

Journal
of the
JOINT ASSEMBLY
Biennial Session
2009

**JOURNAL OF THE JOINT ASSEMBLY
OF THE
STATE OF VERMONT
BIENNIAL SESSION, 2009**

IN JOINT ASSEMBLY, JANUARY 8, 2009

10:00 A.M.

The Senate and the House of Representatives met in the Hall of the House of Representatives pursuant to a Joint Resolution which was read by the Clerk and is as follows:

J.R.S. 2. Joint resolution to provide for a Joint Assembly to receive the report of the committee appointed to canvass votes for state officers.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 8, 2009, at ten o'clock in the forenoon to receive the report of the Joint Canvassing Committee appointed to canvass votes for Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts and Attorney General, and if it shall be declared by said Committee that there had been no election by the freemen of any of said state officers, then to proceed forthwith to elect such officers as have not been elected by the freemen.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Report of the Joint Canvassing Committee

Senator White, Co-Chair, then presented the report of the Joint Canvassing Committee, which was as follows:

The Joint Canvassing Committee appointed to canvass the votes for Governor, Lieutenant Governor, State Treasurer, Secretary of State, Auditor of Accounts, and Attorney General respectfully reports:

That having been duly sworn, it has attended to the duties of its trust and finds the number of votes to have been:

For GOVERNOR.....	319,085
Necessary to have a major part of the votes	159,543
Peter Diamondstone, Liberty Union	1,710
James H. Douglas, Republican.....	170,492
Cris Ericson, Independent	1,704
Tony O'Connor, Cheap Renewable Energy.....	3,106
Anthony Pollina, Independent	69,791
Gaye Symington, Democratic	69,534
Sam Young, Independent	2,490
Scattering (write-in votes).....	258
Majority for James H. Douglas	10,949

Pursuant to the Constitution of the State of Vermont, the Committee hereby declares that

JAMES H. DOUGLAS

received a major part of the votes, and therefore was elected Governor of the State of Vermont for the two years next ensuing.

For LIEUTENANT GOVERNOR	311,792
Necessary to have a major part of the votes	155,897
Thomas W. Costello, Democratic	121,953
Brian E. Dubie, Republican	171,744
Richard Kemp, Progressive.....	14,249
Ben Mitchell, Liberty Union.....	3,639
Scattering (write-in votes).....	207
Majority for Brian E. Dubie.....	15,847

Pursuant to the Constitution of the State of Vermont, the Committee hereby declares that

BRIAN E. DUBIE

received a major part of the votes, and therefore was elected Lieutenant Governor of the State of Vermont for the two years next ensuing.

For STATE TREASURER	297,078
Necessary to have a major part of the votes	148,540
Murray Ngoima, Liberty Union	6,423
Don Schramm, Progressive.....	22,811
George B. "Jeb" Spaulding, Democratic/Republican ..	267,338
Scattering (write-in votes).....	506
Majority for George B. "Jeb" Spaulding	118,798

Pursuant to the Constitution of the State of Vermont, the Committee hereby declares that

GEORGE B. “JEB” SPAULDING

received a major part of the votes, and therefore was elected Treasurer of the State of Vermont for the two years next ensuing.

For SECRETARY OF STATE.....	302,223
Plurality, not a major part of the vote, is required	
Eugene J. Bifano, Republican	70,114
Deborah Markowitz, Democratic.....	214,197
Leslie Marmorale, Liberty Union	3,871
Marjorie Power, Progressive.....	13,856
Scattering (write-in votes).....	185

Pursuant to the Constitution of the State of Vermont, the Committee hereby declares that

DEBORAH MARKOWITZ

received the greatest number of the votes, and therefore was elected Secretary of State of the State of Vermont for the two years next ensuing.

For AUDITOR OF ACCOUNTS	288,581
Plurality, not a major part of the vote, is required	
Martha Abbott, Progressive	35,232
Jerry Levy, Liberty Union.....	10,788
Thomas M. Salmon, Democratic	241,825
Scattering (write-in votes).....	736

Pursuant to the Constitution of the State of Vermont, the Committee hereby declares that

THOMAS M. SALMON

received the greatest number of the votes, and therefore was elected Auditor of Accounts of the State of Vermont for the two years next ensuing.

For ATTORNEY GENERAL.....	296,027
Plurality, not a major part of the vote, is required	
Charlotte Dennett, Progressive.....	17,730
Rosemarie Jackowski, Liberty Union	7,505
Karen Kerin, Republican/Libertarian.....	55,268
William H. Sorrell, Democratic	214,980
Scattering (write-in votes).....	544

Pursuant to 3 V.S.A. §151, the Committee hereby declares that

WILLIAM H. SORRELL

received the greatest number of the votes, and therefore was elected Attorney General of the State of Vermont for the two years next ensuing.

All of which is respectfully submitted.

JEANETTE K. WHITE

Chair of the Joint Canvassing
Committee on the part of the Senate

JOHN W. MALCOLM

Chair of the Joint Canvassing
Committee on the part of the House

Report of the Joint Canvassing Committee Adopted

Upon motion of Representative Malcolm, Co-Chair, the report of the Joint Canvassing Committee was adopted.

Dissolution

The purpose for which the Joint Assembly was convened having been accomplished, the President declared that the Joint Assembly was dissolved.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, JANUARY 8, 2009

2:00 P.M.

The Senate and House of Representatives met in the Hall of the House of Representatives pursuant to a Joint Resolution which was read by the Clerk and is as follows:

J.R.S. 3. Joint resolution to provide for a Joint Assembly to hear the inaugural message of the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 8, 2009, at two o'clock in the afternoon to receive the inaugural message of the Governor.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Recognition

The Chair recognized former Governors and their spouses:

Mrs. George D. Aiken
Governor Thomas P. Salmon
Governor Madeleine M. Kunin

Supreme Court

The Supreme Court was escorted within the presence of the Joint Assembly by the Sergeant at Arms, Francis K. Brooks.

Committee Appointed

Senator Peter E. Shumlin of Windham District moved that a Committee of three Senators and three Representatives be appointed by the Chair to wait upon His Excellency, the Governor-elect, and escort him into the Chamber to receive the Oath of Office and to present his inaugural address.

Which was agreed to.

The Chair appointed as members of such Committee:

Senator Kevin J. Mullin, of Rutland District
Senator John F. Campbell, of Windsor District
Senator Peter E. Shumlin, of Windham District
Representative Patti Komline, of Dorset
Representative Sandy Haas, of Rochester
Representative Floyd W. Nease, of Johnson

Governor-Elect Douglas Presented

The Committee performed the duty assigned to it and appeared within the Chamber, accompanied by His Excellency, Governor-elect James H. Douglas.

Song

John Lincoln played and sang – “America The Beautiful”.

Invocation

The Rabbi Douglas D. Weber of the Rutland Jewish Center gave the official invocation.

Oath Administered to Governor

The oath of office was then duly administered by the Honorable Paul L. Reiber, Chief Justice of the Supreme Court of the State of Vermont, to His Excellency, Governor James H. Douglas.

Oath Administered to Officers

The oath of office was then duly administered by His Excellency, James H. Douglas, Governor of the State of Vermont, *separately*, and in the order shown below, to the following officers:

George B. “Jeb” Spaulding, Treasurer
Deborah L. Markowitz, Secretary of State
William H. Sorrell, Attorney General

The oath of office previously was administered by the Governor to Thomas M. Salmon, Auditor of Accounts, by telecommunication, inasmuch as Mr. Salmon was on active reserve duty in the Middle East.

Second Invocation

The Most Reverend Salvatore R. Matano, Bishop of Burlington, gave a second invocation.

Song

The Essex Children’s Choir, under the direction of Constance J. Price, sang: “These Green Mountains”.

Introduction by Chair

The President of the Senate, Lieutenant Governor Brian E. Dubie, then introduced the Governor of the State of Vermont, James H. Douglas, for the purpose of presentation of his inaugural address.

Inaugural Address

Governor Douglas then presented the following remarks.

“Mr. President, Mr. Speaker, distinguished guests, my fellow Vermonters:

“One hundred seventy-three years ago farmers, businessmen, and lawyers from across Vermont met here for the 1836 session of the General Assembly. Among them, a minister and headmaster of the Orleans County Grammar School took his seat as the member from Brownington.

“Alexander Twilight was a pioneer. A native of Corinth, Twilight’s life was devoted to public service as a preacher, educator and legislator. When he took his oath so many years ago, Twilight made quiet history as the first African-American to serve in a state legislature.

“In less than two weeks we will observe the swearing in of our next president, opening a new chapter in America’s history. We can all be proud of how far we have come to this momentous occasion – one that Alexander Twilight could barely have imagined when he served in this body over a century and a half ago. Let there be no doubt that our system of government, the institutions of our nation, and the American spirit endure stronger than ever.

“Each time I climb the steps to this podium, I am reminded of the many great leaders whose footsteps I trace, and am humbled to share this honor with them. I am deeply grateful for the confidence Vermonters have placed in me and for God’s grace that touches us all. I am blessed to have such a wonderful family, many of whom join me here today, including my wife, Dorothy, and my son, Matt.

“As I look out across this chamber, I see old friends and new faces, all of us charged by the people to address the great challenges that face our state. I offer my sincere congratulations to new and returning members of our legislature, as well as Lieutenant Governor Dubie and other statewide elected officials. I also want to offer my congratulations to Speaker Smith.

“Voters have again returned a legislature controlled by one party balanced by an executive of another and they expect us to work together. Whether you sit as a Democrat, Republican, Progressive or Independent, we are all Vermonters first; and to a person we have been entrusted with a monumental task – to steer our state through rocky shoals. Together, we shall not fail.

“We gather today for the time-honored rite of inauguration, an important symbol of our vibrant democracy. An inauguration marks a gateway between past and future, an occasion of starting anew. Indeed, a time of transition is where we find our state.

“On factory floors, in small businesses and around kitchen tables, and even in this very hall, we share the anxiety of a nation on edge. As moms and dads, friends and neighbors, we feel the painful effects of recession sweeping across our country and around the world.

“Vermont has been pulled into this national downturn, the depth and breadth of which we have not seen for generations. The foundation of our economic security has been fractured. We have seen pyramids built on greed crumble and institutions thought indestructible disappear.

“For too long, too many have held the mistaken belief that we could live beyond our means – that we could buy now and pay later – convinced that easy credit would allow us to have what we could not afford. Many thought revenues would always rise and difficult decisions could be deferred.

“That misguided notion has brought us to this time of great collapse. If we ignore the modern parables of Wall Street and Washington, we risk their fate – and a future that spurns our Yankee forbearers who carved this state from the granite of “temperance, industry and frugality.”

“Today, I present a plan for Vermont to direct its own future, free from the ties that bind us to the status quo. Rather than follow blindly, we will lead boldly.

“The discussion about how to balance a lean state budget will consume the greater part of this biennium – and appropriately so.

“Consider the realities we are facing: we have already trimmed \$43 million from our current year budget and, in the coming weeks, the legislature will consider an additional \$46 million in rescissions. When the state’s economists meet next week, we could again see revenues decline; further requiring cuts to balance our budget. And our challenges don’t stop there; in fiscal 2010 we expect to have a shortfall of more than \$150 million.

