations of this

act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

69,995,000

(b) The following amount from ARRA clean water state revolving fund grants is hereby appropriated for use in FY10 and FY11 for projects funded through the Vermont environmental protection agency pollution control revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.

19,433,000

(c) The following amount from ARRA State Drinking Water Capitalization Grants is hereby appropriated for use in FY10 and FY11 for projects funded through the drinking water state revolving fund. Specific project spending shall be approved by a committee made up of the joint fiscal committee and the chairs of the senate committee on institutions and the house committee on corrections and institutions.

19,500,000

Total Revenues – Section 22

\$108,928,000

* * * General Authority * * *

Sec. 23. FEDERAL STIMULUS FUNDS; GENERAL AUTHORITY

(a) The head of any state agency or public body that receives funds under this act is hereby encouraged to apply for ARRA funds for capital expenses. Any ARRA funds received for capital expenses shall be reported to the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions pursuant to Sec. E.129 of the appropriations bill of 2009.

(b) The head of any state agency or public body that receives funds under this act is authorized to use funds appropriated under this act to apply for and match funds which may be available for capital construction under the ARRA.

* * * Buildings and General Services * * *

Sec. 24. ACCEPTANCE OF GRANTS AND OTHER FUNDS

(a) Notwithstanding section 5 of Title 32 (acceptance of grants), the commissioner of buildings and general services may accept federal grant funds:

(1) in connection with the state forensic laboratory. These funds may be used to defray or supplement costs in Sec. 12(1) of this act; and

(2) for the purpose of designing and retrofitting a new emergency management facility and emergency operations center.

(b) Each receipt of a grant or gift authorized by this section shall be reported by the commissioner to the chairs of the senate committee on institutions and the house committee on corrections and institutions and to the joint fiscal committee.

Sec. 25. DEPARTMENT OF BUILDINGS AND GENERAL SERVICES;
AUTHORITY TO FUND PROJECTS AUTHORIZED IN PRIOR YEARS

The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional support that were funded with capital or general appropriations made in prior years.

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The commissioner of buildings and general services is authorized to negotiate the sale of all or a portion of the state's property that adjoins the Hebard state office building in Newport City for the purposes of transferring ownership and operation of the bike path, walking path, and boardwalk. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(b) The commissioner of buildings and general services is authorized to purchase property in the Westminster vicinity for the purpose of locating the southeastern Vermont public safety facility.

(c) Notwithstanding subsection 32(c) of No. 200 of the Acts of 2008, the commissioner of buildings and general services is authorized to sell the real property commonly referred to as the "Former Tree Farm Property" and associated buildings located in the town and village of Essex in one or two parcels as follows: the commissioner may sell the portion which is in the town of Essex to the town of Essex and the portion which is in the village of Essex to the village of Essex or may sell the entire parcel to either the village or the town of Essex. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate

committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(d) The commissioner is authorized either to convert to other state use or to sell the building in Middlesex formerly leased to North American Playcare, Inc., if the commissioner is unable to enter into a lease with the Montessori school for a child care facility. If the commissioner sells the building, he or she shall follow the process of 29 V.S.A. § 166.

(e) Pursuant to 29 V.S.A. § 166(b), the commissioner of buildings and general services is authorized to subdivide land at the former Weeks school in Vergennes in order to sell the Arsenal and Fairbanks buildings. The commissioner may use proceeds from the sale to enhance the value of the remaining former Weeks school property.

(f) The commissioner of buildings and general services is authorized to sell the following properties pursuant to 29 V.S.A. § 166:

(1) The Dummerston library building. The commissioner shall strive to obtain fair market value, considering maintenance and potential liability costs to the state if the property is not sold. Upon approval of the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may sell the property for the negotiated price. The commissioner is not obligated to follow the provisions of 29 V.S.A. § 166(b) in negotiating and selling this property.

(2) Building 617 in Essex. The commissioner shall consult with the chair of the senate committee on institutions and the chair of the house committee on corrections and institutions prior to finalizing any sale.

(3) The Redstone building at 26 Terrace Street in Montpelier after the secretary of state has moved to another location.

(g) The commissioner of buildings and general services shall consider options for use and disposal of the following properties and shall present his or her analysis and recommendations to the senate committee on institutions and the house committee on corrections and institutions on or before January 15, 2010:

(1) Father Logue's camp in Duxbury.

(2) 62 Pierpoint Avenue in Rutland.

(3) The house, barn, and land at the Northwest State Correctional Facility in St. Albans. At a minimum, the commissioner of buildings and general services shall consult with the commissioner of corrections to consider

use of the buildings and property as transitional housing, a work farm associated with the correctional facility, or transitional housing, and to consider sale of the property for use as a working farm.

(h) In Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), the general assembly authorized the commissioner of buildings and general services to sell, lease, subdivide, convert into condominiums, or any combination thereof the Thayer school building located at 1193 North Avenue in Burlington. The commissioner is hereby further authorized to transfer title by warranty deed for sale of the building.

(i) The commissioner of buildings and general services is hereby authorized to enter into negotiations to lease building space at 210 South Street in Bennington to house programs and services of the agency of human services previously located in the State Office Building at 200 Veterans Drive in Bennington. Upon approval of the chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner may enter into a lease agreement for the use of the building.

Sec. 27. 29 V.S.A. § 152(a)(33) is added to read:

(33) Accept grants of funds, equipment, and services from any source, including federal appropriations, for the installation, operation, implementation, or maintenance of energy conservation measures or improvements at state buildings provided that the commissioner shall report receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 28. 29 V.S.A. § 152(b) is amended to read:

(b) Prior to transfer of unexpended balances between projects under the provisions of this section or another provision of law, expenditure of capital funds through grants or other programs which involve a nongovernment entity, or sale or lease of property acquired with proceeds of a state bond issue to a nongovernment entity, the commissioner shall consult with the state treasurer and the commissioner of finance and management to determine that such transfer does not adversely affect the exclusion from gross income of the interest on the bonds from which such unexpended proceeds are derived, pursuant to Section 103 of the Internal Revenue Code of 1986 or any corresponding Internal Revenue Code section of the United States, as from time to time amended. The commissioner shall notify the state treasurer within 30 days of the postponement of any authorized projects for which bonds have been issued.

* * * Commerce and Community Development * * *

Sec. 29. VERMONT TELECOMMUNICATIONS AUTHORITY; MOBILE TELECOMMUNICATIONS AND BROADBAND SERVICES

(a) The Vermont telecommunications authority shall use funds appropriated in Sec. 2(3) of this act as described in this section:

(1) To provide financial assistance for building infrastructure capable of delivering mobile telecommunications and broadband services pursuant to the authority granted in 30 V.S.A. § 8062(b)(2), and in accordance with the priorities established under 30 V.S.A. § 8077;

(2) To leverage funding from other sources, including funds available under the American Recovery and Reinvestment Act of 2009 (ARRA); and

(3) To use up to \$300,000 to fund the broadband development grant program created in Sec. 3 of No. 79 of the Acts of 2007.

(b) If the authority has an opportunity to use the appropriation to leverage funds, and if the funding source requires that the leveraged funds be used in a way that conflicts with subdivision (a)(1) of this section, the authority may accept and expend the funds upon approval of the joint fiscal committee, the chairs of the senate committees on institutions and on finance, and the chairs of the house committees on corrections and institutions and on commerce and economic development.

* * * Human Services * * *

Sec. 30. VERMONT STATE HOSPITAL; REPLACEMENT

(a) It is the intent of the general assembly that expenditures for planning for replacement of the functions of the Vermont state hospital shall be directed toward meeting the conditions and requirements of the conceptual certificate of need issued by the department of banking, insurance, securities, and health care administration on April 12, 2007, and extended for 12 months, to expire on April 12, 2010.

(b) Prior to the submission of an application for a phase II certificate of need for construction of a facility to house a secure residential recovery program provided for in Sec. 31 of this act, the department of mental health shall develop a master plan to replace the acute care functions now provided in the Vermont state hospital and to close the Vermont state hospital. The master plan shall include an adequate long-range perspective of the funding needs and sources such that the phase II review process for a secure residential recovery program will be able to:

(1) consider whether there will be an appropriate balance between the fiscal and other needs of current and future inpatient facilities and the fiscal and other needs of the community mental health system; and

(2) consider the state's financial ability to complete the master plan.

(c) While pursuing the secure residential facility as described in Sec. 31 of this act and the planning for acute mental health care in several hospitals geographically distributed throughout the state as provided for in Sec. 32 of this act, the department of mental health shall enter into discussions with the Brattleboro Retreat, Fletcher Allen Health Care, Rutland Regional Medical Center and other general and specialty hospitals to explore options for hospital-level care for the remaining placements needed to close the Vermont state hospital.

(d) As part of its master plan to replace the Vermont state hospital, the department of mental health shall conduct a financial analysis and an analysis of the impact on care of the temporary return to inpatient care at staff secure facilities.

Sec. 31. VERMONT STATE HOSPITAL; SECURE RESIDENTIAL RECOVERY PROGRAM

(a) It is the intent of the general assembly that the commissioner of mental health shall provide a secure residential recovery program for individuals with a mental health disability for whom inpatient hospital treatment would be inappropriate, including those who may be in secure custody of the commissioner of mental health as a result of district court orders and those in secure custody of the commissioner of mental health with dementia, traumatic brain injuries, or other treatment-resistant mental illnesses or disabilities whose symptoms require secure care. It is further the intent of the general assembly that the facility housing the program shall be designed to afford the greatest future flexibility for any potential residential health care program and shall be consistent with the goal of creating a facility with a residential character. In addition, both the site and design shall foster the ability to provide outdoor recreation, safety of residents and program participants, and appropriate programming to meet the needs of each of the several diagnostic groups to be served.

(b) Prior to further design development, the commissioner of mental health and the commissioner of buildings and general services shall fully investigate and analyze site options for locating the secure residential facility on the Waterbury campus as well as other at sites in Waterbury. The facility shall not be located next to the A-building. The facility design shall incorporate the necessary components to function as a freestanding program that does not rely

on support space currently serving patient needs in the existing Vermont state hospital.

(c)(1) It is the intention of the general assembly that the secure residential recovery program shall be governed by a governing body which is separate from the governing body of the Vermont state hospital and shall be operated under a license to be issued by the department of disabilities, aging, and independent living (DAIL).

(2) DAIL shall amend by rule pursuant to chapter 25 of Title 3 the licensing requirements for therapeutic community residences to provide for the operation of secure residential recovery programs.

(d) At the time of filing a certificate of need (CON) letter of intent with the department of banking, insurance, securities, and health care administration, the department of mental health shall notify the Centers for Medicare and Medicaid Services (CMS) in writing that it is planning and developing a 15-bed residential program, with a description of its size, program, intended patient population, physical location relative to the existing state hospital, anticipated licensing, and anticipated governance structure. In addition, the department shall request CMS to review the final plan to determine if federal financial participation under Titles XVIII (Medicare) and XIX (Medicaid) of the Social Security Act would be available for the facility.

(e)(1) The department of mental health shall submit the response of CMS, if any, or the fact that CMS has not responded to the request, to the senate committee on institutions and the house committee on corrections and institutions, the senate and house committees on appropriations, the senate committee on health and welfare, the house committee on human services, the joint fiscal committee, and the mental health oversight committee.

(2) During the legislative session, the department shall provide quarterly updates to the senate committee on institutions, the house committee on corrections and institutions, the senate committee on health and welfare, and the house committee on human services on the progress toward completing the facility and developing the residential recovery program.

(3) Outside the legislative session, the department shall provide quarterly updates to the joint fiscal committee and the mental health oversight committee on the progress toward completing the facility and developing the residential recovery program.

(f) When the secure residential recovery program begins accepting residents, the department of health shall reduce by 15 the number of licensed beds at the Vermont state hospital.

Sec. 32. VERMONT STATE HOSPITAL; REPLACEMENT OF ACUTE CARE FUNCTIONS

(a) It is the intent of the general assembly that the plan for replacement of the functions of the Vermont state hospital shall provide geographic access such that patients requiring acute mental health care can be appropriately treated as near to their respective homes as possible through providing replacement specialized and intensive inpatient levels of care in more than one hospital staffed with appropriately trained and experienced staff. While recognizing a preference for geographic access, the plan shall ensure that acute care facilities are able to maintain sufficient patient census to be financially sustainable. Acute care facilities may be operated under one or more licenses issued to the department or to the hospitals, as appropriate.

(b)(1) The department of mental health, in collaboration with the joint fiscal office, the treasurer's office, and the Vermont educational and health buildings finance agency, shall obtain an accounting and financial analysis of any proposed bonding structure, including costs of capitalization, to determine whether a financing arrangement that places no debt capacity burden on either the state or on Rutland Regional Medical Center (RRMC) is reasonably feasible for a new psychiatric wing at RRMC to replace and expand the existing psychiatric unit.

(2) No later than September 1, 2009, the department shall provide a report describing the financing arrangement for a new psychiatric wing at RRMC and the results of the accounting and financial analysis to the mental health oversight committee and the joint fiscal committee.

(3)(A) The joint fiscal office shall analyze and evaluate the financing arrangement and results of the accounting and financial analysis conducted under subdivision (1) of this subsection to determine if the financing is reasonable. The department of mental health shall provide the joint fiscal office with ongoing access to the analysis in order to ensure that the joint fiscal office has sufficient information to evaluate the results as required in this subdivision.

(B) The joint fiscal office may contract with an independent consultant to provide additional analysis, if needed, for its analysis required under subdivision (A) of this subdivision. Upon request of the joint fiscal office, the commissioner of the department of buildings and general services shall transfer up to \$25,000 of unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the joint fiscal office for this purpose.

(C) The joint fiscal office shall provide the mental health oversight committee and the joint fiscal committee with its evaluation as soon as

possible after receiving the report of the results required by subdivision (2) of this subsection in order for the committees to make a determination by October 1, 2009.

(4) After receipt of the report and no later than October 1, 2009, the mental health oversight committee or the joint fiscal committee may object to the financing arrangement proposed by the department for a new psychiatric wing at RRMCC. If either committee objects, the department shall discontinue planning for a new psychiatric wing at RRMCC.

(c) Simultaneously with any planning for expansion of psychiatric services at RRMCC, including conducting the financial analysis under subdivision (b)(1) of this section and whether or not planning for the RRMCC option is discontinued as provided for in subdivision (b)(4) of this section, the department shall continue to assess the feasibility, including the cost, of providing acute care services at general or appropriate specialized hospitals in other locations. As part of the planning process described in this subsection, the department shall obtain an independent labor analysis of the impact of providing services at RRMCC, if planning has not been discontinued pursuant to subdivision (b)(4) of this section, and at general or appropriate specialized hospitals in other locations being considered for provision of acute care functions with respect to recruiting and maintaining staffing for any staff-intensive, specialized psychiatric services required. The department of labor may provide the labor analysis provided for in this subsection. The commissioner of the department of buildings and general services shall transfer funds necessary for this study from unexpended funds appropriated to the department of buildings and general services in prior capital construction acts for Vermont state hospital planning to the department of mental health for this purpose.

(d) By January 15, 2010, the department shall propose any statutory changes it believes may be necessary for implementation of its master plan, including recommendations for statutory provisions which ensure that acute care facilities maintain sufficient patient census to be financially sustainable.

Sec. 33. Sec. 124d(e) of No. 65 of the Acts of 2007 is amended to read:

(e) For purposes of this section, the council shall cease to exist ~~on~~ when the development of the alternatives to the Vermont state hospital is completed, but no later than July 1, ~~2009~~ 2012.

* * * Corrections * * *

Sec. 34. 28 V.S.A. § 102(b)(16) is added to read:

(16) With the approval of the secretary of human services, to accept federal grants made available through federal crime bill legislation provided

that the commissioner shall report receipt of a grant under this subdivision to the chairs of the senate committee on institutions, the house committee on corrections and institutions, and the joint fiscal committee.

Sec. 35. CORRECTIONS; HOUSING FOR INMATES AND DETAINEES; COLLABORATION AMONG FEDERAL AND STATE OFFICIALS; USE OF NORTHWEST STATE CORRECTIONAL FACILITY

(a) The commissioner of corrections shall consult with the U.S. marshal to identify opportunities to collaborate to provide secure facilities that meet the needs of federal, state, county, and municipal law enforcement officials regarding space for housing of inmates and detainees. The commissioner shall consider building of a new facility with ARRA funds as well as the potential for reconfiguring the e-wing of the Northeast Regional Correctional Facility to house federal, state, county and municipal inmates and detainees. The commissioner shall report to the corrections oversight committee by October 15, 2009.

(b) The department of corrections shall accept lodging at the Northwest State Correctional Facility from local law enforcement officers on a weekend basis for a period of one year. On or before July 1, 2010, the commissioner of corrections shall report on the implementation of this subsection to the corrections oversight committee.

* * * Vermont Telecommunications Authority * * *

Sec. 36. Sec. 42 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 3 of No. 79 of the Acts of 2007, relating to a broadband development grant program, is repealed on ~~June 30, 2009~~ June 20, 2011.

* * * Natural Resources * * *

Sec. 37. 3 V.S.A. § 2822(e) is added to read:

(e) The secretary, with the approval of the secretary of administration, may transfer any unexpended funds appropriated in a capital construction act among other projects authorized in the same section of that act.

Sec. 38. 24 V.S.A. § 4753b is added to read:

§ 4753b. ACCEPTANCE OF FUNDS

(a) The commissioner of environmental conservation, with the approval of the secretary of natural resources, may accept federal grants made available through the federal Clean Water Act and the federal Drinking Water Act in accordance with this chapter. Acceptance of this grant money is hereby

approved, provided all notifications are made under subsection 4760(a) of this title.

(b) The commissioner shall report receipt of a grant under this section to the chairs of the senate committee on institutions and the house committee on corrections and institutions and the joint fiscal committee.

Sec. 39. Sec. 8(a)(2) of No. 52 of the Acts of 1989, as amended by Sec. 18 of No. 276 of the Acts of the 1989 Adj. Sess. (1990) and Sec. 32 of No. 29 of the Acts of 1999, is amended to read:

(2) That this conveyance shall be completed within ~~20~~ 30 years of the effective date of this act.

* * * Military * * *

Sec. 40. AUTHORITY TO TRANSFER FUNDS

The military department in the office of the adjutant general may transfer funds appropriated to it in this act among other projects authorized in the same section of the act.

* * * Judiciary * * *

Sec. 41. JUDICIARY; CAPITAL FUNDING

In 2008, the general assembly and supreme court established the Vermont Commission on Judicial Operation and charged the commission with evaluating the allocation and management of fiscal resources, including state capital appropriations, for judicial operations. Therefore, due to the possibility that significant changes may occur in the planning, location, and physical plants of the judiciary, the general assembly will not appropriate capital funds for judiciary expenses until it receives the recommendations of the commission.

* * * Administration * * *

Sec. 42. 3 V.S.A. § 2291(c) is amended to read:

(c) The secretary of administration with the cooperation of the commissioners of public service and of buildings and general services shall develop and oversee the implementation of a state agency energy plan for state government. The plan shall be adopted by June 30, 2005, modified as necessary, and readopted by the secretary on or before ~~January 15 of each fifth~~ January 15, 2010 and each sixth year subsequent to 2005 2010. The plan shall accomplish the following objectives and requirements:

* * *

Sec. 43. 3 V.S.A. § 2291b is amended to read:

§ 2291b. ADOPTION OF STATE AGENCY ENERGY IMPLEMENTATION PLANS

After review by the commissioner of buildings and general services and approval by the secretary of administration, each state agency shall adopt an implementation plan on or before ~~August 31, 2005~~ August 31, 2010 to ensure compliance with the state agency energy plan. Each agency shall readopt and file its implementation plan biennially with the commissioner to ensure that the implementation plan remains compatible with the state agency energy plan.

* * * Property Transactions * * *

Sec. 44. Sec. 26 of No. 52 of the Acts of 2007 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell the properties listed in this section pursuant to 29 V.S.A. § 166. Of proceeds from the sales, \$50,000 is appropriated to the Friends of the State House for renovations to the state house. ~~The remainder is appropriated to the department of buildings and general services for construction and renovation of building 617 in Essex to house the department of health and department of public safety forensics laboratories~~ shall be paid into a capital fund account pursuant to 29 V.S.A. §166(d).

* * *

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Illuzzi, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions?, Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling moved to amend the proposal of amendment of the Committee on Institutions, as follows:

First: In Sec. 3(b), at the end of the sec by striking out the following: “250,000” and inserting in lieu thereof the following: 1,000,000, and by striking out the following: “\$2,030,000” and inserting in lieu thereof the following: \$2,780,000

Second: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL; PHASE I, PROFESSIONAL RANGE DESIGN

(a) The sum of \$800,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council in Pittsford to:

(1) design and construct a new firing range; and

(2) purchase and locate a three-lane mobile firing unit.

(b) The project shall be phased. The first phase shall be to purchase the mobile firing unit and temporarily locate it on the grounds.

(c) Before finalizing design of the range, the commissioner shall consult with an experienced range professional or military or federal agency experienced in the design and use of firing ranges to ensure the project is optimally designed.

Total Appropriation – Section 14

\$800,000

Thereupon, pending the question, Shall the report of the Committee on Institutions be amended as recommended by Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling?, Senator Illuzzi requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Institutions?, was agreed to.

Thereupon, third reading of the bill was ordered.

Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 442.

House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings, on behalf of the Committee on Finance, moved that the Senate proposal of amendment be amended by deleting Secs. 52 and 53.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Racine, Kittell, Choate, Starr, Giard, Lyons, Ashe, Nitka, Campbell and White moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 54a to read as follows:

Sec. 54a. SUNSET

The following sections of this bill shall expire on June 30, 2012:

- (1) Sec. 37b (increase in tax on cigarettes);
- (2) Sec. 37c (increase in tax on other tobacco products from 41 percent to 92 percent); but the other provisions of this section, relating to the tax on moist snuff and new smokeless tobacco, shall not expire;
- (3) Sec. 42a (sales and use tax on clothing costing more than \$110.00);
- (4) Sec. 51 (increase in tax on spirituous liquor); and
- (5) Sec. 54 (gross receipts tax on satellite television programming providers).

Which was agreed to.

Thereupon, pending third reading of the bill, Senators McCormack and Starr moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. 42a in its entirety.

Second: By striking out Sec. 55 in its entirety.

Third: By striking out Sec. 57 in its entirety.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senators McCormack and Starr?, Senator McCormack moved to divide the question, which was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *firstly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 11, Nays 19.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Choate, Doyle, Illuzzi, Kitchel, Maynard, McCormack, Mullin, Nitka, Scott, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Kittell, Lyons, MacDonald, Mazza, Miller, Racine, Sears, Shumlin, Snelling, White.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *secondly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 3, Nays 27.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: *Ashe, McCormack, Starr.

Those Senators who voted in the negative were: Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, White.

*Senator Ashe explained his vote as follows:

“Mr. President:

Having taken mathematics through trigonometry in high school, I refuse to buy into the Administration’s games as to whether Vermont is the first, second, fourth, or sixth most taxed state. With this vote I send a message to our conferees that I want a person’s ability to pay to be an important consideration as we raise the revenues needed to meet the needs of Vermonters.”

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as *thirdly* recommended by Senators McCormack and Starr?, was disagreed to on a roll call, Yeas 6, Nays 24.

Senator McCormack having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Brock, Kittell, Maynard, McCormack, Starr.

Those Senators who voted in the negative were: Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell,

Illuzzi, Kitchel, Lyons, MacDonald, Mazza, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, White.

Thereupon, pending third reading of the bill, Senators Miller and Illuzzi moved that the Senate proposal of amendment be amended by striking out Secs. 54 and 55.

Which was disagreed to on a roll call, Yeas 9, Nays 21.

Senator Miller having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Doyle, Illuzzi, Kittell, Maynard, Miller, Mullin, Scott, Starr.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Racine, Sears, Shumlin, *Snelling, White.

*Senator Snelling explained her vote as follows:

“I sincerely appreciate and respect the eloquent remarks of my colleague from Chittenden, Senator Miller. She speaks with great passion on behalf of the entrepreneurs. I agree with many of her comments. However, I have already made a commitment to this bill as part of a package so I must vote no. I will continue to work towards a better solution in conference.”

Thereupon, pending third reading of the bill, Senators Campbell, McCormack, Nitka and Racine move to amend the Senate proposal of amendment by inserting a new section to be numbered Sec. 57a to read as follows:

Sec. 57a. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal years 2010 and 2011, the following two properties shall be exempt from education property tax under chapter 135 of Title 32: Buildings and land owned and occupied by a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, one of which is designated by the Springfield Hospital and the other designated by the North Country Hospital, to promote exercise and healthy lifestyles for the community and to serve citizens of all income levels in this mission. This exemption shall apply notwithstanding the provisions of subdivision 3832(7) of Title 32.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 25, Nays 5.

Senator Shumlin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Choate, Doyle, Maynard, Mullin.

Proposals of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment

H. 441.

House bill entitled:

An act making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senator Bartlett moved that the Senate proposal of amendment be amended as follows:

First: In Sec. C.101, by striking out the figure “12,361,777 where it twice appears and inserting in lieu thereof the figure 11,625,977 and by striking out the figure “5,901,246” and inserting in lieu thereof the figure 5,165,246 and by striking out the figure “11,168,977” and inserting in lieu thereof the figure 10,432,977

Second: In Sec. C.102, by striking out the figure “260,165,579” where it twice appears and inserting in lieu thereof the figure 259,429,579 and by striking out the figure “67,844,640” and inserting in lieu thereof the figure 67,108,640

Third: By striking out Sec. D.101(a)(4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) an assessment from special funds of no greater than two percent of any fund appropriation to the general fund, of no greater than \$3,321,444 in total. Notwithstanding any other provisions of law, the secretary of administration is authorized to reduce special fund appropriations and transfer special funds to the general fund in fiscal year 2010 to achieve this amount and

shall report these actions to the joint fiscal committee at its November 2009 meeting.

Fourth: By striking out Sec. E.135.2 in its entirety

Fifth: By striking out Sec. E.313(h) in its entirety and inserting in lieu thereof a new subsection (h) to read as follows:

(h) The total appropriation reflects a reduction of \$150,000 in treatment services. Prior to taking actions that distribute this savings to providers, the division of alcohol and drug abuse prevention must provide a plan to the joint fiscal committee at the July 2009 meeting for its review and approval.

Sixth: In Sec. E.330(c), by striking out the number “2009” and inserting in lieu thereof the number 2010

Seventh: By inserting a new Sec. E.342.1 to read as follows:

Sec. E 342.1 18 V.S.A. § 1421 is amended to read:

§ 1421. ~~DEFINITIONS~~ SMOKING IN THE WORKPLACE; PROHIBITION

~~As used in this subchapter:~~

~~(1) “Smoking area” means an area that nonsmoking employees are not required to visit on a regular basis where smoking is permitted pursuant to a policy established under this subchapter. Up to 30 percent of employee cafeteria and lounge areas may be designated as a smoking area.~~

~~(2) “Workplace”~~ The use of lighted tobacco products is prohibited in any “workplace,” which, for the purposes of this subchapter, means an enclosed structure where employees perform services for an employer or, in the case of an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure where the unit to which the employee is assigned is located. Workplace does not include a residential facility for elders or disabled persons that is regulated by C.M.S., centers for Medicaid and Medicare services. Except for schools, workplace does not include areas commonly open to the public nor any portion of a structure ~~which~~ that also serves as the employee’s or employer’s personal residence. For schools, workplace ~~shall include~~ includes any enclosed location ~~at which~~ where instruction or other school-sponsored functions are occurring and students are present.

Eighth: By striking out Sec. E.800 in its entirety and inserting in lieu thereof a new Sec. E.800 to read as follows:

Sec. E.800 COMMUNITY DEVELOPMENT PROGRAM; FUND CONSOLIDATION PLAN; IMPLEMENTATION

(a) Consistent with the requirements of subchapter 1 of chapter 29 of Title 10, a committee chaired by Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, Vermont economic development authority, and the secretary of the agency of commerce and community development the secretary of the agency of commerce and community development or designee, Vermont housing conservation board, Vermont bankers association, municipalities, regional development corporations, and other appropriate entities shall develop a proposal for consolidating active community development grants which have previously been awarded to municipalities from the community development block grant (CDBG) program authorized by Title I of the federal Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et. seq.. The purpose of the proposal is to maximize the availability of CDBG funding for Vermont's municipalities. The proposal shall include criteria and processes for standardizing the administration and oversight of CDBG funds, while preserving a municipality's ability to access funds.

(b) The committee will be staffed by the agency of commerce and community development. The committee shall report its findings to the general assembly on or before January 15, 2010.

Ninth: By striking out Sec. E.1103 in its entirety and inserting in lieu thereof a new Sec. E.1103 to read as follows:

Sec. E.1103. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will be impacting the Vermont state budget and a desire to avert unnecessary layoffs, the general assembly strongly urges the Vermont state employees' association and the secretary of administration to negotiate contract changes and other personnel adjustments to achieve \$14,700,000 in general fund savings and \$1,400,000 in transportation fund savings as well as other reductions in special funds and federal funds consistent with any contract modification agreed to between the Vermont state employees' association and the state of Vermont in fiscal year 2010.

(b) The general assembly recommends the parties consider the following in achieving a contract modification to produce the savings sought in subsection (a) of this section:

(1) Acceptance of the union proposals to:

(i) Forego the fiscal year 2010 cost of living increase.

(ii) Postpone any steps eligibility 12 months from when it would otherwise occur.

(iii) Eliminate the employee wellness program

(iv) Extend the contract one year with no cost of living increase in fiscal year 2011.

(2) Inclusion of the following additional proposals:

(i) Reduce general fund contracted expenditures for fiscal year 2010 by \$1,260,000.

(ii) The application of 8 furlough days per year.

(iii) The elimination of five executive branch exempt positions at salary levels in excess \$60,000 per year and further cuts in positions or pay to produce \$1,500,000 in general fund savings from exempt positions, temporary employees and classified confidential employees.

(3) The recommendations in subdivisions (b)(1) and (2) of this section shall apply to all state employees in all branches of government. Agency or department heads may adjust the salaries or furloughs of exempt employees who have already taken furloughs or salary reductions in excess of these amounts to make them consistent with the reductions outlined above.

(4) As part of this proposal, the cost of living adjustment for members of the general assembly shall be treated in accordance with the contract revision.

(5) For fiscal year 2010, notwithstanding existing pay plans, no bonuses, salary increases, or pay plan adjustments shall be made for nonbargaining unit employees, nor shall employees who change positions or take on added responsibilities receive increases in salaries accompanying this change.

(c) In the event that no agreement is reached, the secretary of administration shall not have the authority to reduce appropriations and positions to achieve the savings in subsection (a) of this section unless the secretary has submitted the reduction plan to the house and senate committees on appropriations by May 1, 2009 and that plan is enacted by the general assembly.

(d) The secretary of administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the joint committee on corrections oversight and the joint fiscal committee.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Bartlett on behalf of the Committee on Appropriations?, Senator Bartlett moved to substitute a new *eighth* proposal of amendment as follows:

Eighth: By striking out Sec. E.800 in its entirety and inserting in lieu thereof a new Sec. E.800 to read as follows:

Sec. E.800 COMMUNITY DEVELOPMENT PROGRAM; FUND CONSOLIDATION PLAN; IMPLEMENTATION

(a) Consistent with the requirements of subchapter 1 of chapter 29 of Title 10, a committee chaired by Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, Vermont economic development authority, and the secretary of the agency of commerce and community development the secretary of the agency of commerce and community development or designee, Vermont housing conservation board, Vermont bankers association, municipalities, regional development corporations, and other appropriate entities shall develop a proposal for the best use of and administration of community development grants which have previously been awarded to municipalities and that are currently inactive from the community development block grant (CDBG) program authorized by Title I of the federal Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et. seq.. The purpose of the proposal is to maximize the availability of CDBG funding for Vermont's municipalities. The proposal shall include criteria and processes for standardizing the administration and oversight of CDBG funds, while preserving a municipality's ability to access funds.

(b) The committee will be staffed by the agency of commerce and community development. The committee shall report its findings to the general assembly on or before January 15, 2010.

Which was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senator Bartlett on behalf of the Committee on Appropriations, as amended?, was agreed to.

Thereupon, pending third reading of the bill, Senator Mullin moved that the Senate proposal of amendment be amended by adding Secs. F.100 through F.109 to read as follows:

Sec. F.100. BALANCED BUDGET WITH NO TAX INCREASES

The purpose of the adjustments in this section is to present a balanced budget for fiscal year 2010 without raising taxes, with two exceptions being a reduction of the household income eligibility cap for property tax adjustments from \$90,000 to \$80,000, and a cap on the current use subsidy for very high-valued property. The additional education tax revenue from the lowered household income cap would be used to fund an additional portion of teacher retirement; and the current use savings in the education fund is used to reduce

the general fund transfer to the education fund. In addition, \$5 million is cut from Vermont housing and conservation board funding, with their remaining funding to be used only for housing purposes. And finally, these adjustments allow for balancing the budget without the tax increases which have been proposed for fiscal year 2010, by cutting spending provisions as shown in the following sections.

Sec. F.101. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of ~~\$90,000.00~~ \$80,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than ~~\$90,000.00~~ \$80,000.00 but more than \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the applicable percentage of household income for the taxable year.

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the applicable percentage of household income for the taxable year; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

(D) A claimant whose household income does not exceed ~~\$90,000.00~~ \$80,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.

Sec. F. 102. 32 V.S.A. § 3764 is added to read:

§ 3764. LIMITATION ON USE VALUE PROPERTY TAX REDUCTION

Notwithstanding any other provision of law, if the listed value, divided by the most recent common level of appraisal, of the total enrolled acres in any one parcel exceeds \$4,000.00 per acre, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$4,000.00, subject to any property tax adjustment available to the owner under chapter 154 of this title. Beginning in fiscal year 2011, the payment to any municipality under section 3760 of this chapter shall be adjusted to take into account the limitation in this section.

Sec. F.103. By increasing education fund sources for teachers' retirement by \$8.4 million

In Sec. B.514, by striking out the following: "40,303,002" and inserting in lieu thereof the following: "31,903,002", and by adding under Source of funds: Education fund \$8,400,000

Sec. F.104. Vermont Housing and Conservation Board appropriation reduced by \$5 million

In Sec. B.813, by striking out the following: "22,933,436" in both instances and inserting in lieu thereof the following: 17,933,436 and by striking out the following: "11,326,662" and inserting in lieu thereof the following: 6,326,662; and by inserting the following: "Vermont housing and conservation funding in fiscal year 2010 shall be used only for housing purposes."

Sec. F.105. Property transfer tax dedicated to the VHCB trust fund reduced by \$5 million, and excess amounts flow to general fund

In Sec. D.100, by inserting the following:

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of ~~\$9,101,662~~ \$4,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and

conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above ~~\$9,101,662~~ \$4,101,662 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

* * *

Sec. F.106. Cut tobacco cessation funding by \$714,000

In Sec. B.312, by striking out the following: “74,842,314” in both instances and inserting in lieu thereof the following: 74,128,314 and by striking out the following: “1,906,916” and inserting in lieu thereof the following: 1,192,916

In Sec. B.301, by striking out the following: “70,206,046” and inserting in lieu thereof the following: 69,492,046 and by striking out the following: “34,911,760” and inserting in lieu thereof the following: 35,625,760

Sec. F.107. Move \$714,000.00 saved from tobacco cessation funding to Global Commitment, allowing reduction of general fund monies to Global Commitment

In Sec. E.312, by inserting the following:

“(c) Funding for the tobacco programs in fiscal year 2010 shall consist of the ~~\$1,917,516~~ \$1,203,516 in tobacco funds and \$1,059,409 in Global Commitment funds appropriated in Sec. B.312 of this act; and \$212,709 of the tobacco funds appropriated in Sec. B.300 of this act. This total ~~\$3,189,634~~ \$2,475,634 shall be utilized according to the provisions of 18 V.S.A. chapter 225 as follows:

(1) community-based programs - \$850,300;

(2) media and public education - \$837,200;

(3) tobacco cessation programs - ~~\$1,163,200~~ \$449,200; these funds may also be used to provide tobacco cessation counseling services to persons incarcerated in Vermont correctional facilities, and \$80,000 shall be used to make nicotine replacement therapies available to all persons enrolled in tobacco cessation counseling, \$91,400 shall be allocated to programs that serve pregnant women, and \$12,500 shall be granted to the Washington County Mental Health Agency, Inc. for a special cessation program;

(4) surveillance and evaluation activities - \$276,600;

(5) statewide provider education - \$62,334.”