“In the past, we have looked to four primary fixes to mend holes in our state balance sheet – spending down reserves, relying on federal aid, raising taxes, and deep spending cuts – but none of them, whether alone or taken together, are adequate to address the current economic crisis.

“The most oft-cited approach is to use the state’s stabilization reserves – that is, the “rainy day funds” – as a quick patch to the problem. There is no doubt it’s raining, but no one knows just how long this storm will last. To use the rainy day funds now is to ignore the severity of this recession in hopes the danger passes. Once we use our reserves, they are gone; and it will likely take us years to replenish them. There is a right time to use the rainy day funds – when we experience an unanticipated drop in state revenues – but now, when other choices remain, is not that time.

“Following the recession of 1991 the state had no reserve funds and few alternatives but to cut programs deeply and raise taxes sharply. Eighteen years later, the economic conditions we face rival that downturn – but that’s where the similarities end. State government is much better suited to weather this storm with full reserves, years of balanced budgets, and the highest bond rating in New England – all variables absent from the 1991 equation.

“Further, working Vermonters are exposed to the risk of volatile markets, more so than in previous downturns. Families have watched college savings dwindle and their modest investments falter. Folks who have worked their whole lives have seen retirement accounts lose half their value. The personal reserves of average Vermonters have suffered, leaving smaller and smaller nest eggs.

“In addition to that, Vermonters have no capacity for higher taxes – another approach advanced to shore up state coffers. In previous recessions, the state has raised taxes calling the increases “temporary” or under the guise of a “tax shift.” But when our fortunes improved, some taxes remained and the revenues were spent. Economists across the political spectrum agree that to raise taxes now would only slow a recovery, especially in Vermont, where our total tax burden is among the very highest in the nation.

“I have heard recent proposals that would raise the top marginal tax rate by 37%, placing Vermont at the top of the tax heap – 26% above the next highest state – a dubious distinction especially as we compete with our neighbors for jobs and industry. Our earned income tax rates would be 90% greater than New York, 145% greater than Massachusetts, and infinitely greater than New Hampshire, which has no such tax. How many employers – especially in difficult times – would willingly choose to curb returns in order to pay more taxes?

“It is unfair and unacceptable for us to expect the people of Vermont – who are making difficult budget choices everyday in their homes and businesses – to pay for an unwillingness to make tough budget decisions.

“While I look forward to working with President-elect Obama and his new administration in the coming years – waiting on Washington to pass an economic recovery package is not a responsible stand-alone option. Although we are preparing for an influx of federal money, we must remember that any help is only temporary. If we do not get our fiscal house in order today, we will find ourselves on a cliff’s edge when the money runs out – forced to make more drastic decisions tomorrow.

“Given the magnitude of the growing budget gap, it would be shortsighted to only cut our way out of this problem. While economic contraction demands belt-tightening and we cannot avoid rescissions in nearly every area of government, this approach alone will not position us to emerge from this downturn ready to grow. If we nickel and dime services to keep the budget in balance, we will quickly reach a point where our programs are no longer able to serve their purposes.

“Now is not the time to rest on old notions. Now is not the time to spare sacred cows. Now is the time we must summon the courage to forge lasting solutions and reject the patchworks of the past.

“From great collapse, we must rise again with a new framework for progress – one that sets government on a sustainable path through the transformation of education, human services and economic development. Only by doing so can we rebuild our economy, create good paying jobs and protect the most vulnerable during these difficult times.

“As Vermonters, our cause for optimism remains great – it is rooted in our shared history, our commitment to one another, and the promise of a better tomorrow.

“It is found in an old farmer and a young family; in our lessons passed down from parent to child; in the hunters, anglers and trappers who give new life to old traditions; and in entrepreneurs creating new opportunities for our people. It is manifest in the pride we share for those who protect our communities – our police, firefighters and EMTs – and in the brave men and women of our armed forces who risk their lives far from the Green Mountains to preserve our most cherished values. I want to take a moment to recognize representatives of our National Guard who join us in the balcony today.

“Our work in recent years has prepared us to meet today’s challenges. During our nation’s last recession in 2003, we passed the largest jobs package in state history. As we emerged from that downturn we streamlined government, and expanded access to health care. We strengthened our commitment to the next generation, increased bonding capacity and made new investments in our roads, bridges and culverts, and provided incentives for green businesses to succeed – while balancing the budget each year.

“To keep Vermont competitive in a rapidly changing world economy we worked together to create the Vermont Telecommunications Authority – setting a course to achieve our goal of becoming the first true “e-state,” where everyone has access to the tools of the 21st century.

“Last year we took immediate steps to spur economic activity and temper the effects of the looming downturn. The Economic Growth Initiative – which included a successful sales tax holiday to help working families and boost Vermont retailers – was a needed bridge in a time of turmoil. And the Fuel and Food Partnership is coordinating services among the state, private agencies and local communities to ensure that vulnerable Vermonters have the resources they need during this already harsh winter.

“But to preserve these valuable gains, the time has come for our state to embrace this new framework – where the real needs of people intersect with the true capacity of government to serve.

“Ingrained in some areas of government is an institutional momentum that demands more resources regardless of taxpayers’ ability to support their growth. The recent downgrades in our revenue forecasts and the bleak outlook for the coming fiscal year have shone a bright light on the imbalance we now find among different functions of government.

“The best examples can be found in two areas – general education and Medicaid. Combined, in state dollars alone, they account for sixty-three cents of every tax dollar spent in Vermont. These areas of government continue to grow year after year without the same checks and constraints as other important services.

“We must advance beyond these obsolete models and move to a modern approach – breaking down longstanding walls to achieve equilibrium among many important priorities and support lasting economic security.

“As the parents of two boys who attended public school in Vermont, Dorothy and I know the value of a quality education. As the grandson, son and son-in-law, brother and brother-in-law, nephew and uncle of educators, I recognize the great inspiration teachers bring to the classroom every day.

“Vermonters are rightly proud of the quality of our public education system and the tremendous caliber of our teachers. Pride, however, does not excuse us from the necessary and important changes to make education spending sustainable for the long term.

“As we examine the current fiscal challenges, it is clear that our public education system is on a collision course with economic reality – threatening not only the dwindling capacity of taxpayers, but also our responsibility to fund essential services for vulnerable Vermonters.

“In the last five years, Vermont has experienced an education spending expansion funded by property tax increases and general funds. Assuming the fiscal 2010 current law projections, spending from the education fund will have increased by nearly \$283 million since fiscal 2006, or a 23% increase. Over the same period, statewide school enrollment has dropped over 4,300 students, or a 4.4% decrease. This means that since 2006, for every student who left the rolls, schools added – not reduced – \$65,000 in costs.

“While unfunded federal mandates and inflationary increases drive a portion of these costs, the biggest portion is attributed to increases in staff count. Since 1997, student enrollment has fallen by almost 10,000 children, or 10%, but school staffs have increased by 3,500 positions, or 22%. Put another way, for every three students who left the rolls, schools have added one staff position.

“In contrast, we are looking at the jobless rate rising every month, with thousands of Vermonters added to the unemployment rolls since last summer. State government is trimming its workforce, some businesses are reducing hours, and others are closing their doors completely. Everyone is facing cutbacks during this difficult time. But still, education spending for 2010 is expected to grow 6.1% per pupil. Recent newspaper articles report proposed school budget increases of 5%, 8%, and even 11%. Property tax bills are expected to grow an average of 6%, even after income sensitivity payments. Expansion like this is unsustainable in any season, and especially when our economy is facing such severe retrenchment.

“Our current education funding system is failing taxpayers and local voters. For over a decade, Vermonters, in every corner of the state, have borne the heavy burden of rising property taxes under Act 60. It is wrong for one third of all tax dollars to be spent on a system only a handful can explain. When enrollments decline but property tax bills increase – and when communities are forced to vote budgets without knowing the real consequence of those decisions, it is clear that our system does not work.

“Act 60 and Act 68 are fundamentally broken and beyond repair. Piecemeal changes cannot mend a system that is so far out of balance. Only a wholesale transformation will return control to communities and put education funding on a sustainable course for the future.

“There is no one size fits all approach to education. Each school district must determine what works best for its students. But maintaining the status quo is not in our kids’ best interests. Building an education system for the future requires a willingness to recognize the realities of declining enrollments across the state.

“Now is the time to build a new system – one that is fair and equitable, and respects the voice of voters, the pocketbooks of taxpayers and the potential of our students. Too often, politics has stood in the way of change. That is why, with a sincere commitment to progress, I ask the Legislature to work with me to establish a collaborative process for fresh ideas – bringing together thoughtful individuals with broad range of perspectives to design an education funding system that is simple, transparent and sustainable. We must also be

prepared to examine school consolidation, governance, special education costs, and other opportunities to achieve efficiencies.

“I will seek your suggestions on the best minds for this high priority. I understand the magnitude of this proposal, but with so much at stake and inaction threatening the economic security of countless Vermonters, we must work together to take this important step.

“While launching this process is essential to rebuilding our education finance system, property taxpayers cannot wait another year for relief. In order to create a funding bridge until a new system is established, I propose a common-sense measure to freeze per-pupil spending for schools and categorical grants at current levels. When we consider what government, businesses and families are facing, level funding is a fair approach.

“Further, we will strengthen local control by holding school districts directly responsible for tax increases. During this bridge year, if a school wants to raise additional money above level-funding, it can ask voters to fund the increase entirely through its residential tax rate, up to a level that respects the Brigham decision. I also propose we end property tax subsidies for Vermonters making over \$75,000 in order to lower tax rates even further for all payers.

“By taking these steps, we’ll be able to effectively reduce property tax rates by 4 cents for a total of \$44 million. The statewide rates can each be cut by at least 2 cents, that is \$24 million. Further, the spending freeze results in additional residential property tax reductions of another \$20 million as projected increases in per pupil spending are avoided. In fact, the state will collect no more from residential taxpayers next year than it has this year – a welcome change for struggling Vermonters.

“All across our state dedicated volunteer school boards are working diligently to craft budgets in time for Town Meeting. I know they are facing difficult decisions – state government is struggling with the same real time adjustments. And I acknowledge that my plan represents a departure from usual practice – but we are in unusual times. That is why I am committed to working closely with school districts to give them the flexibility they need to consider budgets that are level-funded.

“Property taxes are not the only source of revenue for education spending. The general fund of state government provides a substantial share of school funding.

“Without changes to the current system, the state is expected to transfer \$298 million from the general fund – nearly a quarter of available resources – to the education fund in fiscal 2010. This transfer, which will have increased over \$38 million since 2006, has been held completely harmless during the recent rounds of rescissions.

“Further, the State Teachers’ Retirement System is directly supported with general fund money and has not been subject to reductions during recent cutbacks. In fiscal 2010, the general fund is expected to contribute at least \$40 million as the employer’s share of contribution to support the system. This approach is a vestige of the past and effectively allows schools to set salaries detached from the true cost of the benefits.

“In other words, the education fund has not shared any of the sacrifice seen by other areas of state government. If we continue to excuse education spending from equal treatment, we force health care and human services – the lion’s share of the remaining general fund – to shoulder the burden of balancing a responsible budget. That is not a realistic, or compassionate, option.

“To put these disparities between the general and education funds in context, we should step back and look at the big picture. According to current estimates for the next fiscal year, we need to reduce benefits and cut programs – primarily in human services – by at least \$150 million out of a general fund budget of less than \$1.2 billion. Meanwhile, funding for K-12 education is expected to increase \$63 million in the \$1.4 billion education fund.

“In fact, with current projections, while the education fund will have grown 23% since 2006, the general fund will have actually decreased 2% – meaning that we will be spending less in state government in our fiscal 2010 budget than we did in fiscal 2006.

“If we do not take action to restore the equilibrium between the general and education funds, we risk devastating spending cuts. I propose placing the obligation for funding the teachers’ retirement system where it belongs – in the education fund. This \$40 million would leverage \$97 million in state and federal Global Commitment money and reduce the need to cut critical programs for vulnerable Vermonters. I also propose linking the general fund transfer to the education fund to changes in the level of general government spending. This is a reasonable approach that respects the capacity of taxpayers.

“Further, a close examination of spending for public education reveals a startling imbalance among our funding levels for early education, K-12, and

higher education. We spend relatively little on early education – are among the highest in the nation for primary and secondary education – and near the bottom for higher education. We must begin to reshape this skewed distribution of resources.

“Access to affordable, quality early care and education provides a dual benefit: it lays the building blocks for a successful future, ensuring children arrive at kindergarten ready to learn; and, it removes the single biggest barrier for parents in poverty to move into the workforce. At the other end of the spectrum, Vermont’s colleges and state university are among the most expensive in the nation and for too many Vermonters, simply out of reach.

“To move our system of education into the 21st Century we must strengthen our commitment to creating a continuum of learning that begins in early childhood and never ends, providing the necessary opportunities to Vermonters throughout their lives.

“A real investment in lifelong learning is an investment in an individual’s economic independence. Indeed, few things are more important to establishing a strong and growing economy than the education and training of our workforce. That’s why, despite budget challenges, I propose a 20% increase in early and higher education as a first step to address spending disparities and prepare Vermonters, young and old, for future success.

“I realize that there are some who have an interest in maintaining the current system. They will challenge any data and idea that calls into question the need to move our system of education out of the past and into the future. But we were not elected to safeguard the needs of one interest over another – we were elected to do our best for all Vermonters. I ask this assembly to join me in revitalizing our education system to better serve our children and make needed investments in the future of Vermont.

“But the transformation we need requires a shift not only in thinking and spending, but in structure as well. The final step is to seek the benefits from an integration of the University of Vermont and the Vermont State Colleges into a single organization. We have real gems in our state university and colleges, and with a commitment to progress, we can establish a higher education system better positioned to meet the needs of the student bodies. This marriage of resources – from infrastructure to administration, programs to athletics – will allow each college the freedom and flexibility to better focus on targeted academics offering the very best to each student.

“I will charge a working task force with the responsibility to find academic and administrative efficiencies that will be achieved through consolidation of our university and state college systems. I will ask the task force to report with recommendations by November 15th.

“Underpinning everything we will do in the coming session is our obligation to the most at risk in our society. We must make certain that those with the greatest need – children and vulnerable elders, working poor Vermonters, those with developmental disabilities and mental health challenges, and the indigent – are protected. But in order for government to ensure that the programs and benefits are secure, we must chart a course that is financially sustainable and outcome-based.

“The prospect of belt-tightening in state government understandably draws concerns from community providers, advocates and consumers of state benefits. I share the concerns about the impact of budget decisions on individuals and the programs and services they need.

“Make no mistake: these are tough conversations, made tougher with real heartache and real adversity. After all, in a state like Vermont, these stories are not statistics – but rather the family, friends and neighbors entwined in our daily lives. But while these conversations are difficult, they are the right conversations to have at a time like this.

“The first element of protecting the most vulnerable is to ensure the near-term solvency of benefit programs, while working to create sustainability in the long-term. Our first of its kind Global Commitment to Health waiver was a major milestone in addressing our challenges in the Medicaid budget. But even with Global Commitment, caseload increases outpace resources with a bigger and bigger portion of the state budget needed to fill the gap.

“Although our federal partner in Medicaid is expected to help with increased funds through the economic recovery package, that alone will not ameliorate increasing pressures on the human service budget. We must take immediate steps to set this vital network of programs on a sustainable path.

“Right now 25% of Vermonters receive some form of Medicaid assistance, among the highest percentages in the nation. There are principally two ways to make Medicaid sustainable: either we can exclude populations above a certain income level and eliminate their services, or we can realign benefits and share costs to fit responsible budgets. To me, the option of eliminating health care coverage for many Vermonters in order to preserve a generous benefit for a few is unjust in such a challenging time. The philosophy of sharing the sacrifice broadly must be part of any proposal we advance.

“We must also guarantee that each dollar is spent with a focus on quality of life and the goal of future independence.

“Our efforts to provide a healthy lifestyle discount in the private health insurance market should be mirrored in our Medicaid program. Encouraging Vermonters to make better choices when it comes to their health and well-being is a critical component of our innovative health care reforms, and the Vermont Blueprint for Health is the cornerstone of these efforts. We should align Medicaid with these goals and work to reward beneficiaries who eat nutritiously, stay in shape and live a clean life, free from drugs and smoking. By offering lower premiums for healthy choices, we can provide a tangible incentive to empower Medicaid recipients to take responsibility for their own well-being and, at the same time, lower health care costs.

“While the vast majority of beneficiaries and providers in our human services network are honest, we have all heard stories about some who exploit the system. Such unscrupulous acts threaten to shortchange those most in need. I have asked the Agency of Human Services to review the state’s response to those who falsify information to obtain government benefits or payments, including consumers who abuse prescription drug benefits. At a time when we are forced to consider significant cuts to programs, we must look for ways to guarantee that the programs we have are serving only those Vermonters for whom they were intended.

“It is reasonable for the state to ask beneficiaries to assist us in enhancing their individual health and welfare. We must focus our assistance, invest in Vermonters, and ensure we are building transformational bridges: from poverty to economic success; from chronic illness to health; from drug dependence to independence. That’s the covenant: the state provides assistance and beneficiaries work to amplify the state’s investment and improve their lives.

“Although common-sense changes to our human service programs are vital, there is no substitute for a good-paying job to bring real renewal into an individual’s life. While it’s hard to think about creating jobs as businesses close and lay off employees, now is the time for us to redouble our efforts to support existing companies, encourage entrepreneurship and attract new employers by transforming our economy to meet the demands of the 21st century.

“During the fall I introduced a series of proposals – an Economic Growth Plan – to make our state more competitive and position Vermont to be on the first wave of recovery. As the economy continues to soften, it is important that

we act to enhance our economic development efforts and pass this practical plan in the first 100 days of the session.

“Many of the principles that bind these proposals together are shared across the political spectrum. We understand the value of renewable, clean and affordable energy. We’ve seen the power of information and the potential of technology. And we know that in a rapidly changing economy, our ability to grow and attract innovative, emerging industries will be the difference between success and failure.

“That is why I have called for the development of Green Growth Zones to join commercial, residential and renewable energy facilities together in an arrangement that benefits an energy producer with access to a ready market, and benefits businesses and individuals with reduced rates for clean power. And that is why it makes sense to provide greater regulatory certainty to assist in the creation of a Smart Grid for Vermont.

“As part of last year’s Economic Growth Initiative, we provided a higher level VEGI incentive to green industries. By expanding this successful program to technology-based employers, such as software developers, we can encourage growth in this fast moving sector of our economy.

“Whether it is a more fuel-efficient car or a breakthrough in biomedicine, Vermont must aspire to be the home of innovation and invention. By enticing entrepreneurs through the Vermont Innovation Challenge, we can help meet the needs and employment potential of our workforce.

“As I travel Vermont and talk with employers, too often I hear the same stories about the time, expense and uncertainty of obtaining necessary permits and approvals to begin a project to grow their companies.

“I believe that some in Vermont have lost sight of what a permit application really means. It is easy to characterize applications in the negative: this project will add that much traffic or require this much mitigation.

“But to me, a permit application really says something very positive.

“It says, “I’m hiring.”

“It says, “I’m prepared to make an investment in Vermont.”

“It says, “I’m ready to put down roots in this community and create jobs.”

“For many Vermonters what that permit application really means – above all else – is the difference between checking in for work and waiting for an unemployment check.

“When an employer has made the commitment to grow responsibly in Vermont, we must make the commitment to speed the process from permit application to shovels in the ground.

“Over the years, we have advanced reforms to parts and pieces of the process, sometimes with success – as we had five years ago in streamlining appeals – but most often without closure. The current system remains a labyrinth, fraught with unpredictability, which threatens job creation for years ahead – unless we are prepared to make substantive changes that will modernize the system.

“As we strive to protect that which is so special about Vermont, we must recognize that a "working landscape" requires Vermonters to be actually working - not simply admiring the view.

“We must preserve and strengthen our gold standard of environmental protection, but we can do so while making it easier for companies to invest in Vermont and grow with certainty. We can build a better, more practical system based on clear guidelines, professional assistance, a good dose of trust and strong penalties for non-compliance.

“I propose we broaden Act 250 so proposals are not only judged on impacts, but also on the positive economic, social, or cultural benefits that may flow from a project into a community or region.

“We must bring greater predictability to all interested parties by ensuring that once you’ve obtained your permit from an agency of state government, that permit will not be challenged in an Act 250 proceeding.

“Further, we must expedite the chilling and costly effect of our lengthy appeals process by instituting “on the record review” – one formal hearing, where all evidence is submitted and examined.

“Finally, we must expand the use of the self-certifications, general permits and permits by rule that are now used in stormwater, air pollution control and other programs. Instead of complex front-end regulation, we can provide clear guidance to businesses and trust them to design appropriate systems with the help of a recognized professional, obtain a general permit, and move towards better and faster construction.

“Businesses will not be let off the hook from environmental protection. Non-compliance will bring costly penalties, motivating developers to complete legally and environmentally sound projects. Furthermore, self-certification will allow agency staff to spend more time in the field ensuring compliance, rather than micromanaging proposed permits upfront.

“I have directed the Secretary of Natural Resources to examine every permitting program within the Agency, identify those for which self-certification and other strategies make sense, and design approaches for each.

“By creating a more responsive regulatory process we will uphold our cherished environmental standards and at the same time allow our state to grow and thrive.

“In the short term, however, the extraordinary realities of the current economic crisis demand immediate action. I have asked my administration to work with the legislature and others to create the Vermont Economic Response Team, which will marshal all available public and private resources to assist companies at risk. Similar to the Fuel and Food Partnership model, the Response Team will cut through red tape, expedite the deployment of resources and examine temporary measures to help a business that is in trouble. When Vermont companies are in distress, I want to be absolutely sure that we do everything possible to help them weather this storm.

“Agriculture and forest products remain pillars of our rural communities and, like other industries, are struggling.

“Unfortunately, we expect the price of milk to drop significantly this spring. Although there is little the state can do to insulate dairy farmers from the volatile national milk pricing system, especially during these lean fiscal times, the Agency of Agriculture has been working closely with counterparts in New York and Pennsylvania, and the northeast dairy cooperatives to offset falling milk prices.