Sec. F.108. Cut legislative budget \$200,000 by reduction in funding of Health Care Reform Commission

In Sec. B.127, by striking out the following: “7,301,391” in both instances and inserting in lieu thereof the following: 7,101,391, and by striking out the following: “3,872,884” and inserting in lieu thereof the following: 1,192,916.

In Sec. E.127 by adding:

* * *

(b) The director of the commission on health care reform shall reduce expenditures on contracts and personal services by \$200,000.”

Sec. F.109.

In Sec. D.102. by adding:

(b) There is hereby unreserved in the human services caseload reserve established by 32 V.S.A. § 308b the amount of \$3,956,000, for fiscal year 2010 appropriation in the agency of human services for caseload related needs.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Mullin?, Senator Mullin requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending third reading of the bill, Senator Mullin moved that the that the Senate proposal of amendment be amended as follows:

First: Vermont Housing and Conservation Board appropriation reduced by \$2.02 million.

In Sec. B.813, by striking out the following: “22,933,436” in both instances and inserting in lieu thereof the following: 20,911,315 and by striking out the following: “11,326,662” and inserting in lieu thereof the following: 9,304,541; and by inserting the following: “Vermont housing and conservation funding in fiscal year 2010 shall be used only for housing purposes.”

Second: Property transfer tax dedicated to the VHCB trust fund reduced by \$5 million, and excess amounts flow to general fund

In Sec. D.100(a)(2), by striking out the following: “\$9,101,662” in both instances and inserting in lieu thereof the following: \$7,079,541.

Third: Restore cuts in Global Commitment

In Sec. B.301, by striking out the following: “1,022,593,978” in both instances and inserting in lieu thereof the following: 1,026,379,457 and by striking out the following: “63,308,477” and inserting in lieu thereof the following: 64,456,234, and by striking out the following: “637,086,652” and inserting in lieu thereof the following: 639,316,678, and by striking out the

following: "97,005,100" and inserting in lieu thereof the following: 97,412,796.

Fourth: Restore cuts to Global Commitment

In Sec. B.307, by striking out the following: "538,752,966" in both instances and inserting in lieu thereof the following: 542,538,445.

Fifth: Restore cuts in Long Term Care

In Sec. B.308, by striking out the following: "205,105,257" in both instances and inserting in lieu thereof the following: 207,989,043 and by striking out the following: "62,187,933" and inserting in lieu thereof the following: 63,062,297, and by striking out the following: "120,827,485" and inserting in lieu thereof the following: 122,526,323, and by striking out the following: "22,089,839" and inserting in lieu thereof the following: 22,400,423.

Which was disagreed to on a roll call, Yeas 6, Nays 24.

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Doyle, Giard, Maynard, Mullin, Scott.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, *Sears, Shumlin, Snelling, Starr, White.

*Senator Sears explained his vote as follows:

"I vote "No" because these changes have not been vetted through the committee process or even discussed with the committee."

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended by adding a new section to be Sec. E.501.2 to read as follows:

Sec. E.501.2. 16 V.S.A. § 821(c) is amended to read:

(c) Notwithstanding subsection (a) of this section, a school board without previous authorization by the electorate may pay tuition for elementary pupils who reside near a public elementary school in an adjacent district upon request of the pupil's parent or guardian, if in the board's judgment the pupil's education can be more conveniently furnished there. ~~The board's decision shall be final in regard to the institution the pupil may attend.~~ A parent or

guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the commissioner, whose authority shall include the ability to direct the school board to pay some or all of the pupil's tuition and whose decision shall be final.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested and was granted leave to withdraw his proposal of amendment.

Thereupon, Senator Illuzzi moved to amend the Senate proposal of amendment by striking out Sec. E.501.1 in its entirety.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Illuzzi and Kitchel moved that the Senate proposal of amendment be amended as follows

First: In Sec. B.1101(a)(3), by striking out the figure "\$2,826,658" and inserting in lieu thereof the figure \$2,476,658

Second: In Sec. B.1101(a) by inserting a new subdivision (10) to read as follows:

(10) To the Sterling College for student residency and program center costs. \$350,000

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Shumlin moved that the Senate proposal of amendment to H. 441 be amended by the amendments that were made to the Senate proposal of amendment to H. 442, namely, the amendments offered by:

- 1) Senator Cummings
- 2) Senator Racine
- 3) Senator Campbell

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 27, Nays 3.

Senator Bartlett having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell,

Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Mullin.

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 441, H. 442.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until nine o'clock in the morning.

FRIDAY, APRIL 24, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 152.

An act relating to encouraging biomass energy production.

Bills Referred to Committee on Finance

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

H. 15. An act relating to aquatic nuisance control.

H. 83. An act relating to underground storage tanks and the petroleum cleanup fund.

Bill Referred

House bill of the following title was read the first time and referred:

H. 297.

An act relating to approval of the adoption of the charter of the Morristown Corners Water Corporation.

To the Committee on Government Operations.

Joint Resolutions Placed on Calendar**J.R.S. 31.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Campbell and Sears,

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumers are assessed.

Whereas, consumers are increasingly using credit and debit card electronic payment systems to purchase goods and services, and annually these purchases now exceed the number of check transactions, and

Whereas, in order for merchants to accept these payment systems, merchants are required to pay interchange fees to banks and credit card providers, and

Whereas, these interchange fees are usually hidden and not disclosed to the consumer, and

Whereas, the interchange fees are ultimately passed on to the consumers, including those who pay with cash or a check and who, in effect, subsidize rewards given to credit card customers, and

Whereas, the number of rewards cards in circulation is rapidly increasing, and the new rewards cards are more costly for both merchants and consumers, and

Whereas, the interchange fees, including those paid on food and gasoline, are typically almost double the profit margin of the merchant, and the resulting impact on consumer prices is significant, and on each transaction, the bank or credit card provider earns a higher amount than the amount of the merchant's net profit, and

Whereas, traditional economic models are not applicable because only a few businesses process these electronic payment transactions, and merchants are forced to accept terms dictated, often without notice or recourse, and

Whereas, small businesses struggle to absorb the constant increases in the cost of accepting electronic payments, and

Whereas, it is advantageous that economic models facilitate a highly competitive marketplace, and

Whereas, the increased consumer use of electronic payments requires Congress to assure the existence of a highly competitive and vibrant market that promotes an economic playing field that is fair to consumers, merchants and card providers, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to address the current anticompetitive nature of credit and debit interchange fees charged to merchants and consumers, *and be it further*

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

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

J.R.S. 32.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Campbell,

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to enter into land exchanges and to sell a portion of Camel's Hump State Park.

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands, with the approval of the General Assembly, and

Whereas, 29 V.S.A. § 166(b) authorizes the Commissioner of Buildings and General Services, upon authorization of the General Assembly, which may be by resolution, and with the advice and consent of the Governor, to sell real estate owned by the State, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Commissioner of Forests, Parks and Recreation is authorized to:

(1) Amend the ski area lease on Okemo Mountain at Okemo State Forest to provide for three (3) additional ten-year extension periods.

(2) Convey a limited right-of-way in common along a portion of a state forest highway locally known as “Rangers Road” to the owners of lots 42, 43, 44, 45 and 46 located adjacent to a portion of Coolidge State Forest in the Town of Plymouth and a separate limited right-of-way across a portion of state forest land to the owners of lot 42. The right-of-way in common shall begin at the western most end of town highway 38 and shall extend westerly along Rangers Road to the adjoining private parcels. The right-of-way in common shall be limited to vehicular access to the existing lots only and does not include the right to install power or telephone lines within the right-of-way. The Department may gate or close this portion of Rangers Road for maintenance purposes or if unsafe conditions exist. However, the Department shall not be obligated to maintain this right-of-way in common beyond what it deems necessary for its own purposes. In exchange for this right-of-way in common, the owners of lots 42, 43, 44, 45 and 46 shall agree not to further subdivide their parcels; to limit development on their parcels to one primary residential structure; and to relinquish any claim they may have for an alternative right-of-way by necessity to the west of the parcels from town highway 4 (Messer Hill Road). Additionally, as a condition of this conveyance, the owners of lots 43, 44, 45 and 46 shall agree to convey a right-of-way to the Department of Forests, Parks and Recreation along the portion of the state forest highway that crosses their respective parcels.

A separate limited right-of-way across state forest land to the owners of Lot 42 shall be limited to vehicular access to lot 42 as it currently exists and one primary residential structure only. The maintenance of this right-of-way shall be the sole responsibility of the owners of lot 42. In exchange for this limited right-of-way, the owners of lot 42 shall ensure through the conveyance of restrictive covenants to the Department or the conveyance of an easement or other legal mechanism approved by the Department that lot 42 will not be further subdivided or developed. As a condition to any conveyance of this limited right-of-way, the owner of lot 42 shall also demonstrate that he or she has legal, permanent access from the end of the state’s right-of-way across adjacent private lands to lot 42.

(3) Sell to an interested party a portion of Camel’s Hump State Park containing the so-called Lafreniere House located in the Town of Bolton. The property to be sold is considered surplus by the Department of Forests, Parks and Recreation and shall be so configured to include only that acreage deemed necessary to encompass the Lafreniere House and associated out buildings, structures, facilities and access drives. The barns located on this property may also be included in the sale if it is deemed in the best interest of the State to include them. The Department of Forests, Parks and Recreation shall arrange for an independent appraisal of this parcel and shall ensure that any sale to a

private party is at least equal to the property's appraised fair market value. The Department shall provide an opportunity for any and all interested parties to submit proposals for the purchase of this parcel and will work closely with the Town of Bolton to ensure their interests and needs are carefully considered prior to any sale or conveyance of this property. Any sale shall be contingent on the approval of the Vermont housing and conservation board and shall include any legal restrictions deemed necessary to maintain the historic integrity and open space character of the property. Pursuant to the provisions of subsection 166(d) of Title 29, the general assembly hereby authorizes that the net proceeds of this transaction shall be used by the department to cover all expenses associated with the sale of this property with the balance to be deposited in the Vermont Housing and Conservation Trust Fund.

(4) Exchange, sell, or lease a 10± acre portion of Victory State Forest to the town of Victory to be used for a new town garage in exchange for land or other consideration of equivalent or greater value to the state or both. Any conveyance or lease of state forest land shall be contingent on the following: (1) the town of Victory must conduct an engineering assessment of the state forest parcel which demonstrates that the site is suitable for the town's intended purposes; (2) the town of Victory must assume any and all associated costs, including appraisal, survey, permitting and legal; (3) the final proposal, including the consideration offered by the town to the state for the exchange, sale or lease of the state forest parcel, is approved by both the Department of Forests, Parks and Recreation and the Vermont Housing and Conservation Board; and (4) pursuant to subsection 166(d) of title 29, the General Assembly hereby authorizes that the net proceeds of any sale of the state forest parcel shall be deposited in the Vermont Housing and Conservation Trust Fund.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Proposals of Amendment; Third Reading Ordered

H. 26.

Senator Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to plans for treatment of unmarked burial sites.

Reported recommending 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. 18 V.S.A. § 5212b is amended to read:

§ 5212b. UNMARKED BURIAL SITES SPECIAL FUND; REPORTING OF UNMARKED BURIAL SITES

(a) The unmarked burial sites special fund is established in the state treasury for the purpose of protecting, preserving, moving or reinterring human remains discovered in unmarked burial sites.

(b) The fund shall be comprised of any monies appropriated to the fund by the general assembly or received from any other source, private or public. Interest earned on the fund, and any balance remaining in the fund at the end of a fiscal year, shall be retained in the fund. This fund shall be maintained by the state treasurer, and shall be managed in accordance with subchapter 5 of chapter 7 of Title 32.

(c) The commissioner of housing and community affairs may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites in accordance with a process approved by the commissioner. The commissioner shall approve any process developed through consensus or agreement of the interested parties, including the municipality, ~~the governor's advisory commission on Native American affairs~~ Native American tribes based in Vermont, and private property owners of property on which there are known or likely to be unmarked burial sites, and any other appropriate interested parties, provided the commissioner determines that the process is likely to be effective, and includes all the following:

(1) Methods for determining the presence of unmarked burial sites, including archaeological surveys and assessments and other nonintrusive techniques.

(2) Methods for handling development and excavation on property on which it is known that there is or is likely to be one or more unmarked burial sites.

(3) Options for owners of property on which human remains in unmarked burial sites are discovered or determined to be located.

(4) Procedures for protecting, preserving or moving unmarked burial sites and human remains, subject, where applicable, to the permit requirement and penalties of this chapter.

(5) Procedures for resolving disputes.

(d) If unmarked burial sites and human remains are removed, consistent with the process set forth in this section and any permit required by this chapter, there shall be no criminal liability under 13 V.S.A. § 3761.

(e) The funds shall be used for the following purposes relating to unmarked burial sites:

(1) To monitor excavations.

(2) To protect, preserve, move, or reinter unmarked burial sites and human remains.

(3) To perform archaeological assessments and archaeological site or field investigations, including radar scanning and any other nonintrusive technology or technique designed to determine the presence of human remains.

(4) To provide mediation and other appropriate dispute resolution services.

(5) To acquire property or development rights, provided the commissioner of housing and community affairs determines that disbursements for this purpose will not unduly burden the fund, and further provided the commissioner shall expend funds for this purpose only with the concurrence of the secretary of commerce and community development and after consultation with the legislative bodies of any affected municipality or municipalities.

(6) Any other appropriate purpose determined by the commissioner to be consistent with the purposes of this fund.

(f) When an unmarked burial site is first discovered, the discovery shall be reported immediately to a law enforcement agency or the state medical examiner. If, after completion of an investigation pursuant to section 5205 of this title, a medical examiner determines that the burial site does not fall under the examiner's purview, the medical examiner shall immediately notify the state archeologist.

(g) The commissioner may adopt rules to carry out the intent and purpose of this section.

Sec. 2. UNMARKED BURIAL SITE TREATMENT PLAN COMMITTEE

(a) The unmarked burial site treatment plan committee is created to develop procedures for addressing issues relating to known or discovered unmarked burial sites of human remains including developing treatment plans to be used when an unmarked burial site is discovered on private property. The committee is comprised of nine members to include:

(1) The commissioner of housing and community affairs or the commissioner's designee.

(2) The state archeologist or designee.

(3) A representative from the Vermont League of Cities and Towns, Inc.

(4) A representative from a Native American tribe based in Vermont who has experience in handling unmarked burial sites, appointed by the commissioner of housing and community affairs.

(5) A federal archeologist from the Natural Resources Conservation Service of the U.S.D.A.

(6) The U.S. Forest Service, Green Mountain National Forest archeologist.

(7) The director of the University of Vermont consulting archeology program.

(8) A representative from the Vermont Bankers Association Inc.

(9) A representative from the Home Builders and Remodelers Association of Vermont.

(b) The committee shall:

(1) Develop procedures for responding to reports of a discovery of an unmarked burial site, which for the purposes of this section means the location of any interment of human remains, evidence of human remains, including the presence of red ochre, associated funerary objects, or a documented concentration of burial sites, but does not include a cemetery, mausoleum, or columbarium or any other site that is clearly marked as a site containing human remains.

(2) Develop various treatment plans for addressing issues when an unmarked burial site is discovered on private property. A treatment plan is an outline of the process for providing appropriate and respectful treatment of the burial site while considering the rights of the landowner. Each treatment plan shall include one or all of the following:

(A) Methods for determining the presence of an unmarked burial site, including archeological surveys and assessments and other nonintrusive techniques.

(B) Methods for handling development and excavation on property on which there is a known burial site or likely to be one.

(C) Options for owners of property on which human remains are discovered or known to be located.

(D) Procedures for protecting, preserving, and moving the burial site and the human remains.

(E) Time frames for implementation of the plan.

(F) Procedures for resolving disputes among stakeholders.

(3) The committee shall issue a written report outlining the procedures and treatment plans to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs on or before January 15, 2010.

Sec. 3. 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

(a)(1) When a person dies in this state, or a resident of this state dies within the state or elsewhere, and the decedent was a recipient of assistance under Title IV or XVI of the Social Security Act, or nursing home care under Title XIX of the Social Security Act, or assistance under state aid to the aged, blind or disabled, or an honorably discharged veteran of any branch of the U.S. military forces to the extent funds are available and to the extent authorized by department regulations, the decedent's burial shall be arranged and paid for by the department if the decedent was without sufficient known assets to pay for burial. The department shall pay burial expenses when arrangements are made other than by the department to the maximum permitted by its regulations. In any case where other contributions are made these payments shall be deducted from the amount otherwise paid by the department but in no case is the department responsible for any payment when the person arranging the burial selects a funeral the price of which exceeds the department's maximum.

* * *

~~(c) When a person other than one described in subsection (a) or (b) of this section dies in the town of domicile without sufficient known assets to pay for burial, the burial shall be arranged and paid for by the town. The department shall reimburse the town up to \$250.00 for expenses incurred.~~

~~(d) In all other cases the department shall arrange for and pay for the burial of persons who die in this state or residents of this state who die within the state or elsewhere when such persons are without sufficient known assets to pay for their burial.~~

(e) [Omitted.]