“We will continue to work diligently with our congressional delegation to explore all options to help our traditional industries survive a difficult economic climate in the coming year.

“While education, social services and jobs are all vital to the future of Vermont, the safety of our children trumps all else. The tragic events of the last year are a sobering reminder that more must always be done to keep violent sexual predators off our streets and away from our children.

“I am confident that we can work together to quickly pass a comprehensive package of laws that focus on prevention, strengthens investigations and prosecutions, requires stiffer sentencing – particularly a 25-year mandatory minimum sentence – and enhanced supervision for sexual offenders. We have

no time to waste in ensuring that law enforcement, the courts, families and communities have the tools they need to keep the children of Vermont safe.

“I would like to take a moment to address the more than 8,000 Vermonters who work in state government and make this \$4.3 billion enterprise run. State government remains the most far-reaching organization in the state. And now more than ever, our fellow Vermonters need us to lead by example – to find in every department, in every division, new ways to generate economic activity and ensure that those who most depend on our services receive them. I know you don’t always receive the credit you deserve, but your work has a tangible impact on the lives of those you serve. And I am confident that at day’s end the work we do will help our state emerge quickly and strongly from this downturn.

“For the moment the clouds of recession have obscured our view of a more prosperous future. The task ahead is difficult and demanding, but Vermont will succeed. We will achieve our goals and realize the full potential of a people whose legacy is the diligence of its industry and the inspiration of its innovation.

“Today, as our will commands, Vermont moves forward.

“We will move together, past old ideas and embrace new solutions. We will address our challenges directly and completely. We will re-balance and strengthen our system of education, secure our social safety net and, most importantly, we will create a new, lasting framework for sustained growth.

“Today, we inaugurate new ideas and real solutions to restore our economic security, awaken our optimism and produce new opportunities.

“When this work is complete, and when the clouds of recession lift, we will look back at this session of the General Assembly as the moment we ushered in a new era of prosperity in our state’s history.

“God bless each of you and the great state of Vermont.”

“Thank you.”

Benediction

The Benediction was pronounced by Dr. Lynn Bujnak, Conference Minister, of the Vermont Conference of the United Church of Christ.

Dissolution

The Governor, having completed his inaugural message, was escorted from the Hall by the Committee.

The Supreme Court was escorted from the Hall by the Sergeant at Arms.

There being no further business, the President declared the Joint Assembly to be dissolved.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, JANUARY 22, 2009

2:00 P.M.

The Senate and House of Representatives met in the Hall of the House of Representatives pursuant to a joint resolution which was read by the Clerk and is as follows:

J.R.S. 5. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, January 22, 2009, at two o'clock in the afternoon to receive the budget message of the Governor.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Committee Appointed

Senator Peter E. Shumlin of Windham District moved that a Committee of three Senators and three Representatives be appointed by the Chair to wait upon His Excellency, the Governor of the State of Vermont, to inform him that the Joint Assembly is now convened and to escort the Governor to the Chamber to deliver his budget message.

Which was agreed to.

The Chair appointed as members of the Committee:

Senator Susan J. Bartlett, of Lamoille District
Senator Ann E. Cummings, of Washington District
Senator Vincent Illuzzi, of Essex-Orleans District
Representative Sandy Haas, of Rochester
Representative Warren F. Kitzmiller, of Montpelier
Representative Patti Komline, of Dorset

The Committee performed the duty assigned to it and appeared within the Joint Assembly accompanied by His Excellency, Governor James H. Douglas, who delivered the following message.

Governor's Budget Message

“Mr. President, Mr. Speaker, legislators, guests, my fellow Vermonters:

“The legitimate object of Government,” Abraham Lincoln once wrote, is “to do for the people what needs to be done, but which they can not, by individual effort, do at all, or do so well, for themselves.”

“The task of crafting a responsible budget is one of our most important duties in any season. But with our nation mired in recession and state government facing steep declines in revenues, building a budget that honors Vermont’s long held traditions of fiscal restraint, neighborly compassion and forward looking resolve is absolutely essential. Indeed, a focus on what must be done – on that which Vermonters cannot do at all or so well for themselves – must guide us in these most difficult times.

“The priorities we set through this budget will impact how quickly and strongly we emerge from this downturn. The course we choose will determine whether an out-of-work mother or father has a chance for new employment, a homebound grandparent has access to critical services, or a young student can afford an education that prepares him or her for a lifetime of success.

“Today, I present a responsible budget that looks to the future with necessary investments in the economic independence of our people, while preserving important programs that so many depend on everyday.

* * *

“When I addressed this body two weeks ago, I proposed a new framework for progress – one that matches the real needs of people with the true capacity of government to serve. I recognize that some of my proposals are uncomfortable departures from past practices – but as I said then, we are in unusual times.

“The national recession is leaving countless unemployed; families struggling to stay ahead are falling behind; and more Vermonters are depending on critical state services. At the same time, state revenues have fallen sharply. Today, we have fewer and fewer resources to meet growing demands. Compounding this challenge is the fact that certain areas of government have been on an unsustainable track, regardless of fiscal realities, for too many years.

“The short-term fixes of deep cuts or higher taxes, waiting solely on help from Washington, or reaching for reserve funds now, will only mask these underlying challenges. We must look beyond what has been done in the past and commit ourselves to lasting solutions, sharing the sacrifice broadly and breaking down the barriers that shelter certain areas of government from tough choices and place a greater burden on others.

“While these imbalances are not the cause of this recession, only by addressing these fundamental inequities can we make necessary investments in the economic potential of Vermonters, secure vital programs for those most in need and hasten a robust recovery. For that reason, the budget I propose today is not only balanced at the bottom line, but brings greater balance among the many important priorities of government.

* * *

“Congress is now debating a substantial recovery package. Our federal partners will play an important role in bringing our nation out of this recession. Make no mistake: this is a needed investment as we realign our priorities with the realities of declining revenues.

“As vice-chairman of the National Governors Association I have met with the new President and Congressional leaders to advocate for such a state-directed plan. Within my Administration I have created the new Vermont Federal Recovery Office to coordinate projects and ensure that we expedite the deployment of federal resources. Throughout this process, I will continue to work closely with our Congressional delegation and this assembly so that we can meet our most pressing needs.

“Many of the ideas being discussed in Washington are familiar to Vermonters. Proposals to reduce health care costs by using information technology and increased investment in preventive care are in line with Vermont’s groundbreaking Blueprint for Health. Increased funding for weatherization and energy-efficiency programs is consistent with steps we have taken to help businesses and families save money by consuming less. New investments to expand broadband internet access to rural areas would support our e-State initiative. And funding to transform the nation’s energy

transmission and distribution system goes hand-in-hand with a Smart Grid for Vermont – part of my Economic Growth Plan.

“Indeed, we are well positioned to take advantage of any package that Congress ultimately passes to grow good jobs here in Vermont.

* * *

“During the past year, the Joint Fiscal Committee and my Administration have worked together, on a bipartisan basis, to responsibly trim \$43 million from the current year budget. However, we must still address a \$49 million gap.

“While a significant portion of federal aid will be directed at projects that will have an immediate economic stimulus and create jobs, there will be resources to help states meet their current obligations.

“At this time, we cannot be sure of the exact amount or nature of these funds, but it is prudent for us to build into this budget certain agreed upon assumptions. That is why I am recommending that we use the expected savings from a greater Medicaid reimbursement to free up resources to help fill the fiscal 2009 and 2010 shortfalls.

“We must avoid the temptation to balance our budgets on the promises of federal aid alone. As President Obama has indicated, this aid will be temporary and once the money is spent, Washington must begin to reform its spending practices to address our mounting national debt. I will continue to urge the Legislature to join me in realigning our own priorities, so that when the federal well runs dry in two years, we will not confront an even wider gap between the demands for services and the resources of government.

* * *

“To begin this process, I propose a budget adjustment that includes a number of difficult changes. Eliminating the VPharm programs, which provide supplemental prescription drug assistance to Medicare beneficiaries, is particularly difficult. When the federal Medicare prescription drug benefit, part D, was instituted, my Administration and the Legislature authorized a new wrap-around benefit to allow coverage comparable to the state assistance programs that were previously in place.

“That was the right thing to do – and VPharm has been a program I have fought for since – but times have changed. Seniors eligible for assistance will still receive a prescription drug benefit through Medicare. However, it is responsible to allocate those savings to VPharm to ensure continued health care coverage for Vermonters with no other options.

* * *

“There will be some who argue that increasing taxes is a viable alternative to these difficult decisions. But we must acknowledge that Vermonters and Vermont businesses are already facing an unpreventable tax increase. Employer contributions completely support the unemployment insurance trust fund, which is feeling the strain of increasing unemployment. Trust funds in most other states are facing similar challenges, as unemployment rates continue to rise. While adjusting benefits must be part of the overall solution to keep the fund solvent, an increased employer contribution is unavoidable.

“This increased assessment will have a painful impact for employees and employers alike, and makes it all the more certain that we must not raise broad-based taxes that can be avoided – such as the gas tax, income tax, and property tax. With one of the highest burdens in the nation, raising these taxes now would slow a recovery and offset any gains that might be achieved through the federal stimulus. In fact, one purpose of a federal recovery package – as the President’s top economic advisors have noted – is to prevent states from making draconian cuts or raising taxes that will prolong this recession.

* * *

“Although meeting our fiscal 2009 obligations has been difficult, the challenges we face for fiscal 2010 are even greater. This will be the most dynamic budget process any of us remember. With such volatile markets and information from Washington changing weekly or even daily, assumptions will change as these unknowns reveal themselves. As a result, this proposed budget may be much different when finally adopted.

“However, what we do know is that revenues will be far below previous levels. In the General Fund, revenue forecasts are down \$152 million from a year ago. Accounting for upward pressures – largely resulting from increased needs in our human services system – we must address a gap of over \$200 million, roughly 18% of available fiscal 2010 revenues. In the Transportation Fund, purchase and use tax receipts have dropped sharply, and high fuel prices over the summer and fall accelerated the decline in gas and diesel tax revenues. For fiscal 2010, transportation revenue projections are down \$22.5 million.

“Without restructuring the relationship among government’s priorities and spreading the impact of these declining revenues broadly, the effects on individuals and services would be devastating and our capacity to make necessary investments in the economic well-being of all Vermonters would greatly diminish.

* * *

“Fundamental transformation must begin with our largest commitment. Bringing education spending in line with other important aspects of government is the first step toward a more equitable budget.

“While the debate over how to bend the curve on increasing school spending is not new, we cannot wait to find a sustainable solution to this challenge.

“Some have argued that declining student populations do not necessarily reduce the operating costs of a school, especially when those numbers are spread out among several grades. While it might be difficult to *reduce* costs, specifically staff, in such a situation, it is hard to understand how we have seen a 22% *increase* in the number of staff at the same time that there has been a 10% *decrease* in student enrollment. Not reducing costs is one thing – substantially increasing them is quite another.

“If left unchanged, the transfer from the General Fund to the Education Fund will grow by \$7 million to \$298 million in fiscal 2010. Another \$40 million from the General Fund will pay the employer’s contribution to the state teachers’ retirement system. These two obligations combine to account for nearly 32% of the entire General Fund – and have been held harmless during the fiscal 2009 rescissions.

“This means that in fiscal 2010 there is just \$734 million available in the general fund for spending outside of K-12 education. In contrast, for fiscal 2006 there was \$828 million available. Even though total General Fund revenues will be 4% below fiscal 2006 levels, the amount available for spending outside K-12 education will, in fact, be 11% less.

“That is why I propose paying the employer’s portion of teachers’ retirement from the education fund. While there will be no change in benefits, this change strengthens the link between wages and benefits and education costs, and allows Vermont to leverage an additional \$57 million in federally matched Global Commitment funds for a total of \$97 million in Medicaid programs. Without this money, our choices for additional cuts would be dire. For example, in our human services system, it could mean ending health coverage for 7,500 Vermonters in poverty by cutting the Vermont Health Access Plan by 25% – plus stopping medical transportation for all Medicaid recipients – plus ending our Traumatic Brain Injury programs – plus completely eliminating our Dr. Dynasaur program, terminating health coverage for 24,000 kids. Choices such as these are unacceptable.

“I also propose linking the Education Fund transfer to changes in the level of General Fund spending. By taking this step, we will free at least \$23

million that can be used to make necessary investments in early and higher education.

“Some have argued that these changes will place a greater burden on property taxes. Let me be absolutely clear: moving funding for teachers' retirement and linking the Education Fund transfer to levels in General Fund spending must be part of a comprehensive package that reins in property taxes. These proposals cannot stand alone, but together they represent a necessary step toward a more equitable budget and long overdue relief for property tax payers.

“Others have suggested that a freeze on school budgets would present difficulties for school boards who are under time constraints. Many of us in this building have been struggling for the last year with extremely difficult budget decisions that will have an impact on state services and personnel. In fact, just nine days ago, we learned that fiscal 2010 state revenue projections once again declined – this time by \$34 million. While it was not easy, we moved quickly to make the necessary changes to present a responsible budget here today. Of course, nine days would be a luxury for a Vermonter who just lost a job and must adjust the family budget with no notice. We are in extraordinary times that require us to move beyond business as usual.

* * *

“Bringing education spending in balance with other obligations will relieve some of the pressures in the General Fund, but certainly not all. Necessary reductions across state government cannot be avoided.

“The truth we must all accept is that we can no longer afford the level of services we have come to enjoy. In developing a balanced and compassionate budget, Vermonters expect us to preserve basic services for the many, and not just a more generous benefit for the few.

* * *

“Our rate of uninsured – 7.6% – is among the lowest in the nation, and confirms that we have made great strides toward meeting our health care reform goals. Yet, in order to preserve our health assistance programs for future generations and continue our forward progress, we must make changes to align our programs with the stark realities of our current budget.

“At a time when health care premiums are rising and placing a strain on the pocketbooks of families and small businesses, we must ask some of the 25% of Vermonters who receive Medicaid assistance to share more of the cost. Accordingly, I propose restoring monthly premiums for both Dr. Dynasaur and VHAP to their 2007 levels, as well as a 4% reimbursement reduction for many of our Medicaid providers.

“Although some have suggested the elimination of Catamount Health, I propose modifications to sustain this necessary program for Vermonters. These changes will preserve the current benefits, but increase the plan deductible on a sliding scale based on income. Also, I will introduce a lower cost Catamount Health HSA Plan, which would be more affordable, especially for young adults, who still comprise the highest percentage of our uninsured population. These benefit adjustments and others are necessary in order to avoid drastic wholesale program eliminations.

* * *

“We must make similarly difficult decisions in the rest of the human services budget, and prioritize our spending. One of the effects of the national recession is that our human services caseload will continue to increase, placing further pressure on the state budget. In order to preserve essential programs for the most vulnerable, and focus on getting Vermonters back to work and on a path toward independence, we must adjust our investments in other initiatives.

“Vermont was ranked the healthiest state for the second year in a row. This success is based, in part, on our statewide focus on innovative prevention programs through our Vermont Blueprint for Health. To preserve these gains, we must carefully focus our resources, even among prevention programs, and reduce our funding for tobacco control. In 2007, the smoking rate among Vermont adults had dropped to an all-time low of 17.6%; yet the number of Vermont adults who are overweight or obese continues to climb – greatly increasing the risk for many chronic conditions, including high blood pressure, diabetes, and certain cancers. By preserving access to health care and reshaping the system through which care is delivered, successful prevention strategies can be applied across an array of health risk behaviors.

“As the economy worsens, we must respond to the needs of those most dramatically affected. Low income families who are struggling to enter the workforce are served by our state’s Reach Up Program. The fiscal 2010 budget has been raised substantially to address the increasing number of families now eligible. To partially offset some of those new costs, I propose strategically decreasing the level of some benefits. I have put several proposals forward that I believe can strengthen the program and increase incentives for work participation.

* * *

“The entire burden of these reductions cannot fall on the shoulders of beneficiaries and service providers alone. Although we have taken steps to curb the growth in government in recent years, including a recent effort to

reduce positions through attrition and retirement, the state workforce continues to grow in both size and cost at unsustainable rates.

“Since the beginning of this decade, the number of classified and exempt employees has increased by 15% while payroll costs have increased nearly 70%. Over the same period, the state’s cost of medical benefits has increased over 150% and retirement benefits over 100% – far greater than the rate of inflation.

“Some organizations and businesses have many options available to them when it comes to reducing labor costs. They can make across-the-board salary cuts, trim benefits, furlough employees, or modify retirement plans to forestall layoffs.

“For exempt employees, I have taken steps to exercise those alternatives – as well as eliminating positions – to save state money and share the sacrifice broadly. Last summer, I denied cost of living adjustments to exempt employees making over \$60,000 per year. Further, as part of the most recent rescission, I ordered the same group to take a 5% reduction in pay. I am grateful that most elected officials and the Judiciary voluntarily joined me in this cost saving measure.

“Unfortunately, the state’s multi-year contract precludes such options for classified employees – despite the fact that many state employees have requested such measures to avoid layoffs. This leaves a single, blunt instrument, reductions-in-force, as the only option to reduce labor expenses for remaining state employees.

“Reducing our workforce in the middle of a recession is not our first choice. But the growth in payroll costs in the current economy make this difficult step a necessity. In addition to 60 positions eliminated through program changes, my recommended fiscal 2010 budget includes \$17 million in General Fund savings by eliminating 600 positions within state government. While some of these positions may be cut through further vacancies and retirements, there will be reductions-in-force and an impact to state services.

“I know this is difficult news that will affect the lives of many people. But given our current contract and the need to make labor costs sustainable for the long-term, a reduction in the state workforce must be part of our overall plan.

* * *

“According to recent studies, Vermont ranks first in the country for the number of non-profit organizations per capita. This speaks well to our civic-minded culture, always ready to start a new effort to make positive change in our state.

“Many of these non-profit groups derive a significant portion of their revenue from tax dollars through state support. At a time when we are making difficult choices within state government, it is essential to evaluate these providers to ensure they harmonize with our values and mission.

“In reviewing the multitude of state grants, it is clear that many state-supported non-profits have similar, albeit not identical, goals and objectives. For instance, there are a number of housing organizations in Vermont with similar missions that might find efficiencies through consolidation. While mergers might not be attractive at first glance, the prospect of severely curtailed public support might make such efforts worth pursuing. Furthermore, a review of salaries for non-profit executives reveals some with robust compensation packages well in excess of state or municipal employees managing like-sized or larger organizations.

“While the state can neither mandate consolidation between private groups nor dictate salary decisions, I ask state-funded organizations to consider such steps in the face of a protracted economic downturn. While the reductions in the fiscal 2009 and 2010 budgets to grantees are difficult – yet still manageable – I will be looking closely at these organizations for future savings.

“As a first step to share the sacrifice and encourage efficiencies, my budget proposes a 4% reduction for nearly all human service grants to achieve approximately \$2 million in general fund savings. These reductions will include programs that I have championed during my tenure.

“Further, I propose an \$8.3 million property transfer tax reduction to the Vermont Housing and Conservation Board. This proposal freezes \$4.3 million in land conservation efforts for one year, while replacing the additional \$4 million with federal Neighborhood Stabilization Program funds to keep affordable housing efforts on track. When given the choice between deeper cuts to human services and temporary reductions in land conservation programs, I believe the choice is obvious.

* * *

“With so much focus on the bottom line – on crafting a compassionate budget that protects the fiscal integrity of our state – we cannot lose sight of the urgent need to grow our economy. This afternoon, I entered this chamber with the chairs of the Senate and House economic development committees to symbolize our shared understanding that a growing economy directly impacts our bottom line – now and in the future. New businesses, new industries and new opportunities for Vermonters expand our tax base and contribute to our ability to meet the needs of our people.

“To that end, investments in our roads, bridges, transit and rail are not only investments in the short-term employment of Vermonters, but also in the long-term potential of our economy. That is why I recommend we increase our transportation construction budget by supplementing federal recovery funds with increased state bonding for a total of \$200 million in new transportation projects over the next few years.

“By switching to an every-other-year inspection on cars, motorcycles, and trailers and adding an infrastructure investment fee to registrations as part of our triennial fee review, we can support up to \$100 million in a state revenue bond – and hold Vermonters harmless from unnecessary cost increases. When coupled with increased federal recovery money, this has the potential to create up to 4,000 jobs.

“While it is important to move quickly, from a practical perspective, we must first know the level of federal support before moving to extend state borrowing. If federal assistance exceeds contractor capacity, we would wait to issue state bonds until such time as they could reasonably be put to use. I look forward to working with Speaker Smith on his proposal and with this assembly’s transportation leaders to advance this important endeavor.

“In addition to the supplemental investment in transportation, my budget recommends continued support of the *Road to Affordability* – a realignment of our transportation priorities to preserve and improve our existing infrastructure, ensuring that these assets do not deteriorate to the point where they require major reconstruction at substantial costs. These principles will guide our decision making as we increase our transportation investment.

“The Agency of Transportation budget includes a 34% increase for preventive maintenance activities. This constitutes a 240% increase in this critical area since fiscal 2007. In addition, the base transportation budget includes \$68 million for construction of 45 interstate, state, and town highway bridges, as well as dozens of culverts.

“Furthermore, as we look to expand bonding and increase transportation spending, we must hasten efforts to redirect transportation revenue for its rightful purpose. Since taking office, I have steadily reduced the diversion of transportation funds by nearly \$9 million. This year we will further reduce that transfer by an additional \$4.5 million – a significant step toward ending the raid.

* * *

“As we create jobs by strengthening our transportation infrastructure, we must harness the innovative spirit of Vermonters to create new economic

opportunities. That is why I have introduced an Economic Growth Plan to help position our state to be on the first wave of recovery.

“This budget supports plans to redevelop existing buildings for affordable housing and businesses, as well as to encourage innovation and creativity with incentives for cutting edge inventions and research. We will also continue to strengthen our signature green brand and encourage the development of more renewable energy sources, as well as reform our permitting process to uphold our cherished environmental standards and allow our state to grow and thrive.

“We must build on what is so great about Vermont with initiatives that will help spur job growth and opportunities for those struggling to get by. I welcome new ideas and proposals from all corners and look forward to working with the Legislature in a collaborative effort to get our economy back on track.

* * *

“By increasing our commitment to lifelong learning, we will invest in the economic independence of Vermonters and build a more flexible workforce. Employment statistics are unambiguous: those who graduate from an institution of higher learning have a lower unemployment rate. That is why I propose a 20% increase in general fund support for higher education.

“At the other end of the spectrum, I propose increased support by 20% for early care and education to bring greater balance to our education continuum. This funding will be directed through the Department for Children and Families for increased quality to ensure that more children arrive at kindergarten ready to learn and for improved access for lower income families through the child care subsidy program.

* * *

“Additionally, an investment in new and existing infrastructure throughout Vermont is critical to small businesses and the employees who depend on jobs created by these projects. I propose a \$70 million Capital Bill that focuses on the quick deployment of resources into our communities to get Vermonters back to work. In fact, 94% of the proposed appropriations are directed toward “ready to go” projects – up from 60% last year.

“To supplement our increased investment in higher education, I recommend capital appropriations of \$3 million each to the Vermont State Colleges and the University of Vermont.

“To address the long overdue improvements for acute psychiatric care, I propose a capital appropriation of \$500,000 for final planning, permitting and

eventual construction of a secure residential recovery program located on the grounds of the Waterbury Complex. And to realize our goal of an integrated care setting for inpatient services, I recommend an appropriation of \$250,000 to continue the process for new inpatient beds at the Rutland Regional Medical Center. These two projects are consistent with our commitment to a long term solution, and move over half of the present Vermont State Hospital population into new settings that will meet or exceed current standards of care.

“While these investments in bricks and mortar are necessary, in the 21st century economy an investment in bits and bytes is just as important. That is why I propose a capital investment to upgrade the state’s human resource system – modernizing state government and allowing employees to spend more time serving Vermonters. We will also begin the process of replacing our 1980’s-era Medicaid eligibility system, which is outdated and no longer meets the needs of our social safety net. And I propose another \$1 million to assist the Vermont Telecommunications Authority to reach our vision of an e-State by the end of next year.

“This capital budget also supports the Clean and Clear program through a \$2.4 million appropriation to the Agency of Natural Resources and a nearly \$2 million appropriation to the Agency of Agriculture. Our commitment to a healthy and vibrant natural environment is a legacy we must always honor.

“Similarly, we have a duty to honor those who have sacrificed so much for us. Therefore, I propose funds to make needed upgrades and repairs to our Vermont Veterans Home.

* * *

“Ensuring that law enforcement, families and communities have the tools they need to keep our children safe from sexual predators is a fundamental obligation of government.

“Senate Bill 13 addresses our shared commitment to protecting our children – from the prevention of sexual abuse to the investigation, prosecution, and sentencing of sexual predators. This bill is a testament to our ability to work together toward a common goal and shared responsibility. I applaud the work of all those involved.

“A critical component of implementing this bill and providing law enforcement with the best technology available is our new crime lab. My Administration has made this a priority and I am pleased to announce that the capital bill includes \$2 million – bringing total appropriations to \$15 million – for the construction phase of the lab. We will break ground this summer with an expected completion in 2011.

“In order for Vermont to remain one of the safest states in America, this budget strongly supports our state police force and builds on our shared commitment to develop the very best investigation and prosecution response to crimes of sexual violence. I propose appropriations to support Special Investigation Units throughout the State through additional grants and continued funding of the new troopers who are graduating from the Academy this year.

* * *

“This is the seventh budget I have presented to the General Assembly and by far the most difficult. There is no joy in making cuts at such a challenging time in our state’s history and I have agonized over many of the proposals in this budget.

“I understand well the consequences of our actions – we cannot pretend they will have no effect – but the implications of inaction are far worse. If we do not make tough choices now – if we do not share the sacrifice for the common good – if we do not ask more from ourselves – then our promises will be unfulfilled and our legacy tarnished.

“In these times, all programs and services must be examined and considered – whether priorities of mine or priorities of others. Few choices will find easy solutions, but we must not allow what is easy to take the place of what is right.

“Together, in these dark hours, we will conquer collective anxiety with shared resolve –beat back cold fear with a hope as deep as the green of a Vermont spring – and push past partisanship to serve the people in a way that honors their struggle.

“Our differences pale to our common purpose. I pledge my hand in that spirit and stand ready to work day and night with you to lead our state through this tempest.

“God bless each of you and the great state of Vermont.”

Dissolution

The Governor, having completed the delivery of his message, was escorted from the Hall by the committee appointed by the Chair.

The purpose for which the Joint Assembly was convened having been accomplished, the President then declared the Joint Assembly dissolved.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, FEBRUARY 19, 2009**10:30 A.M.**

The Senate and House of Representatives met in the hall of the House of Representatives pursuant to a joint resolution which was read by the Clerk and is as follows:

By Senator Shumlin,

J.R.S. 11. Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 19, 2009, at ten o'clock and thirty minutes in the forenoon to elect a Sergeant-at-Arms, an Adjutant and Inspector General, and three trustees of the University of Vermont and State Agricultural College. In case election of all such officers shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Statement by Presiding Officer

“Pursuant to our Constitution and statutes we are assembled here today in Joint Assembly for the election of an Adjutant and Inspector General, a Sergeant at Arms and three Trustees for the University of Vermont.

“With respect to the election of all of these officers, if a contest exists, then the voting must be done by written ballot. This mandate is set forth in 2 V.S.A. §12 and in Joint Rule 10(a). The only offices being contested today are the three trustees for the University of Vermont.

“The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be received by the Chair prior to voting, presented in alphabetical order.

Second: There will be only one nominating speech of not more than three minutes and not more than two seconding speeches of not more than one minute each for each nominee.

“We have three sets of elections today:

- a. First, To elect a Sergeant at Arms.
- b. Second, To elect an Adjutant and Inspector General.
- c. Third, To elect three UVM Trustees.

“For the first two elections, that for the Sergeant at Arms and for the Adjutant and Inspector General, since there are no contests the provisions of Joint Rule 10(a) will apply.

“This means that election to these two positions may be by voice vote if there is no objection.

“For the third set of elections --- for the three UVM Trustees -- the provisions of Joint Rule 10 have been suspended as a result of the adoption by both houses of J.R.S. 12. Different rules will apply to that election, and majority votes for the three trustees will not be necessary.

Tellers Appointed

“As stated before, one of our elections today is contested and must be decided by written ballot.

“Accordingly, we will need tellers, and the Chair now appoints as tellers:

Senator Jeanette K. White, of Caledonia District, as Chief Teller
Senator Timothy R. Ashe, of Chittenden District
Senator Randolph D. Brock, of Franklin District
Representative Mollie S. Burke, of Brattleboro
Representative Diane Lanpher, of Vergennes
Representative Ira Trombley, of Grand Isle
Representative Donald H. Turner, Jr., of Milton”

Election of Sergeant at Arms

The Joint Assembly then proceeded to the election of a Sergeant at Arms.

For the office of Sergeant at Arms, Representative Carolyn W. Partridge of Windham nominated *Francis K. Brooks*, of Montpelier.

The nomination was seconded by Senator Kevin J. Mullin of Rutland District.

There being no other nominations, the Chair declared that nominations were closed.

Whereupon, no other nominations being made, the vote was taken *viva voce* pursuant to Joint Rule 10(a), and the Chair declared that

FRANCIS K. BROOKS, of Montpelier

was unanimously elected to the office of Sergeant at Arms for a term of two years, from and including the first day of March, 2009, and until his successor is elected and has qualified.

Election of Adjutant and Inspector General

The Joint Assembly then proceeded to the election of an Adjutant and Inspector General.

For the office of Adjutant and Inspector General, Representative Martha P. Heath of Westford nominated *Michael D. Dubie*, of Essex Junction.

The nomination was seconded by Representative Joseph L. Krawczyk, Jr. of Bennington.

There being no other nominations, the Chair declared that nominations were closed.

Whereupon, no other nominations being made, the vote was taken *viva voce* pursuant to Joint Rule 10(a), and the Chair declared that

MICHAEL D. DUBIE, of Essex Junction

was unanimously elected to the office of Adjutant and Inspector General for a term of two years, from and including the first day of March, 2009, and until his successor is elected and has qualified.

Election of UVM Trustees

The Joint Assembly then proceeded to the election of three Trustees of the University of Vermont and State Agricultural College, each for a term of six years, from and including the first day of March, 2009.

The Chair reminded the Joint Assembly that nominations for the office of three UVM Trustees would be received in alphabetical order, with one nominating speech of not more than three minutes and not more than two seconding speeches of not more than one minute for each nominee.

Statement by the Presiding Officer

“As stated previously, for the election of UVM trustees, we will be operating under a different set of rules. This is because both houses adopted J.R.S. 12, which suspended the provisions of Joint Rule 10 for this particular

election.

“By adopting this joint resolution (J.R.S. 12), we have set up a special voting procedure for this election, which will help expedite the process.

“The adoption of J.R.S. 12 permits the Joint Assembly to determine the winners of this election of the three Trustees of the University of Vermont and State Agriculture College by means of a plurality vote. This means that three candidates can be elected on the same ballot.”

Nominations for UVM Trustees

Senator Kevin J. Mullin of Rutland District nominated *Representative Janet Ancel* of Calais. The nomination was seconded by Representative Donna G. Sweaney of Windsor and Representative Steven B. Maier of Middlebury.

Representative Alison H. Clarkson of Woodstock then nominated *Representative Carolyn W. Branagan* of Georgia. The nomination was seconded by Representative James W. Masland of Thetford.

Senator William T. Doyle of Washington District then nominated *Representative Christopher A. Bray* of New Haven. The nomination was seconded by Representative Steven C. Adams of Hartland and Representative Carolyn W. Partridge of Windham.

Representative Johannah L. Donovan of Burlington then nominated *Representative David E. Potter* of Clarendon. The nomination was seconded by Representative Richard A. Westman of Cambridge and Senator William H. Carris of Rutland District.

Summary of Names Placed in Nomination

The four members placed in nomination and on the ballot for the office of Trustee of the University of Vermont and State Agricultural College are as follows:

Janet Ancel, of Calais
Carolyn W. Branagan, of Georgia
Christopher A. Bray, of New Haven
David E. Potter, of Clarendon

Review of Voting Procedure

Prior to the taking of any ballots, the Chair reviewed the “plurality” procedure for choosing candidates, by quoting verbatim from the text of J.R.S. 12, as follows:

“(1) All candidates for the office of trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and

including the maximum number of vacancies to be filled, which in this case shall be three.

“(2) The three candidates receiving the greatest number of votes shall be declared elected to fill the three vacancies.

“(3) In the event that the first balloting for the trustee vacancies results in a tie vote for one or more of the three vacant positions, then voting shall continue on successive ballots until the vacancies have been filled, again by election declared of those candidates receiving the greatest number of votes.”

Balloting for UVM Trustees

The tellers distributed, collected and counted the ballots cast. Due to the closeness of the results, the ballots were recounted. As a result of the recount it was determined that a further recount was necessary.

Recess

On motion of Senator Shumlin, the Joint Assembly recessed until nine o'clock in the morning.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, FEBRUARY 19, 2009

The Senate and House of Representatives met in the hall of the House of Representatives pursuant to a joint resolution which was read by the Clerk and is as follows:

By Senator Shumlin,

J.R.S. 20. Joint resolution providing for a State of the Judiciary message.

Whereas, the State of the Judiciary is an issue of importance to every citizen of the state and every member of this General Assembly; and

Whereas, the General Assembly and the Judiciary, as co-equal branches of state government, should take advantage of opportunities to understand and better appreciate the mission and goals of the other; and

Whereas, a State of the Judiciary message offers a unique opportunity for inter-branch communication on the special challenges currently facing the Judiciary, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Senate and the House of Representatives shall meet in Joint Assembly on Thursday, February 19, 2009, at 11:30 A.M. for the purpose of hearing the Chief Justice of the Supreme Court of the State of Vermont address the Joint Assembly on the State of the Judiciary.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Committee Appointed

Senator Peter E. Shumlin of Windham District moved that a Committee of three Senators and three Representatives be appointed by the Chair to wait upon His Excellency, the Chief Justice of the Supreme Court, and inform him that the Joint Assembly was now convened for the purpose of receiving his State-of-the-Judiciary message.

Which was agreed to.

The Chair appointed as members of such Committee:

Senator John F. Campbell, of Windsor District
Senator Kevin J. Mullin, of Rutland District
Senator Richard W. Sears, Jr., of Bennington District
Representative Margaret K. Flory, of Pittsford
Representative Maxine Grad, of Moretown
Representative William J. Lippert, Jr., of Hinesburg

The Committee performed the duty assigned to it and appeared within the Joint Assembly accompanied by Honorable Paul L. Reiber, Chief Justice of the Supreme Court of the State of Vermont, who delivered the following message:

Chief Justice's State-of-the-Judiciary Message

“President pro tem Shumlin, Speaker Smith, Senators, Representatives and guests. On behalf of the judges, magistrates and staff of the Vermont court system, I am grateful for the opportunity to speak to you today. I have looked forward to this opportunity to come before you to discuss the state of our justice system and what the future holds for us.

“First I must recognize my colleagues on the Supreme Court, who over the last 18 months have dedicated countless hours to our common goal of improving access to justice in these times of declining state revenues. I also want to recognize our Court Administrator's office, people who have served so well in their support roles to all of the different Courts in this state through late nights and long hours. I must also mention our rugged, independent and

hard-working trial judges, court managers, clerks and staff. As we face the problem of lower funding for our branch, and fewer dollars allocated to the courts to meet caseloads, they continue to shoulder their daily work with compassion, wisdom, knowledge and skill. They have remained resilient and resourceful in the face of mounting challenges in our branch. I am deeply grateful to them for their service to all Vermonters.

“As I’m sure many of you do, I tend to return to the fundamentals during trying times. I think about the core mission of the courts and about their place in our system of government. Over two hundred years ago, the Chief Justice of the United States, John Marshall, said this about the role of the courts: “The very *essence* of . . . liberty certainly consists in the right of every individual to claim the protection of the laws.” It is no exaggeration to say that democracy *itself* depends on the courts’ ability to protect those individual rights. A robust and independent court system is vital, also, to our state’s commercial livelihood. Our courts provide a stable, unbiased forum in which individual and commercial disputes are resolved. Without that forum and the predictability it provides, particularly in uncertain times like these, investors might shy away, fearing that contracts could not be enforced. If we did not have the robust court system we do, Vermonters would not be able to turn to the courts to resolve the most pressing issues in their lives, from housing and family matters to criminal prosecutions. So there are many powerful reasons for the Vermont Constitution to require that “the Courts of Justice shall be open for the trial of all causes . . . and justice shall be therein impartially administered, without corruption or unnecessary delay.”

“Our Constitution also says that Vermont shall have a “unified court system.” A unified court system is a worthy objective because it is a system that promotes rational and uniform administration of the courts. Justice cannot be properly served if there are inconsistencies in its administration. Justice cannot be properly served when there are two different funding streams and employees working in the courts who are not subject to the same system of management and control. Justice cannot be served when a dispersed management structure stands in the way of allocating resources to priorities in times of need.

“But a justice system that is both unified and flexible serves justice in good times and bad. In such a system, resources can be shifted and moved between priorities. All judges are qualified decision makers. Training is emphasized to keep up with changing statutes and emerging issues within the law. Justice is properly served with a system that can expand and contract with relative ease, and that is populated by dynamic judges who are capable of working in any court and hearing *any* case that has to be heard that day. Justice is properly

served where redundancies in court structure are minimized and the workload leveled between courts.

“A unified judiciary is a branch of government that the other branches—the legislative and the executive—recognize as a coequal partner. It is a branch of government operating within laws that demand accountability from a central authority charged with delivering justice at acceptable cost. A unified court structure is one that prepares and submits its own budget. And a unified system is one that is capable ultimately of changing itself—as the other branches do—when existing structures have been outpaced by societal change.

“Some steps have been made toward the goal of unification. A statewide district court, divided regionally, exercises broad jurisdiction over criminal prosecutions. The district court carries one of the heaviest and most demanding case loads in our state, even as it seeks new and innovative means of dispensing justice. Among these are the specialized treatment court dockets (sometimes called the “drug courts”) designed to provide intensive, court-supervised treatment and supervision of nonviolent offenders as an alternative to traditional punishment; and an experimental “mental health docket” intended to divert the mentally ill from the criminal justice system and into treatment when appropriate.

“Another major step toward a rational, unified court system was realized in 1990 with the creation of the statewide family court. To list the cases routinely heard in the family court is to catalog some of the most profound social challenges of our time: divorce, juvenile delinquency, child abuse and neglect, domestic violence. In difficult economic times, these challenges are more widespread, not less.

“And a family court with adequate resources will very directly improve the lives of children. Children who lie awake wondering—quite literally—who their parents will be or where they will be living this summer or even next week. Court delays caused by disruption of services due to erratic funding and an inability to match our resources to those cases, is a burden we should see no child forced to bear. The family court is, in a very real sense, the voice of state government that speaks to children and to families in troubled circumstances.

“There have been other notable advances. The Administrative Judge for the trial courts, established over a decade ago and appointed by the Supreme Court, supervises and assigns all trial judges who are qualified to sit in any of the three courts. Other states marvel at this progressive step toward judicial economy. In addition, the state judicial bureau in White River

Junction deals with all traffic violations. This innovation has allowed the trial courts and the state's attorneys and defenders to better concentrate their resources on more serious offenses.

"As I said, we have come a long way towards realizing the goal of a truly unified court system. Many of you in this room have played instrumental roles in that progress. Thank you.

"In other ways, however, we are still operating a structure passed down from an earlier time. In some ways it serves us well. But in other respects our court system is like the one-room-schoolhouses that once dotted Vermont's countryside. Vermont lacks cohesive management, control and accountability of all of the money the State spends through general fund revenues and county tax receipts for judicial services. Our present inability to change that structure without legislative action means that we, the Judiciary, cannot respond to balance the harsh realities of declining revenues with the constitutional imperatives that define us as a state. This rigid structure, and its limitation on change, is of great concern to me. Under these circumstances we cannot continue to meet even the most pressing needs of the state within the limits imposed by the tightening economy.

"In all, the courts include 63 worksites in 32 courthouses across the state. The total workload, as you may know, is far from evenly distributed, largely as a result of shifting population centers. While consolidating functions among the less-busy courts would seem a common-sense solution, it is beyond our authority. As a result we cannot staff the busiest courts adequately.

"Inconsistencies in staffing are frequently the story. One county might have a single manager effectively supervising the district, family, and superior courts, while another might have two separate managers despite a lower population and caseload. One probate judge in a single district for one county may handle a certain number of cases, while another county, split into two districts, could have double the judges and staff to cover the same number of cases. This is neither efficient nor cost-effective, and results in some employees being subject to different salaries and benefits for doing essentially the same job.

"Consider this regarding our current structure: the Supreme Court has administrative responsibility for all courts under the Constitution but the Court Administrator, by statute, does not hire all the staff who work in those courts. Most staff *are* hired and paid for by us, but some staff are hired and paid for by the counties. Then, some are hired by the counties but paid out of our budget. We do not choose where most courts are sited, or which counties or districts they are in, yet we are required to staff them. These are the practices that are mandated by the current laws on the books. As a result, given the unequal

and shifting workloads I've mentioned, we are unable to match resources with demands. The inefficiencies in this system are thrown into particularly stark relief when the economic climate is coldest. We cannot expand or contract, in a rational way, to match priority caseloads statewide, in either good or bad economic times.

“Were we to change this structure we would be able to provide—in every county and in every court—the proper staffing level based on changing case loads. Were we to change this structure we would be able to set the pay of court staff uniformly, county to county and between courts in the same county. Were we to change this structure we would be able to combine courts presently divided based on county lines and equalize staffing to meet the state's most pressing high-priority needs. And change would also relieve some of the burden on local property taxpayers by saving some of the money that is currently collected from towns in county accounts. These funds are presently managed county-by-county with little transparency.

“In the past, the only way to guarantee access to justice was to provide *physical* access by having multiple courts, and often courthouses, in all parts of the state. Soon, technology will give us the opportunity to ensure even better access in new ways. For example, one of our most difficult challenges has been to give effective access to courts and court proceedings to litigants who represent themselves, a substantial percentage of the litigants in family court and an increasing number in all courts in this recession. As part of the new case management computer system, we are instituting a new and exciting way for litigants to prepare and file court papers and forms by answering questions on a special website, with extensive help available to ensure the answers are correct. This system will greatly improve effective access for *pro se* users when it is fully implemented.

“The transition to electronic filing and the electronic case file, and away from paper records, will make all litigation easier and improve access for all users. At the same time, it will make the courts much more efficient and allow work to be moved from place to place within the state wherever the resources are available to handle it. We believe that we can reduce costs and reduce the stress on our overtaxed clerks' offices.

“The legislature has taken the lead in the introduction of video technology to reduce costs and improve access, particularly with respect to prisoners who are lodged pretrial in corrections facilities. We in the judiciary believe you are on the right track. We want to move to the day where video facilities are available in every court and correctional facility and in other locations to allow lawyers and litigants, including prisoners, to routinely appear by video in court proceedings, particularly those where no evidence is taken. Again, here,

our goal is to increase access while reducing both public costs and the private costs of transportation, time and expense.

“With the support of the Governor and many others of you in this room, we have begun to consider in detail what changes are needed in our court system. The Court is particularly gratified that the Legislature has created the Commission on Judicial Operation. This is a blue-ribbon panel with members from all branches of government and the private sector, and its mission is to address many of the issues I’ve discussed today. The Commission is tackling “consolidation of staff,” “regionalization of court administrative functions,” “the use of technology to reduce unnecessary expenditures,” “reallocation of jurisdiction between courts,” and more broadly “any other idea for the efficient and effective delivery of judicial services.” We are assisted in this endeavor by the National Center for State Courts, which provides a wealth of experience in translating the vision of a modern court system into a reality.

“But a complete upgrade to a more flexible structure—and the profound efficiency gains that will come with it—is still years away. Although you set up a special fund to allow purchase of the new computer system over time, it will take years for this technology to come on-line. This is one of the reasons we have submitted our request for level funding. We believe that we can improve the judicial system, at reduced cost even in this recession, but we cannot produce that result overnight. We must have time to complete the work of the Commission, time to engage the public at large and the groups with a particular interest in the courts, in a meaningful dialogue about the changes proposed. We need time to pay for and implement the technology. If we do not accomplish some greater measure of stability in this system than exists now, if funding levels continue to decline before our flexibility to manage the budget is improved, we will have to choose one bad option over another. The paradox is that unless we find short-term stability to fix long-term problems, the courts’ central purpose—applying the laws that you pass—will be compromised.

“As evidence of the problem, we have recently had to institute a system of periodic court closures and furlough days. These closures are permitted by statute, but we know well that in passing the statute you—the Legislature—did not mean to give us a tool we would use lightly. And I want to be clear: we have used it only reluctantly, after much deliberation. Closing courts aggravates backlogs, but we are able to realize significant cost savings only by reducing personnel costs. Because case loads do not change, furloughing judges has had a benefit to many employees who work on the closure days and are able to catch up on their work without distraction. However, the unfortunate overall effect is to lessen access to the courts—even if only slightly—and, ultimately, to tax already-pressured employees. We did

not, as I said, undertake these closures lightly, and will continue to search for alternatives, but our statutory inability to respond in other ways to further budget cuts will inevitably raise the specter of wider closures. Our colleagues in New Hampshire have recently suspended jury trials temporarily, a step we reluctantly took during a past budget crisis as well. We sincerely hope not to have to take that step again.

“We in the Judiciary are keenly aware of the difficult decisions you in the Legislature, and the Governor are facing. We face them with you. Although budget forecasts and economic outlooks change daily, I know that we all share a commitment to the Constitution, and to preserving a judicial structure that ensures fairness in the resolution of matters that affect the lives of every Vermonter. The Judiciary understands its obligation to contribute solutions to meet the essential needs of the people of Vermont, but we must have the tools to do so. Like you, we are putting our shoulders to the wheel, every day and in every courthouse. However, I have the obligation to tell you that without change—without further progress towards a unified court system—we run the risk of not meeting our citizens’ most important needs.

“I know that the changes I’ve mentioned today are substantial ones, and some may not be politically popular. But this is an historic moment when bad times can forge good things. This is an historic opportunity to provide Vermonters with a court system as modern and forward-looking as they are. It is a time, as Abraham Lincoln once said, “to think anew, and act anew.” Our actions in this challenging time will inevitably define us. With needed change, we can assure Vermonters access to the courts for generations to come. We ask for your continued help and support.

“I look forward to working with you, and I thank you for the work we have already done together.”

Dissolution

The purpose for which the Joint Assembly was convened having been accomplished, the President then declared the Joint Assembly dissolved.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, FEBRUARY 20, 2009

9:00 A.M.

Called to Order

At 9:00 A.M. the recessed Joint Assembly was called to order by the Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Announcement of Results of Balloting for UVM Trustees

The ballots were taken and counted, and the result was as follows:

Total ballots.....	175
Necessary for election	three greatest numbers of votes
Ancel.....	105
Branagan	109
Bray.....	125
Potter.....	107
Write-in votes	1 (Rep. Komline)

* * * * *

Whereupon the Chair declared that

CHRISTOPHER A. BRAY, of New Haven

having received the most votes cast was duly elected a Trustee of the University of Vermont and State Agricultural College for a term of six years, commencing March 1, 2009.

The Chair further declared that

CAROLYN W. BRANAGAN, of Georgia

having received the second most number of votes cast was duly elected a Trustee of the University of Vermont and State Agricultural College for a term of six years, commencing March 1, 2009.

The Chair further declared that

DAVID E. POTTER, of Clarendon

having received the third most number of votes cast was duly elected a Trustee of the University of Vermont and State Agricultural College for a term of six years, commencing March 1, 2009.

Dissolution

The purposes for which the Joint Assembly was convened having been accomplished, the President then declared the Joint Assembly dissolved.

DAVID A. GIBSON
Secretary of the Senate
Clerk of the Joint Assembly

IN JOINT ASSEMBLY, MARCH 25, 2009**8:30 A.M.**

The Senate and House of Representatives met in the Hall of the House of Representatives pursuant to a Joint Resolution which was read by the Clerk and is as follows:

By Senator Shumlin,

J.R.S. 22. Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges, and one District Judge.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Wednesday, March 25, 2009, at eight o'clock and thirty minutes in the forenoon to vote on the retention of three Superior Judges, and one District Judge. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at eight o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Presiding Officer

Honorable Brian E. Dubie, President of the Senate, in the Chair.

Clerk

David A. Gibson, Secretary of the Senate, Clerk.

Statement of Presiding Officer

Pursuant to our Constitution and statutes we are assembled here today in Joint Assembly to cast our votes on the retention of three Superior Judges, and one District Judge.

This year we are again operating under the Judicial Retention Act passed in 1976, as amended in subsequent sessions of the General Assembly, which establishes the procedure for retention of incumbent Superior Judges and

District Judges. The date for holding joint assemblies for the retention of judges is set by statute to be the eleventh Thursday of the session, which date may be deferred pursuant to 4 V.S.A. § 608(g).

The procedure to be followed requires that the vote be by written ballot on the specific question:

"Shall the following Judges be retained in office?"

There will be two separate written ballots: one containing the names of all of the candidates for retention as superior judges; and one containing the name of the candidate for retention as district judge.

Retention of Superior Judges

We shall now proceed to the matter of retention of the incumbent Superior Judges. As stated previously, we are operating under the Judicial Retention Act passed in 1976, which establishes the procedure for the retention of Superior Judges. Nominations may not be received from the floor; rather, each judge seeking retention must file a declaration of intention to seek retention with the Secretary of State. The name of each judge seeking retention is automatically voted on pursuant to the terms of the Judicial Retention Act.

In addition, the Judicial Retention Act provides that when a candidate does so declare for retention, the question to be decided is:

"Shall the following Superior Judges be retained in office?"

The statute provides that the vote on this question shall be by one written ballot containing the names of all of the candidates for retention as Superior Judges.

Tellers Appointed

Accordingly, we will need tellers, and the Chair will now appoints as tellers:

Senator Douglas A. Racine, of Chittenden District, as Chief Teller
Senator Matthew A. Choate, of Caledonia District
Senator Harold W. Giard, of Addison District
Representative Michel A. Consejo, of Sheldon
Representative Susan Hatch Davis, of Washington
Representative Norman H. McAllister, Sr., of Highgate
Representative Megan M. Smith, of Mendon

We shall now proceed to the matter of retention of the incumbent superior judges. For these positions we have received declarations of intention to seek retention to the office of Superior Judge from the following:

Geoffrey W. Crawford
Mary Miles Teachout
Howard E. VanBenthuisen

The question to be decided in each of these cases shall be as follows:

"Shall Superior Judge Geoffrey W. Crawford be retained in office?"

Yes_____No_____.

"Shall Superior Judge Mary Miles Teachout be retained in office?"

Yes_____No_____.

"Shall Superior Judge Howard E. VanBenthuisen be retained in office?"

Yes_____No_____.

The ballot which you will receive will contain these questions in printed form on one single ballot. The term of these Superior Judges are for six years, from and including the first day of April, 2009, and until their successors are elected and qualified.

To facilitate the procedure for this morning, the Chair will rule, unless there is objection, that debate on these three Judges will be received separately. At the end of the debates for the three Judges, any general debate on the entire question shall be in order.

Rules Suspended; Procedure Revised

On motion of Senator Shumlin, the rules were suspended so that the Joint Assembly could adjourn immediately following the distribution and collection of the ballots for the three superior judges and the one district judge, and so that the tellers would count the ballots following adjournment, with the results of the balloting to be announced in each chamber.

Committee Reports

Prior to any debate, we will receive the report of the Joint Committee on Judicial Retention. The Chair now recognizes the Chair of this Committee, the Member from Ripton, Willem W. Jewett., for the purpose of receiving his report.

Representative Willem W. Jewett then delivered a general report for the Joint Committee on Judicial Retention with respect to the candidacy of all the Judges.

The Chair then recognized Representative Margaret K. Flory, of Pittsford, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Geoffrey W. Crawford.

The Chair then recognized Representative Alison Hudnut Clarkson, of Woodstock, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Mary Miles Teachout.

The Chair then recognized Senator M. Jane Kitchel, of Caledonia District, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of Superior Judge Howard E. VanBenthuisen.

Results of Balloting

Balloting then proceeded for the office of Superior Judges, with the following results:

For Superior Judge Geoffrey W. Crawford

Total votes cast	146
Necessary for a majority	74
For retention	145
Against retention	1

Whereupon the Chair declared that

GEOFFREY W. CRAWFORD, of Burlington

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2009, and until his successor is elected and has qualified.

For Superior Judge Mary Miles Teachout

Total votes cast	144
Necessary for a majority	73
For retention	137
Against retention	7

Whereupon the Chair declared that

MARY MILES TEACHOUT, of Norwich

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2009, and until her successor is elected and has qualified.

For Superior Judge Howard E. VanBenthuisen

Total votes cast	144
Necessary for a majority	73
For retention	141
Against retention	3

Whereupon the Chair declared that

HOWARD E. VANBENTHUYSEN, of Fairfax

having received a majority of the total votes cast was duly elected to the office of Superior Judge for a term of six years, from and including the first day of April, 2009, and until his successor is elected and has qualified.

Retention of District Judge

Statement of Presiding Officer

We shall now proceed to the matter of retention of the incumbent District Judge. For this position we have received a declaration of intention to seek retention to the office of District Judge from the following:

Brian Grearson

As in the case of the Superior Judges, the name of each district judge seeking retention is automatically voted on, and the question to be decided is:

"Shall District Judge Brian Grearson be retained in office?"

Yes _____ No _____.

The vote on this question shall again be by one single written ballot. The term of this District Judge is for six years, from and including the first day of April, 2009, and until his successor is elected and qualified.

Again, to facilitate the procedure, unless there is objection the Chair will rule that debate on this one judge will be received separately. At the end of the debate on the one judge, any general debate on the entire question shall be in order.

Committee Report

The Chair then recognized Representative Cynthia Martin, of Springfield, who delivered the report of the Joint Committee on Judicial Retention with respect to the candidacy of District Judge Brian Grearson.

Results of Balloting

Balloting then proceeded for the office of District Judge, with the following results:

For District Judge Brian Grearson

Total votes cast	145
Necessary for a majority	73
For retention	143
Against retention	2

Whereupon the Chair declared that

Brian Grearson, of Montpelier

having received a majority of the total votes cast was duly elected to the office of District Judge for a term of six years, from and including the first day of April, 2009, and until his successor is elected and has qualified.

Dissolution

The purposes for which the Joint Assembly was convened having been accomplished, the President then declared the Joint Assembly dissolved.

DAVID A. GIBSON
Secretary of the Senate, Clerk