(f) In all cases where the department is responsible for funeral ~~and/or~~ or burial expenses or both under this chapter, the department shall provide, by rule, the specific services that are to be provided at public expense, and, on an itemized basis, the maximum price to be paid by the department for each such service.

(g) For the purpose of this chapter, "burial" means the act of interring or cremating the human dead and the ceremonies directly related to that

cremation or interment at the gravesite; and “funeral” means the ceremonies prior to burial of the body by interment, cremation or other method.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

and that the bill title be amended to read: “An act relating to treatment of unmarked burial sites and payment for burial of indigent persons”

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Illuzzi moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs by striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4, and by adding new Secs. 5 and 6 as follows:

Sec. 4. 20 V.S.A. §§ 1581, 1582, and 1583 are amended to read:

§ 1581. VERMONT VETERANS’ MEMORIAL CEMETERY ~~ADVISORY~~ BOARD

(a) The Vermont veterans’ memorial cemetery ~~advisory~~ board is created to ~~advise the adjutant general on~~ determine all matters relating to the establishment and operation of a Vermont veterans’ memorial cemetery to be known as the Vermont Veterans’ Memorial Cemetery. The board shall consist of:

(1) ~~The commissioner of the department of buildings and general services; adjutant general or designee,~~ who shall serve as chair of the board.

(2) The commissioner of the department of buildings and general services or designee.

(3) ~~One member of the senate who shall be appointed by the senate committee on committees.~~

~~(3)~~(4) One member of the house ~~who shall be appointed by the house speaker.~~

~~(4)~~(5) Four individuals who represent veterans or are members of a veterans’ organization, ~~to be~~ appointed by the governor for staggered terms of six years.

~~(5)~~(6) One individual who represents the Vermont granite, Vermont slate, or Vermont marble industry selected by the governor for a six-year term.

(b) The office of the adjutant general shall provide administrative support to the board.

(c) For each meeting, legislative members shall be ~~are~~ entitled to receive compensation and reimbursement for expenses as provided under subsection 406(a) of Title 2. ~~The , and~~ members representing veterans or from veterans' organizations shall be ~~are~~ entitled to per diem as provided in section 1010 of Title 32 and their necessary and actual expenses.

§ 1582. RULES; DAILY OPERATIONS

(a) Vermont veterans' memorial cemetery advisory board may ~~shall~~ adopt rules under the provisions of chapter 25 of Title 3 relating to acquisition of land, design of the cemetery, its buildings and grave markers, eligibility for burial, and any other matters necessary to establish and maintain the Vermont veterans' memorial cemetery.

(b) Daily operations shall be overseen by the adjutant general.

§ 1583. ADJUTANT GENERAL; POWERS AND DUTIES

(a) The adjutant general, subject to available funds and with the advice and consent of the Vermont veterans' memorial cemetery advisory committee board, shall administer the creation, establishment, operation, and maintenance of the Vermont veterans' memorial cemetery.

* * *

Sec. 5. AMENDMENT OF ACT 250 PERMIT

The adjutant general, the Vermont veterans' memorial cemetery board, and the agency of natural resources shall determine whether there is an environmentally safe alternative to Condition 6 of Land Use Permit # 3RO676 issued on August 20, 1991, which requires that all corpses be embalmed. No later than September 1, 2009, the adjutant general on behalf of the board may apply to the district 3 environmental commission for an amendment to that permit.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

The Senate further proposes to the House to amend the title to read as follows:

An act relating to treatment of unmarked burial sites, the operation of the Vermont Veterans' Memorial Cemetery, and payment for burial of indigent persons.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, Senator Illuzzi moved to amend the proposal of amendment further in Sec. 3, 33 V.S.A., § 2301(c) by adding after the deleted language the following: Notwithstanding any provision of law to the contrary, the Commissioner is authorized in his or her discretion to pay for no more than five burials per year as described in subsection (c) of this section when the facts surrounding the person's place of death are in dispute.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs, as amended, be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

**Proposal of Amendment Amended; Bill Passed in Concurrence with
Proposal of Amendment**

H. 438.

House bill entitled:

An act relating to the state's transportation program.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved that the Senate proposal of amendment be amended as follows

First: By striking out Secs. 64, 65, 66, 67, 68, 69, and 70 in their entirety.

Second: In Sec. 71, 23 V.S.A. § 304c(a) by striking out the strike-throughs and the words "The plate"

Which was disagreed to on a roll call, Yeas 3, Nays 25.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Brock, Giard, McCormack.

Those Senators who voted in the negative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, Miller, Nitka, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators absent and not voting were: Mullin, Racine.

Thereupon, pending third reading of the bill, Senators Kittell and Brock moved that the Senate proposal of amendment be amended in Sec. 89(b), by adding two new sentences at the end to read as follows: VTrans is additionally instructed to enter into a discussion with the department of buildings and general services to examine alternatives for the facility at Highgate on the Vermont–Canadian border. VTrans is directed to report to the members of the house and senate committees on transportation and on appropriations by January 15, 2010.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Kitchel, on behalf of the Committee on Transportation, moved that the Senate propose to the House to as follows

First: By striking out Sec. 23 in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. 32 V.S.A. § 980 is added to read:

§ 980. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding future appropriations only as approved by the general assembly.

Second: In Sec. 53, by striking out subdivisions (2)(B) and (C)

Third: In Sec. 94, 23 V.S.A. § 1432(a)(2), as renumbered, after the following: “in excess of 75 feet,” by striking out the word “or” and inserting in lieu thereof the word and

Fourth: In Sec. 94, 23 V.S.A. § 1432(d) as renumbered, by striking out the number “60” and inserting in lieu thereof the number “75”

Fifth: By striking out Sec. 95 in its entirety

Sixth: By adding a Sec. 101a to read as follows:

Sec. 101a. SPENDING AUTHORITY

To balance the budget, total spending authority on the transportation program is reduced by \$396,566. The project or program changes required to implement this reduction shall be determined by the secretary of transportation.

And by renumbering all Secs. to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Shumlin, on behalf of the Committee on Transportation, moved that the Senate proposal of amendment be amended by striking out Sec. 74 in its entirety and inserting in lieu thereof a new Sec. 74 to read as follows:

Sec. 74. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner's property pursuant to this chapter, unless the landowner charges a fee for the use of the property. Landowner immunity from liability with regard to sidewalks under this section shall not extend to damage or injury to the extent that it arises from the negligent, reckless or willful acts of the landowner.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 26, Nays 0.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Brock, Campbell, Carris, Choate, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Nitka, Scott, Sears, Shumlin, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Bartlett, Cummings, Mullin, Racine.

**Proposal of Amendment Amended; Bill Passed in Concurrence with
Proposals of Amendment**

H. 445.

House bill entitled:

An act relating to capital construction and state bonding.

Was taken up.

Thereupon, pending third reading of the bill, Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling move to amend the Senate proposal of amendment as follows:

First: In Sec. 1 (4) by striking out the figure “8,006,508” and inserting in lieu thereof the figure 8,156,508, and at the end of the Sec. by striking out the figure “\$27,656,508” and inserting in lieu thereof the figure \$27,806,508

Second: In Sec. 3(b), at the end of the sec by striking striking out the figure “250,000” and inserting in lieu thereof the figure 1,000,000, and by striking striking out the figure “\$2,030,000” and inserting in lieu thereof the figure \$2,780,000

Third: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read:

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL; PHASE I, PROFESSIONAL RANGE DESIGN

(a) The sum of \$800,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to:

(1) design and construct a new firing range; and

(2) purchase and locate a three-lane modular firing unit in Pittsford. The project shall be phased.

(b) Before finalizing design of the range, the commissioner shall consult with an experienced range consultant professional to ensure the project is optimally designed.

Total Appropriation – Section 14

\$800,000

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Scott, on behalf of the Committee on Institutions, moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 4a to read as follows:

Sec. 44a. 16 V.S.A. §3453a is amended to read:

§ 3453A. EMERGENCY OPERATION CENTERS AND SHELTERS

~~Any school building for which state construction aid is provided under this chapter for the purpose of its construction, reconstruction or expansion, and which is or may be designated as a local, regional or state emergency operation center or shelter, shall be designed for use as an emergency operations center or shelter. For this purpose, the proposed project shall include the installation of a wiring harness capable of being connected to emergency electric power generation to provide for emergency heating, lighting and communications. The wiring installation cost to upgrade emergency facilities shall be included in the budgets submitted to the legislature for capital funding pursuant to section 309 of Title 32. The state shall pay 100 percent of such costs, which shall at the department level be itemized and accounted for separately from those costs in which the state only shares in the project cost. The state shall not pay for the costs of purchasing the generator.~~

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Scott, on behalf of the Committee on Institutions, moved that the Senate proposal of amendment be amended by adding a new Section to be numbered Sec. 44b to read as follows

Sec. 44b. Sec. 32(e)(2) of Act No. 200 of the Acts of 2008 is amended to read:

(2) the transaction is limited to no more than ~~three~~ ten acres of land or mineral rights;

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Nitka, Campbell and McCormack moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 40a to read as follows:

Sec. 40a. SALE OF NATIONAL GUARD PROPERTY IN LUDLOW

Notwithstanding 20 V.S.A. § 542, if the board of armory commissioners sells the armory and associated land in Ludlow to the town of Ludlow, it shall sell the property at the fair market value amount reduced by an amount equal to the current fair market value of any land donated by the town of Ludlow or the Ludlow town school district for the armory.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Shumlin and White moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec 26a to read as follows:

Sec. 26a. CAPITAL CONSTRUCTION; WINDHAM COUNTY;
AUTHORITY TO BORROW

Notwithstanding the provisions of 24 V.S.A. § 82, the Windham County assistant judges are authorized to borrow up to \$200,000.00 for the purpose of renovating and restoring the Windham county sheriff's office pursuant to the budget adopted by the judges on January 16, 2009, without a further vote of the county electorate. The judges may mortgage county property or obtain an unsecured loan for this purpose. Any project constructed pursuant to this section shall be completed within two years of passage of this act.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 27, Nays 0.

Senator Scott having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Snelling, Starr, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Bartlett, Mullin, Shumlin.

**Rules Suspended; Proposal of Amendment; Bill Passed in Concurrence
with Proposal of Amendment**

H. 26.

Pending entry on the Calendar for action, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to plans for treatment of unmarked burial sites.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended in Sec. 3, 33 V.S.A., § 2301 by adding subdivision (h) to read as follows:

(h) Notwithstanding any provision of law to the contrary, the commissioner is authorized, in his or her discretion, to pay for not more than five burials per year as described in subsection (c) of this section when the facts so warrant.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Third Reading Ordered

H. 249.

Senator Carris, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to volunteer nonprofit service organizations and casino nights.

Reported recommending 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. 13 V.S.A. § 2143(d) is amended to read:

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in 32 V.S.A. § 10201(5) may be the site of no more than three casino events in any calendar quarter and no more than 12 casino events in any calendar year as long as there are at least 15 days between each event.

(3) A nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill title be amended to read:

“An act relating to nonprofit service organizations and casino nights.”

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended

by the Committee on Economic Development, Housing and General Affairs?, Senator Carris moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs as follows:

First: In 32 V.S.A. §10203(f) by adding a new subdivision (5) to read as follows:

(5) Reasonable costs of the licensed premises for selling the break-open tickets, provided the purpose of the nonprofit organization is to provide housing for homeless people.

Second: By adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2 SUNSET

32 V.S.A. §10203(f)(5) shall sunset on March 1, 2010.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs be amended as recommended by Senator Carris?, Senator Carris requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Institutions, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

**House Proposal of Amendment To Senate Proposal of Amendment Not
Concurred In; Committee of Conference Requested; Committee of
Conference Appointed**

H. 91.

House proposal of amendment to Senate bill entitled:

An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

In Sec. 2, 33 V.S.A. § 5123, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) The commissioner of the department for children and families shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a child subject to this chapter in a manner that:

(1) avoids physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the child.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, on motion of Senator Nitka, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Nitka
Senator Mullin
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Joint Resolutions Adopted in Concurrence

Joint House resolutions entitled:

J.R.H. 22. Joint resolution honoring municipal public works employees and designating May 17-23 as Public Works Week in Vermont.

J.R.H. 23. Joint resolution relating to the preservation of Vermont's streams and rivers.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were adopted collectively in concurrence.

Third Reading Ordered

H. 64.

Senator Lyons, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to eligibility for the state youth hunting programs.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Passed

Senate bill of the following title:

S. 117. An act relating to the date of the primary election.

Was read the third time and passed on a roll call, Yeas 21, Nays 7.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, White.

Those Senators who voted in the negative were: Brock, Doyle, Maynard, Mazza, Scott, Snelling, Starr.

Those Senators absent and not voting were: Ashe, Mullin.

Action Reconsidered; Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 26.

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Illuzzi moved that the Senate reconsider its action on House bill entitled:

An act relating to plans for treatment of unmarked burial sites.

Which was agreed to.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Illuzzi requested and was granted leave to offer an amendment after third reading.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Illuzzi moved that Senate proposal of amendment be amended by striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. 18 V.S.A. § 5201 is amended to read:

§ 5201. PERMITS; REMOVAL OF BODIES; CREMATION; WAITING PERIOD; INVESTIGATION INTO CIRCUMSTANCES OF DEATH

* * *

~~(c) The person in charge of the body shall not release for cremation the body of a person who died in Vermont until the person in charge has received a certificate from the chief, regional or assistant medical examiner that the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry concerning it is necessary. The certificate shall be retained by the crematory for a period of three years. For the certificate, the medical examiner is entitled to a fee of \$25.00 payable by the person requesting cremation.~~

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill title be amended to read:

An act relating to cremation, the treatment of unmarked burial sites, the operation of the Vermont Veterans' Memorial Cemetery, and payment for burial of indigent persons.

Which was agreed to.

Thereupon, the pending question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

Message from the House No. 64

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 441. An act making appropriations for the support of government.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Heath of Westford
Rep. Larson of Burlington
Rep. Morley of Barton

Message from the House No. 65

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 442. An act relating to miscellaneous tax provisions.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Ancel of Calais
Rep. Obuchowski of Rockingham
Rep. Condon of Colchester

Rules Suspended; Bills Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 117, H. 26, H. 91, H. 438, H. 445.

Committees of Conference Appointed

H. 441.

An act making appropriations for the support of government.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Bartlett
Senator Sears
Senator Snelling

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 442.

An act relating to miscellaneous tax provisions.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings
Senator Carris
Senator Hartwell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 28, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 30.

TUESDAY, APRIL 28, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mary Mansfield of Stowe.

Pledge of Allegiance

Pages Benson May and Louisa Jerome then led the members of the Senate in the pledge of allegiance.

Message from the House No. 66

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 446. An act relating to renewable energy and energy efficiency.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

H. 287. An act relating to Uniform Prudent Management of Institutional Funds Act.

And has severally concurred therein.

The House has considered bill originating in the Senate of the following title:

S. 26. An act relating to recovery of profits from crime.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 26. Joint resolution relating to classified state employees.

In the adoption of which the concurrence of the Senate is requested.

Bill Referred to Committee on Finance

H. 86.

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to the regulation of professions and occupations.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 146.

By Senator Hartwell,

An act relating to municipal authority to regulate products in the municipal waste stream.

To the Committee on Government Operations.

Bill Referred

House bill of the following title was read the first time and referred:

H. 446.

An act relating to renewable energy and energy efficiency.

To the Committee on Natural Resources and Energy.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 33. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, May 1, 2009, it be to meet again no later than Tuesday, May 5, 2009.

Joint Resolution Placed on Calendar

J.R.H. 26.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to classified state employees.

Whereas, the executive branch and the Vermont State Employees' Association have made proposals to address the budgetary shortfall in state revenues, and

Whereas, it is extremely important that every effort be undertaken to continue the delivery of essential state services to the citizens of Vermont, and

Whereas, it appears that the executive branch and the Vermont State Employees' Association are at an impasse, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urgently requests that in an effort to resolve this impasse, the executive branch and the Vermont State Employees' Association enter into a mediation process with a completion date no later than May 5, 2009, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor James Douglas, Secretary of Administration Neale Lunderville, and Vermont State Employees' Association Executive Director Jes Kraus.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Senate Resolution Referred

S.R. 10.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Giard,

Senate resolution urging an indefinite suspension of the doe muzzle loading season in the F-1 Wildlife Management Subunit.

Whereas, 10 V.S.A. § 4081(c) provides that "an abundant healthy deer herd is a primary goal of fish and wildlife management," and

Whereas, an essential component of an abundant healthy deer herd is the presence of a sizeable population of mature male deer known as bucks, and

Whereas, there is strong anecdotal evidence that in the F-1 Wildlife Management Subunit (WMSU), which includes much of Addison County west of Route 7 and a southwestern section of Chittenden County, the buck population has decreased significantly in recent years, and

Whereas, the increasingly common destruction of wooded areas that had stood adjacent to many farm fields located in the F-1 WMSU has deprived deer of important territory in which they could grow to full maturity, and

Whereas, many fawns are killed within days of their birth due to being forced onto open hay fields because of the lack of any alternative cover and therefore placed in the direct path of agricultural spring haying operations, and

Whereas, the archery season and youth hunting weekend participants aim approximately two-thirds of their shots at fawns and does, further contributing to the decline of the buck population in the F-1 WMSU area, and

Whereas, notwithstanding these developments, the primary reason for the decline of bucks in the F-1 WMSU is the doe muzzle loading season that is provided for in 10 V.S.A. § 4084 and must occur annually “unless there is a scientific reason not to do so,” and

Whereas, the Fish and Wildlife Board, which is directed under 10 V.S.A. § 4082 to adopt rules implementing hunting and fishing seasons, has established a deer hunting muzzle loading season, “for the nine consecutive calendar days commencing on the first Saturday after the completion of the regular deer hunting season,” during which those with the requisite licenses and permits may hunt for deer “with at least one antler having two or more points” and for antlerless deer, and

Whereas, if the buck population in the F-1 WMSU is to be increased significantly, the opportunities to take either mature female does or female or male immature deer must be restricted indefinitely, *now therefore be it*

Resolved by the Senate:

That the Senate of the state of Vermont finds that the significant decline of mature bucks constitutes a scientific reason to suspend the doe muzzle loading season in the F-1 Wildlife Management Subunit, *and be it further*

Resolved: That the Senate of the state of Vermont requests the Fish and Wildlife Board to suspend indefinitely the muzzle loading season in the F-1 Wildlife Management Subunit until there is documented evidence of a significant increase in the number of bucks in the unit, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Fish and Wildlife Board.

Thereupon, the President, in his discretion, treated the resolution as a bill and referred it to the Committee on Natural Resources and Energy.

Senate Resolution Adopted

Senate resolution of the following title was offered, read and adopted, and is as follows:

By Senators Kittell and Lyons,

S.R. 11. Senate resolution commemorating equal pay day.

Whereas, over 40 years after the passage of the Equal Pay Act and Title VII of the Civil Rights Act, women and people of color continue to suffer the consequences of inequitable pay differentials, and

Whereas, in 1996, the National Committee on Pay Equity established Equal Pay Day to illustrate the gap between the wages of men and women, and

Whereas, the day is observed on a Tuesday in April to reflect the time of the year a woman must work to earn as much as a man did in the prior year, and in 2009, Equal Pay Day is being observed on April 28, and

Whereas, the Vermont Commission on Women's latest pay status report indicates that in 2008, Vermont's full-time working women earned 81.5 percent of their male counterpart's compensation, and

Whereas, over a working lifetime, this wage disparity costs the average American woman and her family \$700,000.00 to \$2 million in lost wages, affecting Social Security and pension benefits significantly, and

Whereas, members of the Vermont Business and Professional Women are visiting the state house today to call special attention to the persistent gap between the compensation that men and women earn for comparable work, and they are wearing red to symbolize women being in the red, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont commemorates Equal Pay Day and expresses its continuing support for women being compensated as equally as men are for comparable work, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to Kim Bina, president of Vermont Business and Professional Women.

Consideration Postponed

Senate bill entitled:

S. 99.

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

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Consideration Postponed

House bill entitled:

H. 249.

An act relating to volunteer nonprofit service organizations and casino nights.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Bill Passed in Concurrence**H. 64.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to eligibility for the state youth hunting programs.

Proposals of Amendment; Third Reading Ordered**H. 6.**

Senator McCormack, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the sale of engine coolants and antifreeze.

Reported recommending that the Senate propose to the House to amend the bill as follows

First: In Sec. 2, 9 V.S.A. § 2843, by striking out the last sentence and inserting in lieu thereof the following:

This section does not provide immunity to any person to the extent that the cause of liability is unrelated to the inclusion of denatonium benzoate in any engine coolant or antifreeze

Second: In Sec. 2, 9 V.S.A. § 2844, by striking out § 2844 in its entirety and inserting in lieu thereof a new § 2844 to read as follows:

§ 2844. EXCEPTIONS

This subchapter does not apply to:

(1) The sale of a motor vehicle that contains engine coolant or antifreeze; or

(2) Antifreeze or engine coolant for use in a manufacturing process, provided that the manufacturer complies with occupational safety and health standards for the use of the antifreeze or engine coolant and complies with the agency of natural resources for the disposal of antifreeze or engine coolant containing ethylene glycol.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 31.

Joint Senate resolution entitled:

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumers are assessed.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Joint Resolution Referred

J.R.S. 32.

Joint Senate resolution entitled:

Joint resolution authorizing the commissioner of forests, parks and recreation to enter into land exchanges and to sell a portion of Camel's Hump State Park.

Having been placed on the Calendar for action, was taken up and pending the question, Shall the joint Senate resolution be adopted on the part of the Senate?, on motion of Senator Scott, the joint resolution was referred to the Committee on Institutions.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the Senate:

By Senators Doyle, Cummings, Nitka and Scott,

S.C.R. 22.

Senate concurrent resolution congratulating the Agency of Agriculture, Food and Markets' "Agriview" newspaper on its 70th anniversary.

By Senators Maynard, Carris, Mullin, Ashe, Ayer, Brock, Campbell, Cummings, Doyle, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr and White,

By Representative Smith and others,

S.C.R. 23.

Senate concurrent resolution in memory of Andrea Mead Lawrence.

By Senator Lyons,

S.C.R. 24.

Senate concurrent resolution in memory of University of Vermont Professor Emeritus Everett W. Harris of Charlotte.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Pugh and others,

H.C.R. 120.

House concurrent resolution congratulating Jay Hoffman and his students who produce the South Burlington Network News at Frederick H. Tuttle Middle School.

By Representative Bohi and others,
By Senators Campbell, McCormack and Nitka,

H.C.R. 121.

House concurrent resolution congratulating the Hartford High School debaters participating in the national forensic championship.

By Representative Marek and others,
By Senators Shumlin and White,

H.C.R. 122.

House concurrent resolution congratulating Grace Cottage Hospital on its 60th anniversary.

By Representative Obuchowski and others,

H.C.R. 123.

House concurrent resolution congratulating Pat and Alan Fowler as recipients of the 2009 Great Falls Regional Chamber of Commerce Persons of the Year award.

By Representative Obuchowski and others,

H.C.R. 124.

House concurrent resolution honoring Rose Fowler for her innovative leadership at Greater Rockingham Area Services Inc.

By Representatives Moran and Hube,

H.C.R. 125.

House concurrent resolution honoring Dover School principal Susan Mach for her career contributions to public education.

By Representatives Kitzmiller and Hooper,
By Senators Doyle, Cummings and Scott,

H.C.R. 126.

House concurrent resolution in memory of Margaret Jean George of Montpelier.

By Representative Pugh and others,

H.C.R. 127.

House concurrent resolution congratulating the Rick Marcotte Central School teams that participated in the 2009 Vermont Odyssey of the Mind competition.

By Representative Condon and others,

By Senator Mazza,

H.C.R. 128.

House concurrent resolution congratulating Claussen Enterprises, Inc. of Colchester on being named the 2008 Vermont Retailer of the Year.

By Representative Acinapura,

H.C.R. 129.

House concurrent resolution congratulating John D. Dilts on the completion of his outstanding career in public education.

By Representative Burke and others,

H.C.R. 130.

House concurrent resolution congratulating Mike Friel on being named the 2009 Vermont Elementary School Principal of the Year.

By Representative O'Donnell,

H.C.R. 131.

House concurrent resolution congratulating Nick Cain of Vernon on being named the 2009 Vermont Boys & Girls Clubs Vermont State Youth of the Year.

By Representatives Hube and Komline,

H.C.R. 132.

House concurrent resolution congratulating the 2009 Green Up poster winners from the Flood Brook Union School in Londonderry.

By Representative Crawford,

H.C.R. 133.

House concurrent resolution congratulating Xin Hu of St. Johnsbury Academy on being named a 2009 Vermont student winner of the Siemens Award for Advanced Placement.

By Representative Crawford and others,

By Senators Choate and Kitchel,

H.C.R. 134.

House concurrent resolution congratulating Dr. Kimberly Silloway on her induction into the Vermont Principals' Association Hall of Fame.

By Representative Crawford and others,

By Senators Choate and Kitchel,

H.C.R. 135.

House concurrent resolution honoring the late James Burlingame on his posthumous induction into the Vermont Principals' Hall of Fame.

By Representative Mrowicki and others,

By Senators Shumlin and White,

H.C.R. 136.

House concurrent resolution congratulating the 2008-2009 two-year college All-Vermont Academic Team.

By Representative Miller and others,

By Senators Hartwell, Sears and Shumlin,

H.C.R. 137.

House concurrent resolution in memory of Dr. Elizabeth C. Faris.

By Representative Wilson and others,

By Senators Hartwell and Sears,

H.C.R. 138.

House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship basketball team.

By Representative Wilson and others,

By Senators Hartwell and Sears,

H.C.R. 139.

House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship ice hockey team.

By Representative Wilson and others,

By Senators Hartwell and Sears,

H.C.R. 140.

House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 championship boys' alpine ski team.

By Representative Wilson and others,

By Senators Hartwell and Sears,

H.C.R. 141.

House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 girls' championship snowboarding team.

By Representative Peltz and others,

H.C.R. 142.

House concurrent resolution honoring Vermont's elementary, middle, and secondary school principals and assistant principals and technical center directors on Vermont Principal Recognition Day at the state house.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until four o'clock in the afternoon on Wednesday, April 29, 2009.

WEDNESDAY, APRIL 29, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 67

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 443. An act relating to approval of amendments to the charter of the City of South Burlington.

H. 448. An act relating to codification and approval of amendments to the charter of the village of Swanton.

H. 451. An act relating to the approval of amendments to the charter of the city of Burlington.

In the passage of which the concurrence of the Senate is requested.

The House has considered bill originating in the Senate of the following title:

S. 94. An act relating to licensing state forestland for maple sugar production.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on the April 20, 2009, he approved and signed bill originating in the House of the following title:

H. 95. An act relating to the approval of an amendment to the charter of the city of Burlington.

The Governor has informed the House that on the April 23, 2009, he approved and signed bill originating in the House of the following title:

H. 31. An act relating to approval of amendments to the charter of the town of Williston.

The Governor has informed the House that on the April 24, 2009, he approved and signed bills originating in the House of the following titles:

H. 36. An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

H. 131. An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

The Governor has informed the House that on the April 27, 2009, he approved and signed bill originating in the House of the following title:

H. 232. An act relating to fiscal year 2009 budget adjustment.

Message from the House No. 68

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 438. An act relating to the state's transportation program.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Westman of Cambridge
Rep. Potter of Clarendon
Rep. Brennan of Colchester

The House has considered Senate proposals of amendment to House bill entitled:

H. 445. An act relating to capital construction and state bonding.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Emmons of Springfield
Rep. Myers of Essex
Rep. Rodgers of Glover

Message from the House No. 69

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 120. House concurrent resolution congratulating Jay Hoffman and his students who produce the South Burlington Network News at Frederick H. Tuttle Middle School.

H.C.R. 121. House concurrent resolution congratulating the Hartford High School debaters participating in the national forensic championship.

H.C.R. 122. House concurrent resolution congratulating Grace Cottage Hospital on its 60th anniversary.

H.C.R. 123. House concurrent resolution congratulating Pat and Alan Fowler as recipients of the 2009 Great Falls Regional Chamber of Commerce Persons of the Year award.

H.C.R. 124. House concurrent resolution honoring Rose Fowler for her innovative leadership at Greater Rockingham Area Services Inc.

H.C.R. 125. House concurrent resolution honoring Dover School principal Susan Mach for her career contributions to public education.

H.C.R. 126. House concurrent resolution in memory of Margaret Jean George of Montpelier.

H.C.R. 127. House concurrent resolution congratulating the Rick Marcotte Central School teams that participated in the 2009 Vermont Odyssey of the Mind competition.

H.C.R. 128. House concurrent resolution congratulating Claussen Enterprises, Inc. of Colchester on being named the 2008 Vermont Retailer of the Year.

H.C.R. 129. House concurrent resolution congratulating John D. Dilts on the completion of his outstanding career in public education.

H.C.R. 130. House concurrent resolution congratulating Mike Friel on being named the 2009 Vermont Elementary School Principal of the Year.

H.C.R. 131. House concurrent resolution congratulating Nick Gain of Vernon on being named the 2009 Vermont Boys & Girls Clubs Vermont State Youth of the Year.

H.C.R. 132. House concurrent resolution congratulating the 2009 Green Up poster winners from the Flood Brook Union School in Londonderry.

H.C.R. 133. House concurrent resolution congratulating Xin Hu of St. Johnsbury Academy on being named a 2009 Vermont student winner of the Siemens Award for Advanced Placement.

H.C.R. 134. House concurrent resolution congratulating Dr. Kimberly Silloway on her induction into the Vermont Principals' Association Hall of Fame.

H.C.R. 135. House concurrent resolution honoring the late James Burlingame on his posthumous induction into the Vermont Principals' Hall of Fame.

H.C.R. 136. House concurrent resolution congratulating the 2008-2009 two-year college All-Vermont Academic Team.

H.C.R. 137. House concurrent resolution in memory of Dr. Elizabeth C. Faris.

H.C.R. 138. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship basketball team.

H.C.R. 139. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 Division II girls' championship ice hockey team.

H.C.R. 140. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 championship boys' alpine ski team.

H.C.R. 141. House concurrent resolution congratulating the Burr and Burton Academy Bulldogs 2009 girls' championship snowboarding team.

H.C.R. 142. House concurrent resolution honoring Vermont's elementary, middle, and secondary school principals and assistant principals and technical center directors on Vermont Principal Recognition Day at the state house.

In the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 25. Joint resolution relating to public decorum at proceedings related to the current and future operations of the Vermont Yankee nuclear power plant in Vernon.

In the adoption of which the concurrence of the Senate is requested.

The House has considered bills originating in the Senate of the following titles:

S. 7. An act to prohibit the use of lighted tobacco products in the workplace.

S. 27. An act relating to tastings and sale of wines, fortified wines and spirits.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 22. Senate concurrent resolution congratulating the Agency of Agriculture, Food and Markets' "Agriview" newspaper on its 70th anniversary.

S.C.R. 23. Senate concurrent resolution in memory of Andrea Mead Lawrence.

S.C.R. 24. Senate concurrent resolution in memory of University of Vermont Professor Emeritus Everett W. Harris of Charlotte.

And has adopted the same in concurrence.

Message from the House No. 70

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 26. An act relating to plans for treatment of unmarked burial sites.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Head of South Burlington
Rep. Baker of West Rutland
Rep. Ram of Burlington

Pursuant to the request of the Senate for a Committee of Conference on House bill entitled:

H. 91. An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

The Speaker appointed as members of such Committee on the part of the House:

Rep. Haas of Rochester
Rep. O'Donnell of Vernon
Rep. Pugh of South Burlington

The House has considered bill originating in the Senate of the following title:

S. 86. An act relating to the administration of trusts.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 33. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bill Referred to Committee on Appropriations

H. 83.

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to underground storage tanks and the petroleum cleanup fund.

Rules Suspended; Committee Relieved of Further Consideration; Bills Committed

H. 92.

On motion of Senator Campbell, the rules were suspended, and H. 92 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to rent-to-own agreements,

and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

H. 192.

On motion of Senator Campbell, the rules were suspended, and H. 192 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to electronic benefit machines for farmers' markets,

and the bill was committed to the Committee on Agriculture.

H. 405.

On motion of Senator Campbell, the rules were suspended, and H. 405 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to K-12 and higher education partnerships,

and the bill was committed to the Committee on Education.

H. 447.

On motion of Senator Campbell, the rules were suspended, and H. 447 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to wetlands protection,

and the bill was committed to the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 443.

An act relating to approval of amendments to the charter of the City of South Burlington.

To the Committee on Government Operations.

H. 448.

An act relating to codification and approval of amendments to the charter of the village of Swanton.

To the Committee on Government Operations.

H. 451.

An act relating to the approval of amendments to the charter of the city of Burlington.

To the Committee on Government Operations.

Joint Resolution Referred

J.R.H. 25.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to public decorum at proceedings related to the current and future operations of the Vermont Yankee nuclear power plant in Vernon.

Whereas, on Thursday, April 16, 2009, the U.S. Nuclear Regulatory Commission convened a public meeting in Brattleboro to discuss its annual assessment of the Vermont Yankee nuclear power plant in Vernon, and

Whereas, the current and future operations of Vermont Yankee are extremely contentious issues, over which members of the public have strongly divergent opinions, and

Whereas, although many members of the audience had views the opposite of those that the NRC expressed in its stated findings, these disagreements did not justify opponents of the commission's positions abandoning civil discourse and behavior during the course of the meeting, and

Whereas, throwing a handful of compost at officials of the Entergy Corporation and depositing other piles of the food waste in front of NRC officials did not advance the public discussion, and

Whereas, it is possible to express strong and vociferous dissenting views without engaging in unseemly and unnecessary theatrics, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly requests all participants at proceedings related to the current and future operations of Vermont Yankee to refrain from crude and unseemly behavior and that they express their opinions in a civilized manner, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Nuclear Regulatory Commission and to Vermont Yankee.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Rules.

Senate Resolution Placed on Calendar

S.R. 12.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Shumlin, Snelling, Starr and White,

S.R. 12. Senate resolution designating the third week in October of 2009 as disability history week.

Whereas, according to the United States Census, one in five Vermonters has a disability, and disability experience is a significant part of the of the personal and social lives of these Vermonters and their families, and

Whereas, while disability rates are declining in older adults, they are increasing among younger Vermonters, and the overall number of individuals with disabilities living in the community is increasing, and

Whereas, Vermont citizens and the General Assembly share a proud history of promoting equal rights and opportunities for individuals with disabilities in education, employment, and community life, and

Whereas, Vermont remains committed to ensuring that persons with disabilities benefit equally from the values of freedom and unity that underlie our state's laws and constitution, and

Whereas, the Americans with Disabilities Act of 1990 is founded on four principles—inclusion, full participation, economic self-sufficiency, and equality of opportunity for all people with disabilities, and

Whereas, to ensure the full inclusion of people with disabilities into society, it is necessary to expand public knowledge, awareness and understanding of the history of disabilities and the disability rights, deaf culture, independent living, and self-advocacy movements, and of disability as a natural part of the human experience, and

Whereas, it is desirable that Vermont's public elementary, secondary and postsecondary educational institutions promote activities that provide education, awareness and understanding regarding people with disabilities through their curriculum offerings, assemblies and other activities, and

Whereas, cooperation between educational institutions and community-based organizations as a way to promote equality of opportunity and full participation of individuals with disabilities in the social, educational, economic and political life of our communities should be encouraged and promoted throughout the state, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont designates the third week in October as disability history week in Vermont, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Coalition for Disability Rights in Montpelier.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

Committees of Conference Appointed**H. 26.**

An act relating to plans for treatment of unmarked burial sites.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Illuzzi
Senator Ashe
Senator Carris

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 438.

An act relating to the state's transportation program.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza
Senator Scott
Senator Kitchel

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 445.

An act relating to capital construction and state bonding.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Scott
Senator Mazza
Senator Campbell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bill Committed**S. 137.**

Pending entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to the Vermont recovery and reinvestment act of 2009.

Was taken up for immediate consideration.

Thereupon, pending the reading of the reports of the Committee on Natural Resources and Energy and the Committee on Finance, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Natural Resources and Energy and the Committee on Finance *intact*,

Which was agreed to.

Consideration Postponed

Senate bill entitled:

S. 99.

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

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Bill Passed in Concurrence

H. 249.

House bill of the following title:

An act relating to volunteer nonprofit service organizations and casino nights.

Was read the third time and passed in concurrence with proposal of amendment on a division of the Senate, Yeas 13, Nays 4

Consideration Postponed

House bill entitled:

H. 6.

An act relating to the sale of engine coolants and antifreeze.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Rules Suspended; House Proposal of Amendment Concurred In; Rules Suspended; Bill Delivered

S. 27.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to tastings and sale of wines, fortified wines and spirits.

Was taken up for immediate consideration.

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

Sec. 1. 7 V.S.A. § 2(15), (16), (27), and (28) are amended to read:

(15) “Manufacturer’s or rectifier’s license”: a license granted by the liquor control board that permits the holder to manufacture or rectify, as the case may be, malt beverages and vinous beverages for export and for sale to bottlers or wholesale dealers, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this title for either license. The liquor control board may grant to a licensed manufacturer or rectifier a first class restaurant or cabaret license or first and third class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s premises. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverages by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The liquor control board may grant to a licensed manufacturer or a rectifier of malt or vinous beverages a second class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s or rectifier’s premises. A licensed manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on premises of the licensee or the vineyard property, vinous and malt beverages, provided the licensee gives the department written notice of the event, including details required by the department, at least 15 days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer. Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers’ market licenses permitting the licensee to sell ~~these~~ fortified wines and vinous beverages by the bottle to the public at the licensed premises or at a farmers’ market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers’ market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers’ market license shall include copies of the farmers’ market regulations, the agreement between the farmers’ market and the applicant, and the location and dates of operation of the farmers’ market. A farmers’ market license shall be valid for all dates of operation for a specific farmers’ market location. However, in no

case may a person with an interest in more than one manufacturer's or rectifier's license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of \$0.265 cents per gallon for every gallon of malt beverage and the sum of \$0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control at least 10 days prior to the date of the tasting. A licensed manufacturer or rectifier of spirits may do either or both of the following only on the manufacturer's or rectifier's premises:

(A) Sell by the glass or bottle to the public spirits manufactured by the licensee.

(B) Dispense by the glass, with or without charge, spirits manufactured by the licensee, provided that no more than one-quarter ounce per product and no more than one ounce in total is dispensed to each individual of legal age.

(16) "Person," as applied to licensees: means individuals who are both citizens and residents of the state of the United States, partnerships composed solely of individuals, a majority of whom are both citizens and residents of the state United States, and to corporations organized under the laws of this or another state whereof in which a majority of the directors are both citizens of the United States and residents of this state, or to corporations subject to the jurisdiction of the public service board, and to limited liability companies organized under the laws of this or another state in which a majority of the members or managers are both citizens of the United States and residents of this state.

* * *

(27) "Special events permit": a permit granted by the liquor control board permitting a person holding a manufacturer's or rectifier's license to attend an event open to the public, which has been approved by the local

licensing authority, to sell by the glass or by unopened bottle ~~the spirits,~~ malt, or vinous ~~beverage~~ beverages manufactured or rectified by the license holder. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder, provided that the permit holder distributes no more than two ounces per product and eight ounces total of malt or vinous beverages and no more than one ounce in total of spirits to individuals of legal age. No more than 12 special events' permits shall be issued to a holder of a manufacturer's or rectifier's license during a year. The fee for the permit is as required by subdivision 231(13) of this title, and shall be paid to the department of liquor control. Requests for a special events' permit shall be submitted to the department of liquor control and received by the department at least 15 days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's 12 special-event-permit limitation.

(28) "Fourth class license": the license granted by the liquor control board permitting a manufacturer or rectifier of vinous beverages to sell fortified wines manufactured by the licensed manufacturer or rectifier and vinous beverages by the bottle and distribute, with or without charge, ~~vinous~~ those beverages by the glass as hereinbefore defined.

* * *

Sec. 2. 7 V.S.A. § 223 is amended to read:

§ 223. ~~FIRST AND SECOND CLASS LICENSES; RESIDENCE REQUIREMENTS; LICENSES TO ENFORCEMENT OFFICER OR CONTROL BOARD MEMBER; EXCEPTIONS~~

~~(a) No first or second class license for the sale of malt or vinous beverages shall be granted to an individual, unless the individual is, at the time of application, a legal resident of the town or city in which the application is made. No first or second class license shall be granted to a partnership unless one or more of its general partners is a legal resident of the town or city in which the application is made and a majority of the partners are both legal residents of Vermont and U.S. citizens. No license of any class shall be granted to any enforcement officer or to any person or corporation acting in his or her the officer's behalf. A member of a local control board to whom or in behalf of whom a first or second class license was issued by that board shall not participate in any control board action regarding any first or second class license. If a majority of the members of a local control board is unable to participate in a control board action regarding any first or second class license, that action shall be referred to the state liquor control board for investigation~~

and action. An application for a first or second class license by or in behalf of a member of the local control board or a complaint or disciplinary action regarding a first or second class license issued by a board on which any member is a licensee shall be referred to the state liquor control board for investigation and action. ~~The provisions of this section, however, shall not apply where application is made by a citizen and legal resident of a town or city in Vermont for a license to sell malt or vinous beverages in a town or city wherein he or she is not a legal resident, provided such applicant owns improved real estate or personal property other than stock of goods for sale in the town wherein such license is to be issued upon which he or she pays taxes appraised by the listers at not less than \$2,500.00 on real estate or \$1,000.00 on personal property. The provisions of this title shall not apply to an individual who applies for a license to be used at the site of flood control projects or national guard encampments whose application is approved by the commanding officer thereof.~~

~~(b) A second class license may be granted, however, where an application is made by a citizen and legal resident of any town or city in the state and who has openly conducted a place of business in such town or city in which the application is made for one year next prior to the making of the application, or who has purchased a going business which has been conducted openly in such town or city for a period of one year next prior to the making of the application, and who is a legal resident of the town or city in which he resides~~

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered delivered to the Governor forthwith.

House Proposal of Amendment Concurred In with Amendment

S. 26.

House proposal of amendment to Senate bill entitled:

An act relating to recovery of profits from crime.

Was taken up.

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

Sec. 1. 13 V.S.A. § 5351(8) is added to read:

(8) "Profits from crimes" means:

(A) any property obtained through or income generated from the commission of a crime in which the defendant was convicted;

(B) any property obtained by or income generated from the sale, conversion, or exchange of proceeds of a crime, including any gain realized by such sale, conversion, or exchange;

(C) any property that the defendant obtained or any income generated as a result of having committed the crime, including any assets obtained through the use of unique knowledge acquired during the commission of or in preparation for the commission of the crime, as well as any property obtained or income generated from the sale, conversion, or exchange of such property and any gain realized by such sale, conversion, or exchange, and

(d) any property defendant obtained or any income generated from the sale of tangible property the value of which is increased by the notoriety gained from the conviction of an offense by the person accused or convicted of the crime.

Sec. 2. 13 V.S.A. chapter 167, subchapter 4 is added to read:

Subchapter 4. Profits from Crime

§ 5421. NOTICE OF PROFITS FROM A CRIME

(a) Every person, firm, corporation, partnership, association, or other legal entity which knowingly contracts for, pays, or agrees to pay any profits from a crime, as defined in subdivision 5351(8) of this title, to a person charged with or convicted of that crime shall give written notice to the attorney general of the payment or obligation to pay as soon as is practicable after discovering that the payment is or will be a profit from a crime.

(b) The attorney general, upon receipt of notice of a contract, agreement to pay, or payment of profits of the crime shall send written notice of the existence of such profits to all known victims of the crime at their last known addresses.

§ 5422. ACTIONS TO RECOVER PROFITS FROM A CRIME

(a) Notwithstanding any other provision of law, including any statute of limitations, any crime victim shall have the right to bring a civil action in a court of competent jurisdiction to recover money damages from a person convicted of that crime, or the legal representative of that convicted person, within three years of the discovery of any profits from the crime. Any damages awarded in such action shall be recoverable only up to the value of the profits of the crime. This section shall not limit the right of a victim to proceed or recover under another cause of action.

(b) The attorney general may, within three years of the discovery of any profits from the crime, bring a civil action on behalf of the state to enforce the subrogation rights described in section 5357 of this title.

(c) If the full value of any profits from the crime has not yet been claimed by either the victim of the crime or the victim's representative, the attorney general, or both, within three years of the discovery of such profits, then the state may bring a civil action in a court of competent jurisdiction to recover the costs incurred by providing the defendant with counsel, if any, and other costs reasonably incurred or to be incurred in the incarceration of the defendant.

(d) Upon the filing of an action pursuant to subsection (a) of this section, the victim shall deliver a copy of the summons and complaint to the attorney general. Upon receipt of a copy of the summons and complaint, the attorney general shall send written notice of the alleged existence of profits from the crime to all other known victims at their last known addresses.

(e) To avoid the wasting of assets identified in the complaint as newly discovered profits of the crime, the attorney general, acting on behalf of the plaintiff and all other victims, shall have the right to apply for all remedies that are also otherwise available to the victim.

Sec. 3. 14 V.S.A. chapter 85 is added to Part 3 to read:

CHAPTER 85. GENERAL PRINCIPLES

§ 1971. INTENTIONAL KILLING; OFFENDER NOT TO BENEFIT

(a) The acquisition of any property, interest, power, or benefit by a person as the result of the person's commission of an intentional and unlawful killing shall be treated in accordance with the principle that a killer cannot profit from his or her wrong, and a court shall have the power to distribute, reform, revoke, or otherwise dispose of such property, interest, power, or benefit in accord with the principles of this section.

(b) This section shall apply retroactively to any property, interest, power, or benefit acquired as the result of the commission of an intentional and unlawful killing committed prior to the effective date of this act.

Sec. 4. REPEAL

Chapters 41, 43, and 45 of Title 14 are repealed.

Sec. 5. 14 V.S.A. chapter 42 is added to Part 2 to read:

CHAPTER 42. DESCENT AND SURVIVORS' RIGHTS

Subchapter 1. General Provisions

§ 301. INTESTATE ESTATE

(a) Any part of a decedent's estate not effectively disposed of by will passes by intestate succession to the decedent's heirs, except as modified by the decedent's will.

(b) A decedent's will may expressly exclude or limit the right of an individual or a class to inherit property. If such an individual or member of such a class survives the decedent, the share of the decedent's intestate estate which would have passed to that individual or member of such a class passes subject to any such limitation or exclusion set forth in the will.

(c) Nothing in this section shall preclude the surviving spouse of the decedent from making the election and receiving the benefits provided by section 319 of this title.

§ 302. DOWER AND CURTESY ABOLISHED

The estates of dower and curtesy are abolished.

§ 303. AFTERBORN HEIRS

For purposes of this chapter and chapter 1 of this title relating to wills, an individual in gestation at a particular time is treated as living at that time if the individual lives 120 hours or more after birth.

Subchapter 2. Survivors' Rights and Allowances§ 311. SHARE OF SURVIVING SPOUSE

After payment of the debts, funeral charges, and expenses of administration, the intestate share of the decedent's surviving spouse is as follows:

(1) The surviving spouse shall receive the entire intestate estate if no descendant of the decedent survives the decedent or if all of the decedent's surviving descendants are also descendants of the surviving spouse.

(2) In the event there shall survive the decedent one or more descendants of the decedent who are not descendants of the surviving spouse and are not excluded by the decedent's will from inheriting from the decedent, the surviving spouse shall receive one-half of the intestate estate.

§ 312. SURVIVING SPOUSE TO RECEIVE HOUSEHOLD GOODS

Upon motion, the surviving spouse of a decedent may receive out of the decedent's estate all furnishings and furniture in the decedent's household when the decedent leaves no descendants who object. If any objection is made by any of the descendants, the court shall decide what, if any, of such personalty shall pass under this section. Goods and effects so assigned shall be in addition to the distributive share of the estate to which the surviving spouse

is entitled under other provisions of law. In making a determination pursuant to this section, the court may consider the length of the decedent's marriage, or civil union, the sentimental and monetary value of the property, and the source of the decedent's interest in the property.

§ 313. SURVIVING SPOUSE; VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

Whenever the estate of a decedent who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle, and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register the vessel, snowmobile, or all-terrain vehicle pursuant to section 3816 of Title 23.

§ 314. SHARE OF HEIRS OTHER THAN SURVIVING SPOUSE

(a) The balance of the intestate estate not passing to the decedent's surviving spouse under section 311 of this title passes to the decedent's descendants by right of representation.

(b) If there is no taker under subsection (a) of this section, the intestate estate passes in the following order:

(1) to the decedent's parents equally if both survive or to the surviving parent;

(2) to the decedent's siblings and the descendants of any deceased siblings by right of representation;

(3) one-half of the intestate estate to the decedent's paternal grandparents equally if they both survive or to the surviving paternal grandparent and one-half of the intestate estate to the decedent's maternal grandparents equally if they both survive or to the surviving maternal grandparent and if decedent is survived by a grandparent, or grandparents on only one side, to that grandparent or those grandparents;

(4) in equal shares to the next of kin in equal degree.

(c) If property passes under this section by right of representation, the property shall be divided into as many equal shares as there are children or siblings of the decedent, as the case may be, who either survive the decedent or who predecease the decedent leaving surviving descendants.

§ 315. PARENT AND CHILD RELATIONSHIP

For the purpose of intestate succession, an individual is the child of his or her parents, regardless of their marital status, but a parent shall not inherit from a child unless the parent has openly acknowledged the child and not refused to

support the child. The parent and child relationship may be established in parentage proceedings under subchapter 3A of chapter 5 of Title 15.

§ 316. SUPPORT OF SURVIVING SPOUSE AND FAMILY DURING SETTLEMENT

The probate court may make reasonable allowance for the expenses of maintenance of the surviving spouse and minor children or either, constituting the family of a decedent, out of the personal estate or the income of real or personal estate from date of death until settlement of the estate, but for no longer a period than until their shares in the estate are assigned to them or, in case of an insolvent estate, for not more than eight months after administration is granted. This allowance may take priority, in the discretion of the court, over debts of the estate.

§ 317. ALLOWANCE TO CHILDREN BEFORE PAYMENT OF DEBTS

When a person dies leaving children under 18 years of age, an allowance may be made for the necessary maintenance of such children until they become 18 years of age. Such allowance shall be made before any distribution of the estate among creditors, heirs, or beneficiaries by will.

§ 318. ALLOWANCE TO CHILDREN AFTER PAYMENT OF DEBTS

Before any partition or division of an estate among the heirs or beneficiaries by will, an allowance may be made for the necessary expenses of the support of the children of the decedent under 18 years of age until they arrive at that age. The probate court may order the executor or administrator to retain sufficient estate assets for that purpose, except where some provision is made by will for their support.

§ 319. WAIVER OF WILL BY SURVIVING SPOUSE

(a) A surviving spouse may waive the provisions of the decedent's will and in lieu thereof elect to take one-half of the balance of the estate, after the payment of claims and expenses.

(b) The surviving spouse must be living at the time this election is made. If the surviving spouse is mentally disabled and cannot make the election personally, a guardian or attorney in fact under a valid durable power of attorney may do so.

§ 320. EFFECT OF DIVORCE ORDER

A final divorce order from any state shall have the effect of nullifying a gift by will or inheritance by operation of law to an individual who was the decedent's spouse at the time the will was executed if the decedent was no

longer married to or in a civil union with that individual at the time of death, unless his or her will specifically states to the contrary.

§ 321. CONVEYANCES TO DEFEAT SPOUSE'S INTEREST

A voluntary transfer of any property by an individual during a marriage or civil union and not to take effect until after the individual's death, made without adequate consideration and for the primary purpose of defeating a surviving spouse in a claim to a share of the decedent's property so transferred, shall be void and inoperative to bar the claim. The decedent shall be deemed at the time of his or her death to be the owner and seised of an interest in such property sufficient for the purpose of assigning and setting out the surviving spouse's share.

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case where an individual is entitled to inherit or receive property under the last will of a decedent, or otherwise, such individual's share in the decedent's estate shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if such person intentionally and unlawfully kills the decedent. In any proceedings to contest the right of an individual to inherit or receive property under a will, the record of such person's conviction of intentionally and unlawfully killing the decedent shall be admissible evidence that such person did intentionally kill the decedent.

Subchapter 3. Descent, Omitted Issue, and Lapsed Legacies

§ 331. DEGREES; HOW COMPUTED: KINDRED OF HALF-BLOOD

Kindred of the half-blood shall inherit the same share they would inherit if they were of the whole blood.

§ 332. SHARE OF AFTERBORN CHILD

When a child of a testator is born after the making of a will and provision is not therein made for that child, he or she shall have the same share in the estate of the testator as if the testator had died intestate unless it is apparent from the will that it was the intention of the testator that provision should not be made for the child.

§ 333. SHARE OF CHILD OR DESCENDANT OF CHILD OMITTED FROM WILL

When a testator omits to provide in his or her will for any of his or her children, or for the descendants of a deceased child, and it appears that the omission was made by mistake or accident, the child or descendants, as the

case may be, shall have and be assigned the same share of the estate of the testator as if the testator had died intestate.

§ 334. AFTERBORN AND OMITTED CHILD; FROM WHAT PART OF ESTATE SHARE TAKEN

When a share of a testator's estate is assigned to a child born after the making of a will, or to a child or the descendant of a child omitted in the will, the share shall be taken first from the estate not disposed of by the will, if there is any. If that is not sufficient, so much as is necessary shall be taken from the devisees or legatees in proportion to the value of the estate they respectively receive under the will. If the obvious intention of the testator, as to some specific devise, legacy, or other provision in the will, would thereby be defeated, the specific devise, legacy, or provision may be exempted from such apportionment and a different apportionment adopted in the discretion of the court.

§ 335. BENEFICIARY DYING BEFORE TESTATOR: DESCENDANTS TO TAKE

When a testamentary gift is made to a child or other kindred of the testator, and the designated beneficiary dies before the testator, leaving one or more descendants who survive the testator, such descendants shall take the gift that the designated beneficiary would have taken if he or she had survived the testator, unless a different disposition is required by the will.

§ 336. INDIVIDUAL ABSENT AND UNHEARD OF; SHARE OF ESTATE

If an individual entitled to a distributive share of the estate of a decedent is absent and unheard of for six years, two of which are after the death of the decedent, the probate court in which the decedent's estate is pending may order the share of the absent individual distributed in accordance with the terms of the decedent's will or the laws of intestacy as if such absent individual had not survived the decedent. If the absent individual proves to be alive, he or she shall be entitled to the share of the estate notwithstanding prior distribution, and may recover in an action on this statute any portion thereof which any other individual received under order. Before an order is made for the payment or distribution of any money or estate as authorized in this section, notice shall be given as provided by the Vermont Rules of Probate Procedure.

§ 337. REQUIREMENT THAT INDIVIDUAL SURVIVE DECEDENT FOR 120 HOURS

Except as provided in the decedent's will, an individual who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent for purposes of homestead allowance, exempt property, intestate succession, and taking under decedent's will, and the decedent's heirs and beneficiaries shall

be determined accordingly. If it is not established by clear and convincing evidence that an individual who would otherwise be an heir or beneficiary survived the decedent by 120 hours, it is deemed that the individual failed to survive for the required period. This section is not to be applied if its application would result in escheat.

§ 338. DISTRIBUTION; ORDER IN WHICH ASSETS APPROPRIATED; ABATEMENT

(a)(1) Except as provided in subsection (b) of this section, shares of distributees given under a will abate, without any preference or priority as between real and personal property, in the following order:

- (A) property not disposed of by the will;
- (B) residuary devises and bequests;
- (C) general devises and bequests;
- (D) specific devises and bequests.

(2) For purpose of abatement, a general devise or bequest charged on any specific property or fund is a specific devise or bequest to the extent of the value of the property on which it is charged, and upon the failure or insufficiency of the property on which it is charged, a general devise or bequest to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

(b) If the will expresses an order of abatement or if the testamentary plan or the express or implied purpose of a devise or bequest would be defeated by the order of abatement listed in subsection (a) of this section, the shares of the distributees shall abate as may be necessary to give effect to the intention of the testator.

(c) If the subject of a preferred devise or bequest is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in, or contribution from, other interests in the remaining assets.

Sec. 6. 23 V.S.A. § 2023 is amended to read:

§ 2023. TRANSFER OF INTEREST IN VEHICLE

(a) If an owner transfers his or her interest in a vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate or as the commissioner prescribes, and of the odometer reading or hubometer reading or clock meter reading of

the vehicle at the time of delivery in the space provided therefor on the certificate, and cause the certificate and assignment to be mailed or delivered to the transferee or to the commissioner. Where title to a vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

- (1) TEN ENT (tenants by the entirety);
- (2) JTEN (joint tenants);
- (3) TEN COM (tenants in common); ~~or~~
- (4) PTNRS (partners); or
- (5) TOD (transfer on death).

(b) Upon request of the owner or transferee, a lienholder in possession of the certificate of title shall, unless the transfer was a breach of his or her security agreement, either deliver the certificate to the transferee for delivery to the commissioner or, upon receipt from the transferee of the owner's assignment, the transferee's application for a new certificate and the required fee, mail or deliver them to the commissioner. The delivery of the certificate does not affect the rights of the lienholder under his security agreement.

(c) If a security interest is reserved or created at the time of the transfer, the certificate of title shall be retained by or delivered to the person who becomes the lienholder, and the parties shall comply with the provisions of section 2043 of this title.

(d) Except as provided in section 2024 of this title and as between the parties, a transfer by an owner is not effective until the provisions of this section and section 2026 of this title have been complied with; however, an owner who has delivered possession of the vehicle to the transferee and has complied with the provisions of this section and section 2026 of this title requiring action by him or her is not liable as owner for any damages thereafter resulting from operation of the vehicle.

(e) Notwithstanding other provisions of the law, whenever the estate of an individual who dies intestate consists principally of an automobile, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the same shall automatically and by virtue hereof pass to said surviving spouse. Registration of the vehicle in the name of the surviving spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(1) Notwithstanding other provisions of the law, and except as provided in subdivision (2) of this subsection, whenever the estate of an individual consists in whole or in part of a motor vehicle, and the person's will or other

testamentary document does not specifically address disposition of motor vehicles, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the motor vehicle shall automatically pass to the surviving spouse. Registration and title of the motor vehicle in the name of the surviving spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(2) This subsection shall apply to no more than two motor vehicles, and shall not apply if the motor vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

(f) Where the title identifies a person who will become the owner upon the death of the principal owner (transfer on death), the principal owner shall have all rights of ownership and rights of transfer until his or her death. The designated transferee shall have no rights of ownership until such time as the principal owner has died as established by a valid death certificate. At that time, the transferee shall become the owner of the vehicle subject to any existing security interests.

Sec. 7. 23 V.S.A. § 3816 is amended to read:

§ 3816. TRANSFER OF INTEREST IN VESSEL

* * *

(e) Pursuant to the provisions of 14 V.S.A. § ~~403a~~ 313, whenever the estate of an individual who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register the vessel, snowmobile, or all-terrain vehicle by paying a transfer fee not to exceed \$2.00.

Sec. 8. 27 V.S.A. §§ 101 and 102 are amended to read:

§ 101. DEFINITION; EXEMPTION FROM ATTACHMENT AND EXECUTION

The homestead of a natural person consisting of a dwelling house, outbuildings and the land used in connection therewith, not exceeding ~~\$75,000.00~~ \$125,000.00 in value, and owned and used or kept by such person as a homestead together with the rents, issues, profits, and products thereof, shall be exempt from attachment and execution except as hereinafter provided.

§ 102. DESIGNATING HOMESTEAD IN CASE OF LEVY

When an execution is levied upon real estate of the person of which a homestead is a part or upon that part of a homestead in excess of the limitation

of ~~\$75,000.00~~ \$125,000.00 in value, that person may designate and choose the part thereof, not exceeding the limited value, to which the exemption created in section 101 of this title shall apply. Upon designation and choice or refusal to designate or choose, the officer levying the execution, if the parties fail to agree upon appraisers, shall appoint three disinterested freeholders of the vicinity who shall be sworn by him or her and who shall fix the location and boundaries of the homestead to the amount of ~~\$75,000.00~~ \$125,000.00 in value. The officer shall then proceed with the sale of the residue of the real estate on the execution as in other cases, and the doings in respect to the homestead shall be stated in the return upon the execution.

Sec. 9. EFFECTIVE DATE

(a) Sections 1, 2, 3, 4, 5, 7 and 9 of this act shall take effect upon passage. Sec. 5 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 5 this act.

(b) Secs. 6 and 8 of this act shall take effect July 1, 2009.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 27 V.S.A. § 2 is amended to read:

§ 2. ESTATE IN COMMON PREFERRED TO JOINT TENANCY; JOINT TENANCY WITH UNEQUAL SHARES

(a) Conveyances and devises of lands, whether for years, for life or in fee, made to two or more persons, shall be construed to create estates in common and not in joint tenancy, unless it is expressed therein that the grantees or devisees shall take the lands jointly or as joint tenants or in joint tenancy or to them and the survivors of them. This provision shall not apply to devises or conveyances made in trust or made to husband and wife or to conveyance in which it manifestly appears from the tenor of the instrument that it was intended to create an estate in joint tenancy.

(b)(1) An instrument may create a joint tenancy in which the interests of the joint tenants are equal or unequal.

(2) Unless the instrument creating a joint tenancy contains language indicating a contrary intent:

(A) It shall be presumed that the joint tenants' interests are equal.

(B) Upon the death of a joint tenant, the deceased joint tenant's interest shall be allocated among the surviving joint tenants, as joint tenants, in proportion to their respective joint interests at the time of the deceased joint tenant's death.

(c) Any joint tenant who unlawfully and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes immediately to the decedent's estate, and the killer has no rights of survivorship. This provision applies to joint tenancies with right of survivorship and tenancies by the entirety in real and personal property; joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions; and any other form of co-ownership with survivorship incidents.

(d) A final judgment of conviction of an unlawful and intentional killing is conclusive for purposes of this section. In the absence of a conviction, a court may determine by clear and convincing evidence whether the killing was unlawful and intentional for purposes of this section.

(e) A severance under subsection (c) of this section does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a certified copy of the judgment referenced in subsection (d) of this section is recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership, but the killer is liable for the amount of the proceeds or the value of the property.

(f) The rights of a mortgage or lienholder in any property that is severed under subsection (c) of this section shall not be affected.

Second: In Sec. 5, 14 V.S.A. § 322, by striking out § 322 in its entirety and inserting in lieu thereof a new § 322 to read as follows:

§ 322. UNLAWFUL KILLING AFFECTING INHERITANCE

(a) Notwithstanding sections 311 through 314 of this title or provisions otherwise made, in any case in which an individual is entitled to inherit or receive property under the last will of a decedent or otherwise or stands to benefit under the terms of any trust of a decedent, the individual's share in the decedent's estate or benefits from any trust shall be forfeited and shall pass to the remaining heirs or beneficiaries of the decedent if the individual intentionally and unlawfully kills the decedent or intentionally and unlawfully kills another person and, by doing so, stands to inherit under the decedent's will or otherwise or to become a beneficiary under any trust of the decedent. In any proceedings to contest the right of an individual to inherit or receive

property under a will or otherwise or to benefit under the terms of any trust, the record of that individual's conviction of intentionally and unlawfully killing the decedent or other person shall be admissible evidence for purposes of this section.

(b) This section shall apply retroactively to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms of any trust as the result of committing an intentional and unlawful killing prior to or after the effective date of this section.

Third: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 4 V.S.A. § 278 is added to read:

§ 278. AUTHORIZATION OF ASSISTANT JUDGES TO RUN FOR THE OFFICE OF PROBATE JUDGE

(a) Notwithstanding any provision of law to the contrary, an assistant judge or a candidate for the office of assistant judge may also seek election to the office of probate judge, and if elected to both offices, may serve both as an assistant judge and as probate judge.

(b) In the event a probate matter arises in the superior court over which an assistant judge is also the probate judge that presides, or has presided, over the same or related probate matter in the probate court, the assistant judge shall be disqualified from hearing and deciding the probate matter in the superior court.

(c) In the event a probate matter arises in the probate court over which a probate judge is also an assistant judge that presides, or has presided, over the same or related probate matter in the superior court, the probate judge shall be disqualified from hearing and deciding the probate matter in the probate court.

Fourth: By adding five new sections to be numbered Secs. 10, 11, 12, 13, and 14 to read as follows:

Sec. 10. 27 V.S.A. § 1270 is amended to read:

§ 1270. DECEASED OWNERS; MULTIPLE CLAIMANTS

(a) If the treasurer holds unclaimed property in the name of a deceased owner, the treasurer may deliver the property as follows:

(1) In the case of an open estate, to the administrator or executor.

(2) In the case of a closed estate and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00, in accordance with the probate court decree of distribution.

(3) In the absence of an open estate or probate court decree of distribution, and the unclaimed property is valued at less than ~~\$2,500.00~~ \$5,000.00 to the surviving spouse of the deceased owner, or, if there is no surviving spouse, then to the next of kin according to section 551 of Title 14.

(4) In all other cases where the treasurer holds property in the name of a deceased owner, a probate estate shall be opened by the claimant, or other interested party, in order to determine the appropriate distribution of the unclaimed property. Where an estate is opened solely to distribute unclaimed property under this section, the probate court may waive any filing fees.

(b) If the treasurer holds unclaimed property valued at ~~\$100.00~~ \$250.00 or less which more than one person owns, the treasurer may deliver the property as follows:

(1) If the property has been listed on the treasurer's website for less than one year, a proportionate share to each of the persons who owns the property and who files a claim.

(2) If the property has been listed on the treasurer's website for a year or more, to the first person who files a claim and who owns at least a share of the property.

Sec. 11. REPEAL

Sec. 2a of No. 161 of the Acts of the 2005 legislative session (sunset of subsection regarding multiple claimants of unclaimed property valued at \$100.00 or less) is repealed so that 27 V.S.A. § 1270(b) shall not be repealed on July 1, 2009.

Sec. 12. 8 V.S.A. § 14304 is added to read:

§ 14304. CARD HOLDER REPRESENTED BY LEGAL COUNSEL

(a) A credit card company or its creditor or collection agency shall not contact a card holder regarding a debt, late fee, or other charge once informed that the card holder is disputing the debt, late fee, or other charge and is represented by legal counsel in the dispute, and the card holder has provided the credit card company or its creditor or collection agency with the name, address, and telephone number of the legal counsel.

(b) A credit card company or its creditor or collection agency that violates subsection (a) of this section shall be fined not more than \$10,000.00.

(c) Each violation of subsection (a) of this section shall be considered a separate offense.

Sec. 13. 12 V.S.A. § 1612 is amended to read:

§ 1612. PATIENTS' PATIENT'S PRIVILEGE

(a) Confidential information privileged. Unless the patient waives the privilege or unless the privilege is waived by an express provision of law, a person authorized to practice medicine, chiropractic, or dentistry, a registered professional or licensed practical nurse, or a mental health professional as defined in 18 V.S.A. § 7101(13) shall not be allowed to disclose any information acquired in attending a patient in a professional capacity, including joint or group counseling sessions, and which was necessary to enable the provider to act in that capacity.

(b) Identification by dentist; crime committed against patient under 16. A dentist shall be required to disclose information necessary for identification of a patient. A physician, dentist, chiropractor, or nurse shall be required to disclose information indicating that a patient who is under the age of 16 years has been the victim of a crime.

(c) Mental or physical condition of deceased patient.

(1) A physician, chiropractor, or nurse shall be required to disclose any information as to the mental or physical condition of a deceased patient privileged under subsection (a), except information which would tend to disgrace the memory of the decedent, either in the absence of an objection by a party to the litigation or when the privilege has been waived:

~~(1)(A)~~ by the personal representative, or the surviving spouse, or the next of kin of the decedent; or

~~(2)(B)~~ in any litigation where the interests of the personal representative are deemed by the trial judge to be adverse to those of the estate of the decedent, by any party in interest; or

~~(3)(C)~~ if the validity of the will of the decedent is in question, by the executor named in the will, or the surviving spouse or any heir-at-law or any of the next of kin or any other party in interest.

(2) A physician, dentist, chiropractor, mental health professional, or nurse shall be required to disclose any information as to the mental or physical condition of a deceased patient privileged under subsection (a) of this section upon request to the chief medical examiner.

Sec. 14. EFFECTIVE DATE

(a) Secs. 1, 2, 3, 4, 5, 7, 10, 11 and 14 of this act shall take effect on passage. Sec. 5 of this act shall apply only to the estates of persons dying on or after the effective date of Sec. 5 this act, except that, in Sec. 5, 14 V.S.A. § 322 shall apply to any individual who stands to inherit or receive property under a will or otherwise or benefit under the terms of any trust as the result of

committing an intentional and unlawful killing prior to, on, or after the effective date of Sec. 5.

(b) Secs. 6, 8, 9, 12 and 13 of this act shall take effect July 1, 2009.

Which was agreed to.

Third Reading Ordered

H. 433.

Senator Doyle, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the town of Berlin.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Joint Resolution Adopted in Concurrence

J.R.H. 26.

Joint House resolution entitled:

Joint resolution relating to classified state employees.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Rules Suspended; Bills on Notice Calendar for Immediate Consideration

On motion of Senator Campbell, the rules were suspended, and the following bills and joint resolution, appearing on the Calendar for notice, were ordered to be brought up for immediate consideration:

H. 69, H. 205, H. 430, J.R.H. 15.

Third Readings Ordered

H. 69.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the city of Rutland.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 205.

Senator Brock, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to reporting to the Vermont criminal justice training council.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 430.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of an amendment to the charter of the town of St. Johnsbury .

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Rules Suspended; Bill Committed**H. 213.**

Senate bill entitled:

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

Was taken up.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Sears moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Finance *intact*,

Which was agreed to.

Consideration Postponed

Joint House resolution entitled:

J.R.H. 15.

Senator Campbell, for the Committee on Rules, to which was referred joint House resolution entitled:

Joint resolution relating to the designation of commemorative observances in concurrent resolutions.

Reported that the joint resolution ought to be adopted in concurrence.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and pending the question, Shall the joint resolution be read a third time?, Senator Campbell moved that consideration of the joint resolution be postponed until the next legislative day.

Which was agreed to.

Notice of Withdrawal of Co-Sponsor

S. 144.

Pursuant to the request of Senator Choate, and having given notice of his intent to withdraw his name as a sponsor of Senate bill 144 entitled:

An act relating to patient choice and control at end of life.

Senator Choate's name was withdrawn as a sponsor of the bill.

Adjournment

On motion of Senator Campbell, the Senate adjourned until four o'clock in the afternoon on Thursday, April 30, 2009.

THURSDAY, APRIL 30, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 71

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 75. An act relating to interim budget and appropriation adjustments.

In the passage of which the concurrence of the Senate is requested.

The House has considered bills originating in the Senate of the following titles:

S. 42. An act relating to the Department of Banking, Insurance, Securities, and Health Care Administration.

S. 69. An act relating to digital campaign finance filings.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered bill originating in the Senate of the following title:

S. 96. An act relating to unclaimed property.

And has passed the same in concurrence.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 31. Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumers are assessed.

And has adopted the same in concurrence.

Rules Suspended; Bill Committed

H. 446.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to renewable energy and energy efficiency.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Shumlin moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Natural Resources and Energy *intact*,

Which was agreed to.

Bill Referred

House bill of the following title was read the first time and referred:

H. 75.

An act relating to interim budget and appropriation adjustments.

To the Committee on Rules.

**Message from the Governor
Appointments Referred**

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Frisbie, Bartlett H. of Colchester - Member of the Vermont Housing Finance Agency, - from April 22, 2009, to January 31, 2013.

To the Committee on Finance.

Sanborn, Arthur of Kirby - Member of the Transportation Board, - from April 22, 2009, to February 28, 2012.

To the Committee on Transportation.

Hrydziusko, Wesley J. of Windsor - Member of the Transportation Board, - from April 22, 2009, to February 28, 2012.

To the Committee on Transportation.

Stern, Robin of Brattleboro - Member of the Transportation Board, - from April 22, 2009, to February 28, 2012.

To the Committee on Transportation.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 436.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 107 is amended to read:

§ 107. ACQUISITION OF CONTROL OF ONE UTILITY COMPANY BY ANOTHER; SUPERVISION

(a) No company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the public service board, or in any company which, directly or indirectly has a controlling interest in such a

company, without the approval of the public service board. Nothing in this section shall be deemed to affect the direct or indirect acquisition of a controlling interest in a company as defined in subdivision 501(3) of this title. The direct acquisition of the voting securities of a company defined in subdivision 501(3) shall continue to be regulated pursuant to section 515 of this title.

(b) Any company seeking to acquire such a controlling interest shall file a petition with the public service board which describes the acquisition and sets forth the reasons why such an acquisition should be approved. The public service board shall give notice of the petition to the department of public service and other interested persons, and may conduct a hearing. The board may grant such approval only after due notice and opportunity for hearing and upon finding that such an acquisition will promote the public good.

(c) If the controlling interest sought to be acquired is in a company that owns or operates a nuclear power plant, the finding that the acquisition will promote the public good shall include a determination that the nuclear plant's decommissioning fund and other funds and financial guarantees available solely for the purpose of decommissioning are adequate to pay for complete and immediate decommissioning at the time of the acquisition and that the means are in place to assure on at least an annual basis that these funds and financial guarantees will be adequate for such purpose at all times during the future operation of the plant. The board shall further determine that all such funds and guarantees, whenever furnished and wherever situated, are protected pursuant to Vermont law from any claims or uses other than application to the complete and immediate decommissioning of the plant. For the purpose of this section, "complete and immediate decommissioning" means return of the site to a "greenfield" state in which all equipment, structures, and foundations are removed beginning as soon as technically possible after cessation of operations, in which the facility is not placed in storage for later removal or decontamination, and in which the land is regraded or reseeded.

(d) If any company acquires such a controlling interest without the prior approval of the public service board, the board may then, after due notice and opportunity for hearing,

(1) approve the acquisition; or

(2) modify any existing certificates or orders authorizing either or both companies to own or operate a public utility business under the provisions of this title; or

(3) revoke any such existing certificates or orders, or revoke any orders approving the articles of association of such companies; or

(4) declare the acquisition null and void, all as necessary to promote the public good.

~~(d)~~(e) The board may by rule specify terms and conditions upon which companies shall give prior notice of acquisitions regulated by this section. Any such rule may specify categories of acquisitions that may be deemed to be approved if timely notice has been filed and an investigation has not been initiated by the board.

~~(e)~~(f) For the purposes of this section:

(1) “Controlling interest” means ten percent or more of the outstanding voting securities of a company; or such other interest as the public service board determines, upon notice and opportunity for hearing following its own investigation or a petition filed by the department of public service or other interested party, to constitute the means to direct or cause the direction of the management or policies of a company. The presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule.

(2) “Voting security” means any stock or security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company or any security issued under or pursuant to any agreement, trust or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such a security are presently entitled to vote in the direction or management of the affairs of a company.

(3) A specified per centum of the “outstanding voting securities of a company” means such amount of outstanding voting securities of such company as entitles the holder or holders thereof to cast that specified per centum of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

Sec. 2. 30 V.S.A. § 248(e) is amended to read:

(e)(1) Before a certificate of public good is issued for the construction of a nuclear energy generating plant within the state, the public service board shall obtain the approval of the general assembly and the assembly’s determination that the construction of the proposed facility will promote the general welfare. The public service board shall advise the general assembly of any petition submitted under this section for the construction of a nuclear energy generating plant within this state, by written notice delivered to the speaker of the house of representatives and to the president of the senate. The department of public service shall submit recommendations relating to the proposed plant, and shall

make available to the general assembly all relevant material. The requirements of this subsection shall be in addition to the findings set forth in subsection (b) of this section.

(2) No nuclear energy generating plant within this state may be operated beyond the date permitted in any certificate of public good granted pursuant to this title, including any certificate in force as of January 1, 2006, unless the general assembly approves and determines that the operation will promote the general welfare, and until the public service board issues a certificate of public good under this section.

(A) The public service board shall not issue a certificate of public good for the operation of a nuclear energy generating plant beyond the date permitted in an existing certificate of public good unless it determines that the funds available for decommissioning the plant will be adequate to pay for complete and immediate decommissioning, without onsite storage of plant components, at the outset of the extended period and that a mechanism is in place to assure that such funds will be adequate for complete and immediate decommissioning at all times during the extended operation of the plant. The board further shall determine that all such funds and guarantees, whenever furnished and wherever situated, are protected pursuant to Vermont law from any claims or uses other than application to the complete and immediate decommissioning of the plant. For the purpose of this section, "complete and immediate decommissioning" means return of the site to a "greenfield" state in which all equipment, structures, and foundations are removed beginning as soon as technically possible after cessation of operations, in which the facility is not placed in storage for later removal or decontamination, and in which the land is regraded or reseeded.

(B) If the general assembly has not acted under this subsection by July 1, 2008, the board may commence proceedings under this section and under 10 V.S.A. chapter 157, relating to the storage of radioactive material, but may not issue a final order or certificate of public good until the general assembly determines that operation will promote the general welfare and grants approval for that operation.

Sec. 3. EFFECTIVE DATE

This act shall take effect from passage and shall apply to any petition for approval or for a certificate of public good filed with the public service board on or after January 1, 2008.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

Consideration Postponed

Senate bill entitled:

S. 99.

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

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Consideration Postponed

Joint House resolution entitled:

J.R.H. 15.

Joint resolution relating to the designation of commemorative observances in concurrent resolutions.

Was taken up.

Thereupon, without objection consideration of the joint House resolution was postponed until the next legislative day.

Bill Passed in Concurrence with Proposals of Amendment

H. 6.

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to the sale of engine coolants and antifreeze.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 69. An act relating to approval of amendments to the charter of the city of Rutland.

H. 205. An act relating to reporting to the Vermont criminal justice training council.

H. 430. An act relating to approval of an amendment to the charter of the town of St. Johnsbury .

H. 433. An act relating to approval of amendments to the charter of the town of Berlin.

Proposals of Amendment; Third Reading Ordered

H. 15.

Senator Snelling, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to aquatic nuisance control.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. § 1455(i)(4), by striking out the word “three” where it appears and inserting in lieu thereof the word five

Second: In Sec. 8, by striking out the words “regarding water pollution, use of state waters, hunting, or fishing” where they appear and inserting in lieu thereof the words regarding the use of state waters for hunting, fishing, or other recreational uses

Third: In Sec. 9, by striking out the words “that address or relate to the use of state surface waters” and inserting in lieu thereof the words regarding the use of state waters for hunting, fishing, or other recreational uses

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

Sec. 10a. 10 V.S.A. § 7113(b) is amended to read:

(b) The advisory committee shall be terminated on January 1, ~~2010~~ 2015, unless extended by the general assembly.

Fifth: In Sec. 11, by striking out subsection (a) in its entirety and inserting in lieu thereof:

(a) This section and Secs. 8 (ANR materials), 9 (department of tourism and marketing materials), 10 (ANR report on financing aquatic nuisance control), and 10a (extension of mercury advisory committee sunset) of this act shall take effect July 1, 2009.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Hartwell, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By adding a new section to be numbered Sec. 10b to read as follows:
Sec. 10b. 3 V.S.A. § 2822(j)(13) is amended to read:

(13) For aquatic nuisance control permits issued under 10 V.S.A. § ~~1263a~~ 1455:

* * *

Second: In Sec. 11, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Secs. 1 (ANR aquatic nuisance control chapter), 2 (ANR enforcement), 3 (ANR appeals), 4 (repeal of existing aquatic nuisance control authority), 5 (agency of transportation aquatic nuisance educational materials), 6 (boating safety rules educational materials), 7 (special fund for motor vehicle registration), and 10b (aquatic nuisance permit fee) of this act shall take effect July 1, 2010.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the pending question, Shall the proposal of amendment of the Committee on Natural Resources and Energy be amended as recommended by the Committee on Finance?, was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by Committee on Natural Resources and Energy, as amended?, Senator McCormack, on behalf of the Committee on Natural Resources and Energy, moved to amend the proposals of amendment of the Committee on Natural Resources and Energy, as amended, as follows:

First: By adding a new section to be numbered Sec. 10c to read as follows:
Sec. 10c. INVASIVE SPECIES WORKING GROUP

(a) An invasive species working group is established to study the economic and environmental impacts of invasive species in Vermont and to recommend strategies for prevention, early detection, control, and management of invasive species in Vermont.

(b) The working group shall consist of the following members:

- (1) The secretary of natural resources or his or her designee;
- (2) The secretary of agriculture, food and markets or his or her designee;
- (3) The state entomologist;

(4) A staff member of the agency of natural resources aquatic nuisance control program designated by the secretary of natural resources;

(5) Two persons with experience in the research and study of the impact of invasive species, one appointed by the speaker of the house and one appointed by the committee on committees;

(5) A representative of the nursery or landscape industry, appointed by the governor; and

(6) A representative of an environmental organization, appointed by the committee on committees.

(c) The secretary of natural resources shall promptly convene the first meeting of the commission at which time the members of the commission shall elect a chair. A majority of the members of the commission shall constitute a quorum.

(d) On or before January 15, 2010, the invasive species advisory commission shall submit to the house and senate committees on natural resources and energy, the house and senate committees on agriculture, and the house committee on fish, wildlife and water resources a report that shall include the following:

(1) A summary of the economic and environmental impact of invasive species on the state;

(2) A summary of how invasive species are currently regulated in the state;

(3) A summary of how state agencies and affected state industry respond to invasive species outbreaks in the state;

(4) Recommendations for improving state regulation of and response to the threat and spread of invasive species, including a recommended lead state agency for coordinating state response to invasive species and recommended draft legislation or draft rules to improve state response to invasive species; and

(5) Recommendations for providing and coordinating public education and outreach regarding invasive species.

Second: By amending the *Fifth* proposal of amendment, in Sec. 11(a), by striking out the following: “and 10a (extension of mercury advisory committee sunset) of this act shall take effect July 1, 2009.” and inserting in lieu thereof the following: 10a (extension of mercury advisory committee sunset), and 10c (invasive species working group) shall take effect July 1, 2009.

Which was agreed to.

Thereupon, the proposals of amendment recommended by the Committee on Natural Resources and Energy, as amended, were agreed to and third reading of the bill was ordered.

Consideration Postponed

House bills entitled:

H. 86.

An act relating to the regulation of professions and occupations.

H. 427.

An act relating to making miscellaneous amendments to education law.

H. 435.

An act relating to palliative care.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 7.

House proposal of amendment to Senate bill entitled:

An act to prohibit the use of lighted tobacco products in the workplace.

Was taken up.

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

Sec. 1. 18 V.S.A. § 1421 is amended to read:

§ 1421. ~~DEFINITIONS~~ SMOKING IN THE WORKPLACE; PROHIBITION

~~As used in this subchapter:~~

~~(1) "Smoking area" means an area that nonsmoking employees are not required to visit on a regular basis where smoking is permitted pursuant to a policy established under this subchapter. Up to 30 percent of employee cafeteria and lounge areas may be designated as a smoking area.~~

~~(2) "Workplace" (a) The use of lighted tobacco products is prohibited in any workplace.~~

(b)(1) For the purposes of this subchapter, "workplace" means an enclosed structure where employees perform services for an employer or, in the case of

an employer who assigns employees to departments, divisions, or similar organizational units, the enclosed portion of a structure ~~where the unit to which the employee is assigned is located.~~

(2) Except for schools, workplace does not include areas commonly open to the public ~~nor~~ or any portion of a structure ~~which~~ that also serves as the employee's or employer's personal residence.

(3) For schools, workplace ~~shall include~~ includes any enclosed location ~~at which~~ where instruction or other school-sponsored functions are occurring and students are present.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont veterans' home to use lighted tobacco products in the indoor area of the facility in which smoking is permitted until June 30, 2014. Beginning July 1, 2014, the use of lighted tobacco products shall be prohibited in all indoor areas of the Vermont veterans' home.

Sec. 2. 18 V.S.A. § 1426 is amended to read:

§ 1426. ENFORCEMENT

(a) An employee aggrieved by an employer's failure to comply with the provisions of this subchapter may file a complaint with the department of health.

~~(b) If the complaint is based on an employer's alleged failure to establish a smoking policy or post the policy and summary as required under section 1424 of this title, the department shall not initiate an action under this section until it has given the employer written notice of the alleged violation and ten days to come into voluntary compliance with the provisions of this subchapter.~~

~~(c) In addition to any other authority provided by law, the commissioner of health or a hearing officer designated by the commissioner may, after notice and an opportunity for hearing, impose an administrative penalty of \$100.00 against an employer who violates a provision of this chapter. The hearing before the commissioner shall be a contested case subject to the provisions of chapter 25 of Title 3 (Administrative Procedure Act).~~

Sec. 3. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products ~~shall~~ do not apply to:

~~(1) Workplace smoking areas designated under subchapter 2 of chapter 28 of this title.~~

~~(2) Areas areas~~ not commonly open to the public of owner-operated businesses with no employees.

Sec. 4. REPEAL

18 V.S.A. §§ 1422, 1423, 1424, and 1425 (relating to employer smoking policies) are repealed.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mullin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Concurred In with Amendment

S. 94.

House proposal of amendment to Senate bill entitled:

An act relating to licensing state forestland for maple sugar production.

Was taken up.

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

Sec. 1. 10 V.S.A. § 2606b is added to read:

§ 2606b. LICENSE OF FORESTLANDS FOR MAPLE SUGAR PRODUCTION

(a) The general assembly finds and declares that:

(1) Maple sugaring is an important cultural tradition of Vermont life that should be maintained and encouraged.

(2) Maple sugaring is an important component of the agricultural and forest products economy in Vermont and is increasingly necessary for farmers that must diversify in order to continue to farm in Vermont.

(3) Maple sugaring is a sustainable use of forestland.

(4) State forestland should be managed and used for multiple uses including maple sugar production.

(5) It is hereby adopted as state policy to permit limited use of designated state-owned land under the jurisdiction of the department for maple sugar production.

(b) Beginning on July 1, 2009, pursuant to guidelines developed jointly by the department of forests, parks and recreation and the Vermont maple sugar makers' association, the department shall issue licenses for the use of state

forestland for the tapping of maple trees, the collection of maple sap, and the right to transport such sap to a processing site located off state forestland or to sites located on state forestland if approved by the commissioner. All tapping of maple trees authorized under a license shall be conducted according to the guidelines for tapping maple trees agreed to by the department and the Vermont maple sugar makers' association. Each person awarded a license under this section shall maintain and repair any road, water crossing, or work area according to requirements set by the department in the license. Each license shall include such additional terms and conditions set by the department as may be necessary to preserve forest health and to assure compliance with the requirements of this chapter and applicable rules. A license shall be issued for a fixed term not to exceed five years and shall be renewable for two five-year terms subsequent to the initial license. Subsequent renewals shall be allowed where agreed upon by the department and the licensee. The department shall have power to terminate or modify a license for cause, including damage to forest health.

(c) The commissioner may adopt rules to implement the requirements of this section.

(d) There is hereby established a maple advisory board to provide the commissioner of forests, parks and recreation with guidance on licensing of state forest land for maple sugar production, including identification of potential sites on state lands for licensure. The board shall be composed of:

(1) Three employees of the department of forests, parks and recreation, appointed by the commissioner.

(2) Three members of the maple sugar makers association designated by the association.

(3) One member of the Vermont forest products association designated by the association.

(4) One member of either the University of Vermont Proctor maple research center or the University of Vermont agricultural extension service, appointed by the commissioner.

(e) There shall be an annual license fee imposed based on the number of taps installed in the license area. The per tap fee for a license issued under this section shall be one-quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31. Fees collected under this section shall be deposited in the forest parks revolving fund established under 10 V.S.A. § 2609 and shall

be used by the department to implement the license program established by this section.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Choate moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 1, 10 V.S.A. § 2606b(b), by striking out the words “right to transport” where they appear in the first sentence before the words “such sap” and inserting in lieu thereof the following: transportation of

Second: In Sec. 1, 10 V.S.A. § 2606b(d), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Three sugar makers, at least one of which is an independent sugar maker unaffiliated with an association, appointed by the secretary of agriculture, food and markets.

Third: In Sec. 1, 10 V.S.A. § 2606b, by adding subsection (f) to read as follows:

(f) On or before January 15, 2010, the commissioner of forests, parks and recreation shall submit to the senate and house committees on natural resources and energy and the senate and house committees on agriculture a report regarding the implementation of the requirements of this section. The report shall include:

(1) A copy of the guidelines required by this section for issuing licenses for the use of state forestland for maple sap collection and production.

(2) A summary of the process used to identify parcels of state forestland suitable for licensing for maple sap collection and production and the process by which the department allocated licenses.

(3) A summary of the licenses issued for maple sap collection and production on state forestland.

(4) An estimate of the fees collected for licenses issued under this section.

(5) A copy of any rules adopted by or proposed for adoption by the commissioner to implement the requirements of this section.

Which was agreed to.

Senate Resolution Adopted

S.R. 12.

Senate resolution entitled: