

Journal of the Senate

Special Session

WEDNESDAY, JUNE 3, 2009

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

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Resolution Adopted in Concurrence

J.R.H. 2.

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

Joint resolution authorizing the 2009 Girls' State civic education program to use the state house.

Whereas, studying the state government and how it works requires far more than reading a textbook, and

Whereas, participating in mock simulations of the legislative process and other governmental activities enables students to gain insight and perspective on the operation of state government, and

Whereas, the American Legion Auxiliary sponsors the Girls' State program to enable young women attending high school to examine issues and reconcile conflicting public policy options in the same way as do members of the general assembly, and

Whereas, a highlight of the annual Girls' State education curriculum is a day at the state house, which includes committee meetings that hear lobbyist testimony and deliberation in the wells of the house and senate, and

Whereas, this highly worthwhile day of high school students' studying life under the golden dome on a first-hand basis will occur this year on Wednesday, June 24, 2009, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the Girls' State civic education program to use the house and senate chambers and committee and meeting

rooms in the state house for its mock legislative sessions and related activities on Wednesday, June 24, 2009 from 8:00 a.m. until 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Auxiliary of Vermont in Montpelier.

Rules Suspended; Report of Second Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 442.

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

An act relating to miscellaneous tax provisions.

Was taken up for immediate consideration.

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

To the Senate and House of Representatives:

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

H. 442. An act relating to miscellaneous tax provisions.

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

* * * Unemployment Insurance * * *

Sec. 1. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS

* * *

(b) Base of Contributions. ~~For the purposes of this section for the period from December 31, 1976 through December 31, 1982, the term "wages" shall not include that part of remuneration which, after remuneration equal to \$6,000.00 has been paid in a calendar year to an individual by an employer with respect to employment during any calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.~~ Subsequent to December 31, 1982, the term "wages" shall not include that part of remuneration which, after remuneration equal to \$8,000.00 has been paid in a calendar year to an individual by an employer

with respect to employment during a calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the period January 1, 2010, through December 31, 2010, the term "wages" shall not include that part of remuneration which, after remuneration equal to \$10,000.00 has been paid in a calendar year to an individual by an employer with respect to employment during a calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subsection:

* * *

Sec. 2. 21 V.S.A. § 1338(f) is amended to read:

(f) ~~For the 12 month period from July 1, 2001 through June 30, 2002, the maximum weekly benefit amount shall be \$312.00. For the 12 month period from July 1, 2002 through June 30, 2003, the~~ The maximum weekly benefit amount shall be \$351.00 \$425.00 for the period July 1, 2009, through June 30, 2010. Thereafter, on the first day of the first calendar week of July, the maximum weekly benefit amount shall be adjusted by a percentage equal to the percentage change during the preceding calendar year in the state average weekly wage as determined by subsection (g) of this section, provided the maximum weekly benefit amount shall not increase in any year that advances made to the State Unemployment Compensation Fund pursuant to Title XII of the Social Security Act, as amended, remain unpaid.

Sec. 2a. MAXIMUM WEEKLY UNEMPLOYMENT BENEFIT

The maximum weekly benefit under 21 V.S.A. § 1338(f) shall remain at its current level until July 1, 2009.

Sec. 3. UNEMPLOYMENT TRUST FUND REFORM STUDY COMMITTEE; CREATION

(a) A committee to study reform of the unemployment trust fund is created. The committee shall be composed of twelve members to include the chair, or designee, of the following committees:

- (1) House committee on commerce and economic development.
- (2) House committee on ways and means.
- (3) Senate committee on economic development, housing and general affairs.
- (4) Senate committee on finance; and
- (5) to include four additional members of the senate appointed by the

Senate President *pro tempore*, and four additional members of the House appointed by the Speaker of the House.

(b) The joint fiscal office and legislative council shall provide professional and administrative support to the committee. The committee may meet up to eight times while the legislature is not in session, for which the members are entitled to compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(c) The committee shall undertake a comprehensive study of all issues that affect the solvency of the Vermont unemployment trust fund and develop recommendations for reforms to the fund to reestablish and to assure its long-term solvency, including negative balance, seasonal, and reimbursable employers, taxable wage base and the rates that are applied to those bases, benefit levels, and any other relevant issues.

(d) The committee shall issue a written report on or before January 15, 2010, which shall include issues considered by the committee, its findings, and recommendations to regain and retain solvency of the Vermont unemployment trust fund.

* * * Clean Energy Development Fund * * *

Sec. 4. 10 V.S.A. § 6523 is amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(e) Management of fund.

* * *

(8) The clean energy development board shall perform each of the following:

(A) By January 15 of each year, commencing in 2010, ~~the clean energy development board shall~~ provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the revenues collected and the expenditures made under this subchapter.

(B) Develop a five-year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process and shall be consistent with state energy planning principles.

(C) Develop an annual operating budget.

(D) Develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance,

investments, competitive solicitations, technical assistance, and other incentive programs and strategies).

* * *

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within and assigned for administrative purposes to the office of the treasurer department of public service.

* * *

(h) All ARRA funds placed in the clean energy development fund shall be disbursed, administered, and accounted for in a manner that ensures rapid deployment of the funds, is consistent with all requirements of ARRA, including requirements for administration of funds received and for transparency and accountability. These funds shall be maintained in a separate account specifically restricted to ARRA funds within the clean energy development fund. These funds shall be for the following, provided that no single project directly or indirectly receives a grant in more than one of these categories:

* * *

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent of ARRA funds received for the purpose of administration. ~~One half of this amount shall be allocated to the treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds, and the other half of this amount shall be allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.~~ The board shall allocate a portion of the amount utilized for administration to retain permanent, temporary, or limited service positions or contractors to administer such funds and the remaining portion to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

(i) ~~The treasurer shall consult with the other directors of the clean energy development fund board and the commissioner of public service and adopt rules pursuant to 3 V.S.A. chapter 25 to carry out this section. The treasurer shall adopt an initial set of rules under this subsection no later than July 15, 2009 and may use the emergency rulemaking process provided under 3 V.S.A. § 844 to do so. In adopting the initial set of rules, the treasurer shall consult with any at large board directors who have been appointed, the chief recovery officer, and the commissioner of public service. Any rules adopted by the treasurer under this subsection shall comply with all of the following:~~

~~(1) The rules shall contain those provisions necessary to assure compliance with requirements for any funds received by the fund through ARRA.~~

~~(2) The rules shall support efforts to coordinate applications for competitive or other funding opportunities under ARRA from various entities within Vermont.~~

~~(3) The rules shall provide reasonable opportunities for small businesses to participate in competitive or other funding opportunities. The clean energy development board may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out this section. The board shall consult with the commissioner of public service either before or during the rulemaking process.~~

* * *

Sec. 5. Sec. 95 (transition; position transfer) of H. 313 (2009) is amended to read:

* * *

(b) All at-large directors of the clean energy development fund board shall be appointed within 21 days of passage of this act, and the board shall assume supervision of the clean energy development fund on ~~the initial adoption of rules under 10 V.S.A. § 6523(i) or August 1, 2009, whichever is earlier.~~ Until such time, the clean energy development fund advisory and investment committees enabled under prior law shall continue to exist, and ~~they and~~ the commissioner of public service and they shall continue to have all authorities as under prior law with respect to the clean energy development fund.

* * *

Sec. 6. EFFECTIVE DATE; APPLICATION

Sec. 4 of this act shall amend 10 V.S.A. § 6523 as amended by Sec. 93 of H. 313 (2009) and Secs. 4 and 5 of this act shall be effective as of the date of enactment of H. 313 (2009).

* * * Vermont Telecom Special Fund Authority * * *

Sec. 7. REPEAL

Sec. D.101(a)(1)(A) of H. 441 of 2009 is repealed, effective upon the date of enactment of H. 441.

Sec. 8. FUND TRANSFERS

The following amounts are transferred from the general fund to the communications and information technology internal service fund established by 22 V.S.A. § 902a: \$400,000 for operating expenses of the Vermont

telecommunications authority. It is the intent of the general assembly to fund the operations of the authority in fiscal year 2010. The public service department may direct up to \$350,000 of special funds available from receipt of fines or penalties in fiscal year 2010 for additional operating costs of the authority. The department of finance and management is directed to authorize anticipated receipts for up to \$350,000.

* * *

* * * Vermont Tobacco Review Board * * *

Sec. 9. FISCAL YEAR 2010 BRIDGE FUNDING FOR TOBACCO PROGRAMS

Notwithstanding 18 V.S.A. § 9502, in fiscal year 2010, \$1,500,000.00 is transferred from the tobacco trust fund to the tobacco litigation settlement fund, and the same amount is appropriated from the tobacco litigation settlement fund to the department of health to be allocated for use by the tobacco evaluation and review board. It is the intent of the general assembly that these funds are a mechanism for maintaining tobacco cessation and prevention programs in fiscal year 2010 while the board plans programming in fiscal year 2011 that recognizes the potential for reduced levels of funding.

* * * E.1103 Reductions in Force, Etc. * * *

Sec. 10. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will impact the Vermont state budget, the secretary of administration is authorized to develop a two-part savings plan for submission to the legislative joint fiscal committee to make \$14,700,000 in fiscal year 2010 general fund reductions and proportionate reductions in other funding sources through revisions to payroll- and personnel-services-related expenditures as indicated in this section. The secretary may prepare such a savings plan for approval by the joint fiscal committee if the general assembly is not in session and the savings plan is necessary to ensure a balanced budget in the general fund or the transportation fund.

(b) The first part of the secretary of administration's plan shall reduce budgeted contract expenditures for fiscal year 2010 by \$1,300,000 in general funds. In the event that such expenditure reductions are not identified by October 31, 2009, the secretary of administration shall submit a plan of recommendation to achieve this general fund savings target by alternate reductions in budgeted funds to the joint fiscal committee in November 2009.

(c) Under the second part of the plan, the general assembly strongly urges the Vermont state employees' association and the secretary of administration

to negotiate contract changes and other personnel adjustments to achieve expenditure reductions of \$13,400,000 in general funds and proportionate reductions in other funding sources that avoid job cuts. In negotiating contract revisions, the general assembly recommends the parties consider the following principles in achieving a contract modification to produce the savings:

(1) Any such changes or reductions shall include proportional impacts on exempt employees, classified confidential, and other employee classifications; and

(2) Changes should reflect the ability to pay with larger expected savings from higher paid employees.

(d) In the event that the \$13,400,000 expenditure reductions are not achieved as described in subsection (c) of this section, the secretary of administration shall develop an alternate savings plan for submission to the legislative joint fiscal committee on or before July 10, 2009. If the secretary's alternate savings plan results in reductions in force greater than one percent of the entire state workforce, meaning all full-time, permanent, classified and exempt state employees, as measured cumulatively from June 2, 2009, the alternate savings plan shall not become effective unless approved or deemed approved by the joint fiscal committee under subsection (g) of this section. The secretary's alternate savings plan may include alternatives to position reductions and shall not be limited to positions already submitted to the legislature in list development.

(e) In developing a plan under this section, the secretary shall comply with the following standards:

(1) The plan shall include proportional impacts on exempt employees, classified confidential, and other employee classifications;

(2) Impacts on service delivery, public health, safety and cost transfers to other levels of government shall be minimized;

(3) Departments shall have the option, to the extent allowable by contract, to avoid position elimination through reductions of working hours;

(4) The plan shall minimize any negative effects on the delivery of services to the public;

(5) The plan shall not have any unduly disproportionate effect on any single function, program, service, or benefit;

(6) The plan shall apply the standards in subdivisions (1) through (5) of this subsection to all state employees in all branches of government, and shall allow agency or department heads to adjust the salaries or furloughs of exempt employees who have already taken furloughs or salary reductions in

excess of the impacts of the plan described in this section to make them consistent with these standards; and

(7) The plan shall reflect the priorities established by the general assembly in the fiscal year 2010 appropriations act, including the priorities established by the general assembly for the operation of corrections facilities.

(f) Any plan developed by the secretary under subsection (b) or (d) of this section shall indicate:

(1) All proposed reductions in expenditures authorized by a general appropriations or budget adjustment act;

(2) The effect of the expenditure reduction on the primary purposes of the program for which the appropriation was made;

(3) How the plan is designed to minimize any negative effects on the delivery of services to the public;

(4) Any disproportionate effects on any single function, program, service, benefit, or county; and

(5) If the secretary's plan under subsection (b) or (d) of this section includes reductions in operations at any correctional facility, the plan shall include an analysis of the regional impact, including how increased transportation costs will be funded.

(g) An alternate savings plan developed under subsection (d) of this section shall be filed with the joint fiscal committee and shall not become effective unless approved or deemed approved by the joint fiscal committee as set forth under this subsection. The joint fiscal committee shall meet within 14 days of the date the secretary's plan is filed, to review and act upon the plan in accordance with the standards in subsection (e) of this section. If the committee fails to meet within that period or meets but fails to act upon the plan, the plan shall be deemed approved by the committee, and the secretary may then implement the plan. If the plan does not meet the standards in subsection (e) of this section, the committee may disapprove the plan and if disapproved, the plan may not be implemented.

Sec. 11. REPEAL

Sec. E.1103 of H. 441 of 2009 is repealed as of the date of enactment of H. 441 of 2009.

* * * State Employees Retirement Incentive * * *

Sec. 12. REPEAL

Sec. E.135.2 of H. 441 of 2009 as enacted is repealed as of the date of enactment of H. 441.

Sec. 13. STATE EMPLOYEE RETIREMENT INCENTIVE

(a)(1) An individual who is employed by the state on June 1, 2009 and participates in either the defined benefit or defined contribution plan, has either 30 years of service or is age 62 with five years of service as of July 1, 2009, and does not initiate the purchase of any additional service credit after May 1, 2009 shall be eligible for the retirement incentive set forth in this section. The retirement division of the state treasurer's office shall offer the retirement incentive to all eligible employees. If more than 300 eligible employees apply, the retirement division shall utilize a lottery system to limit the incentive to no more than 300 employees.

(2) If an employee applies for retirement by July 31, 2009 for a retirement effective September 1, 2009, the employee shall be entitled to:

(A) Payment by the state of at least 80 percent of the cost of the premium for health insurance coverage offered by the state of Vermont to retirees, provided he or she continues to meet the eligibility requirements, for at least seven years following retirement, unless the employee elects the premium reduction option under subsection 479(e) of Title 3;

(B) \$500.00 per year of service if the employee has fewer than five years of creditable service;

(C) \$750.00 per year of service if the employee has five years of creditable service or more and fewer than 15 years of creditable service;

(D) \$1,000.00 per year of service if the employee has 15 years of creditable service or more.

(b) An employer may stagger the retirement dates of multiple retiring employees if necessary to continue the normal of operation of business. However, no retirement date shall be later than March 1, 2010.

(c) The incentive set forth in subsection (a) of this section shall not exceed \$15,000.00 per employee. An employee shall receive the cash portion of the retirement incentive in two equal payments in fiscal years 2010 and 2011. The first payment shall be made within 90 days of the retirement date. The second payment shall be made within 30 days of the one-year anniversary of the retirement date. The retirement incentive shall not be paid from the Vermont state retirement fund as set forth in section 473 of Title 3.

(d) No employee who receives the incentive set forth in subsection (a) of this section may return to state employment for at least one fiscal year unless:

(1) the secretary of administration otherwise approves for an executive branch employee;

(2) the chief justice of the supreme court otherwise approves for a judicial branch employee; or

(3) the speaker of the house and the president pro tempore of the senate otherwise approve for a legislative branch employee.

(e) The joint fiscal committee shall be notified of any employees who have received the incentive set forth in subsection (a) of this section and who return to state employment within one fiscal year.

(f) The retirement incentive set forth in subsection (a) of this section shall be treated as a severance payment under subdivision 1344(a)(5)(F) of Title 21 and shall be a disqualifying remuneration.

(g) The joint fiscal committee may vote to increase the number of individuals who are eligible for the retirement incentive set forth in this section.

(h) The state treasurer shall report the number of individuals applying for the retirement incentive set forth in this section by agency to the joint fiscal committee by August 5, 2009.

(i) Members of the Vermont state retirement system who are not employed by the state of Vermont shall not be eligible for the retirement incentive set forth in this section.

(j) In order to realize cost savings to state government, at least one-third of the number of positions vacated as a result of this retirement incentive program must remain vacant. No later than January 15, 2010, the secretary of administration, the chief justice of the supreme court, the speaker of the house and the president pro tempore of the senate shall recommend to the legislature which of the vacant positions within each of their respective branches should be permanently eliminated.

* * * North Link * * *

Sec 14. NORTH LINK FUNDING

In fiscal year 2010, \$500,000.00 is appropriated from the general fund to the Vermont Telecommunications Authority, to be used only for financing a transaction with Northern Enterprises, Inc. ("North Link") for purchase or capital lease of infrastructure to support provision of broadband or cellular services in areas of the state now unserved; and the purchase or lease shall be on commercially reasonable terms agreeable to both parties.

Sec. 15. [DELETED]

*** Tax Provisions ***

*** **Capital Gains Limitation** ***

Sec. 16a. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and

(iii) the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code:

(I) if the taxpayer is aged 70 or older as of the last day of the tax year, or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (26) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer aged 70 or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.

(II) for taxpayers aged 70 or older as of the last day of the tax year who so elect and for all other capital gain income, the first \$5,000.00 \$2,500.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue code; and

(iii) recapture of state and local income tax deductions not taken against Vermont income tax.

Sec. 16b. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means federal taxable income determined without regard to Section 168(k) of the Internal Revenue Code and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

- (i) interest income from non-Vermont state and local obligations;
- (ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and
- (iii) the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

- (i) income from United States government obligations;
- (ii) with respect to adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code:

~~(I) if the taxpayer is aged 70 or older as of the last day of the tax year or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (26) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer aged 70 or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.~~

~~(II) for taxpayers aged 70 or older as of the last day of the tax year who so elect and for all other capital gain income, the first \$2,500.00 \$5,000.00 of adjusted net capital gain income; and~~

(iii) recapture of state and local income tax deductions not taken against Vermont income tax.

Sec. 17. 32 V.S.A. § 5811(26) is added to read:

(26)(A) For purposes of subdivision (21)(B)(ii)(I) of this section, the sale of a farm shall mean the disposition of real and personal property owned by a farmer as that term is defined in subsection 3752(7) of this title and used by the farmer in the business of farming as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1986.

(B) For purposes of subdivision (21)(B)(ii)(I) of this section, the sale of standing timber shall mean the disposition of standing timber by an owner of timber that would give rise to the owner recognizing a capital gain or loss as defined in Section 631(b) of the Internal Revenue Code.

Sec. 18. EFFECTIVE DATE AND TRANSITION RULE

(a) Sec. 16a of this act shall apply to adjusted net capital gain income earned or received by a taxpayer on or after July 1, 2009 and before January 1, 2011, except that in calculating 2009 taxable year taxes only, taxpayers shall subtract from taxable income 40 percent of adjusted net capital gain income earned or received after December 31, 2008 but before July 1, 2009 and shall subtract from taxable income the first \$1,250.00 of adjusted net capital gain income earned or received on or after July 1, 2009 but before January 1, 2010.

(b) Sec. 16b of this act shall apply to adjusted net capital gain income earned or received by a taxpayer on or after January 1, 2011.

(c) Sec. 17 of this act shall apply to adjusted net capital gain income earned or received by a taxpayer on or after July 1, 2009.

Sec. 19. Subdivision (12) of Sec. 58 of H. 441 of 2009 as enacted is amended to read:

(12) ~~Sec. H.47 (capital gains exemption and state income tax deduction) shall apply to taxable years beginning on or after January 1, 2009. The capital gains exemption provisions of Sec. H.47, which provisions are further amended by Sec. 16a of this act, shall apply to capital gains earned or received by a taxpayer on and after July 1, 2009; and the state income tax deduction add-back provisions of Sec. H.47 shall apply to taxable years beginning on or after January 1, 2009.~~

***** Personal Income Tax Rates *****

Sec. 20. PERSONAL INCOME TAX RATES

(a) For taxable year 2009 only, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

<u>For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):</u>	<u>That taxable income shall instead be taxed at the following rate (%):</u>
<u>3.60</u>	<u>3.55</u>
<u>7.20</u>	<u>7.00</u>
<u>8.50</u>	<u>8.25</u>
<u>9.00</u>	<u>8.90</u>
<u>9.50</u>	<u>9.40</u>

(b) For taxable year 2010 and after, income tax rates under 32 V.S.A. § 5822, after taking into account any inflation adjustments to taxable income as required under subdivision 5822(b)(2), shall be as follows:

<u>For taxable income which, without the passage of this act, would be subject to tax at the following rate (%):</u>	<u>That taxable income shall instead be taxed at the following rate (%):</u>
<u>3.60</u>	<u>3.55</u>
<u>7.20</u>	<u>6.80</u>
<u>8.50</u>	<u>7.80</u>
<u>9.00</u>	<u>8.80</u>
<u>9.50</u>	<u>8.95</u>

Sec. 21. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the income tax rate changes in Sec. 20 of this act.

***** Research and Development Tax Credit *****

Sec. 22. 32 V.S.A. chapter 151, subchapter 11L is added to read:

Subchapter 11L. Research and Development Tax Credit

§ 5930ii. RESEARCH AND DEVELOPMENT TAX CREDIT

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under this chapter in an amount equal to 30 percent of the amount of the federal tax credit allowed in the taxable year for eligible research and development expenditures under Section 41(a) of the Internal Revenue Code and which are made within this state.

(b) Any unused credit available under subsection (a) of this section may be carried forward for up to ten years.

Sec. 23. EFFECTIVE DATE AND TRANSITION RULE

Sec. 22 of this act shall apply to eligible research and development expenditures made on or after January 1, 2011.

***** Sales and Use Tax Holidays *****

Sec. 24. SALES AND USE TAX HOLIDAYS

(a) Notwithstanding the provisions of chapter 233 of Title 32 and section 138 of Title 24, no sales and use tax or local option sales tax shall be imposed or collected on sales to individuals for personal use of items of tangible personal property at a sales price of \$2,000.00 or less on August 22, 2009 and March 6, 2010.

(b) A vendor in good standing shall be entitled to claim reimbursement for its expenditures for the reprogramming of cash registers and computer equipment which were in use at the place of business on and after August 22, 2009 for the August 22, 2009 sales tax holiday and for the reprogramming of cash registers and computer equipment which were in use at the place of business on and after March 6, 2010 for the March 6, 2010 sales tax holiday. Claims must be filed with the department of taxes within 60 days of the date of the respective sales tax holiday, with receipts or such other documentation the department may require. The amount of reimbursement to each vendor shall not exceed the least of the three following amounts: the actual cost to the vendor of reprogramming its cash registers and computer equipment; \$50.00; or \$10,000.00 divided by the number of qualified vendor applicants.

(c) Any municipality with a local option sales tax affected by the sales tax holidays imposed by this section shall be reimbursed from the department of taxes for the amount of local option sales tax revenues lost to the municipality. The commissioner of taxes shall develop a methodology for determining such reimbursement. The commissioner shall also adjust the deposit in the PILOT special fund for lost deposits due to the sales tax holidays. Should the amount appropriated for these purposes under subsection (d) of this section be insufficient to fully reimburse the municipalities and adjust the PILOT special fund, reimbursements to municipalities shall take priority.

(d) In fiscal year 2010, \$10,000.00 in general funds is appropriated for payments for the reprogramming under subsection (b) of this section, and \$100,000.00 in general funds is appropriated for the reimbursement to municipalities and adjustments under subsection (c) of this section.

Sec. 25. NEXT GENERATION SCHOLARSHIPS

In addition to other Next Generation appropriations, notwithstanding the provisions of section 2885(a)(2) of Title 16, the first \$1.5 million of funds raised by the estate tax levied under chapter 190 of Title 32 shall be deposited into the general fund, in lieu of the higher education endowment trust fund, for higher education scholarships consistent with Sec. 5.801(a)(3)(B) of No. 192 of the Acts of 2008, as follows:

- (a) \$500,000 to the University of Vermont;
- (b) \$500,000 to the Vermont State Colleges; and
- (c) \$500,000 to the Vermont Student Assistance Corporation.

Sec. 26. INFORMATION CENTER FUNDING

(a) In fiscal year 2010, \$300,000 of the general funds appropriated to the department for children and families – Reach Up, carried forward from fiscal year 2009, shall revert to the general fund in fiscal year 2010.

(b) In fiscal year 2010, \$300,000 of general funds are appropriated to the department of buildings and general services – information centers for operating costs of the information centers in fiscal year 2010.

Sec. 27. Sec. C.106(b) of H. 441 of 2009 is amended and Sec. C.106(c) of H. 441 of 2009 is added to read:

(b) After the general fund budget stabilization reserve attains its statutory maximum, any additional unreserved and undesignated general fund balance shall be reserved in the revenue shortfall reserve established in 32 V.S.A. § 308(d) not to exceed \$3,321,444 shall be retained in the general fund, and that amount shall be reduced from the amount of the special fund assessment in Sec. D.101(a)(4) of this act.

(c) After satisfying subsection (b) of this section, any additional unreserved and undesignated general fund balance shall be reserved in the revenue shortfall reserve established in 32 V.S.A. § 308(d).

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect upon passage.

SUSAN J. BARTLETT
ANN E. CUMMINGS
DIANE B. SNELLING

Committee on the part of the Senate

JANET ANCEL
MARTHA P. HEATH
JAMES O'NEIL CONDON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 24, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe, Carris, Choate, Mullin, Shumlin (presiding), Starr.

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**Committee Bill Introduced; Rules Suspended; Third Reading Ordered;
Rules Suspended; Bill Amended; Bill Passed**

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

S. 1.

By the Committee on Appropriations,

An act relating to miscellaneous technical corrections.

Thereupon, pending entry of the bill on the Calendar for notice tomorrow, on motion of Senator Mazza, the rules were suspended and the bill was taken up for immediate consideration.

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

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed in all remaining stages of passage.

Thereupon, pending third reading of the bill, Senator Illuzzi moved to amend the bill by striking out the title of the bill and renaming the bill as follows:

An act relating to seeking a Medicaid waiver renewal and relating to technical corrections to the following acts of 2009: underground storage tanks and the petroleum cleanup fund (H. 83), the Vermont Recovery and Reinvestment Act of 2009 (H. 313), the BIG BILL – Fiscal Year 2010 Appropriations Act (H. 441), health care reform (H. 444), and capital construction and bonding (H. 445).

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Bartlett moved to amend the bill in Sec. 23, after the words “This act shall take effect upon passage” by inserting the following: ; except that Secs. 1 through 5 (eminent domain proceedings) shall take effect upon the date of enactment of H. 313 of 2009

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Nitka moved to amend the bill by adding a new section to be numbered Sec. 22a to read as follows:

Sec. 22a. SALE OF NATIONAL GUARD PROPERTY IN LUDLOW

Notwithstanding Sec. 42 of H.445 of 2009 (an act relating to capital construction and state bonding), if the selectboard of the Town of Ludlow votes on or before August 1, 2009 to purchase the armory building and associated land as described in Sec. 42 of H.445 of 2009, then the board of army commissioners shall sell the buildings and land for the amount of \$85,000.00 and the purchase and sale shall be completed by January 1, 2010.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Mazza, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Recess

On motion of Senator Mazza the Senate recessed until the fall of the gavel.

Called to Order

At five o'clock and twenty minutes in the afternoon the Senate was called to order by the President *pro tempore*.

Recess

On motion of Senator Ayer the Senate recessed until six o'clock and forty-five minutes in the evening.

Called to Order

At nine o'clock and twenty-seven minutes in the evening the Senate was called to order by the President *pro tempore*.

Message from the House No. 3**Special Session**

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

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 442. An act relating to miscellaneous provisions.

And has adopted the same on its part.

The House has considered a bill originating in the Senate of the following title:

S. 1. An act relating to seeking a Medicaid waiver renewal and relating to technical corrections to the following acts of 2009: underground storage tanks and the petroleum cleanup fund (H. 83), the Vermont Recovery and Reinvestment Act of 2009 (H. 313), the BIG BILL - Fiscal Year 2010 Appropriations Act (H. 441), health care reform (H. 444), and capital construction and bonding (H. 445).

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; House Proposals of Amendment Concurred In**S. 1.**

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House proposals of amendment to Senate bill entitled:

An act relating to seeking a Medicaid waiver renewal and relating to technical corrections to the following acts of 2009: underground storage tanks and the petroleum cleanup fund (H. 83), the Vermont Recovery and Reinvestment Act of 2009 (H. 313), the BIG BILL - Fiscal Year 2010 Appropriations Act (H. 441), health care reform (H. 444), and capital construction and bonding (H. 445).

Were taken up for immediate consideration.

The House proposes to the Senate to amend the bill as follows:

First: By striking out Sec. 11a in its entirety and inserting in lieu thereof a new Sec. 11a to read as follows:

Sec. 11a. REPEAL

19 V.S.A. § 1607 (federal reimbursement for certain utility relocations) is repealed.

Second: By adding a new Sec. 11(c) to read as follows:

(c) Sec. 7. of H.313 of 2009 (amending Sec. 7(a)(3) of No. 46 of the Acts of 2007, which allocated funding during FY 2007 and FY 2008 for career and alternative workforce education, all of which funds have already been spent) is repealed as of the date of passage of H.313.

And by redesignating the existing subsection 11(c) as subsection 11(d).

Third: By adding a new Sec.11b to read as follows:

Sec. 11b. 16 V.S.A. § 2887(c) is added to read:

(c) Any funds appropriated to the department of labor from the next generation initiative fund to achieve employment or continued education for out-of-school youth, youth at risk, and youth at risk of remaining unemployed, shall be allocated as follows:

(1) At least 25 percent of the appropriation shall be used for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades seven through 12.

(2) At least 25 percent of the appropriation shall be used for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and non-profit organizations, as designated by the workforce development council, for alternative and intensive vocational or academic programs for secondary students in order to earn necessary credits toward graduation.

Fourth: By adding two new sections to be numbered Secs. 22b and 22c, to read as follows:

Sec. 22b. Sec. 18(a) of H. 442 of the acts of 2009 as enacted is amended to read:

(a) Sec. 16a of this act shall apply to adjusted net capital gain income earned or received by a taxpayer on or after July 1, 2009 and before January 1, 2011, except that in calculating 2009 taxable year taxes only, taxpayers shall subtract from taxable income 40 percent of adjusted net capital gain income earned or received after December 31, 2008 but before July 1, 2009 and shall subtract from taxable income the first ~~\$1,250.00~~ \$2,500.00 of adjusted net capital gain income earned or received on or after July 1, 2009 but before January 1, 2010.

Sec. 22c. 32 V.S.A. § 1671(a)(6) is amended to read:

(6) ~~Notwithstanding any other provision of law to the contrary, for~~ For the recording or filing, or both, of any document that is to become a matter of public record in the town clerk's office, or for any certified copy of such document, a fee of \$10.00 per page shall be charged; except that for the recording or filing, or both, of a property transfer return, a fee of \$10.00 shall be charged;

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Message from the House No. 4

Special Session

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted joint resolution of the following title:

J.R.H. 3. Joint resolution relating to final adjournment of the special session of the General Assembly in 2009.

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

Rules Suspended; Bill Delivered

On motion of Senator Mazza, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S.1.

Joint Resolution Adopted in Concurrence

J.R.H. 3.

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

J.R.H. 3. Joint resolution relating to final adjournment of the special session of the General Assembly in 2009.

Resolved by the Senate and House of Representatives

That when the Speaker of the House of Representatives and President of the Senate adjourn their respective houses on the third day of June, 2009, they shall do so to reconvene no later than the eleventh day of June, 2009, at ten o'clock in the forenoon if the Governor should fail to approve and sign any bill

and should he return it to the house of origin with his objections in writing after such adjournment, or to adjourn the Special Session *sine die*, if the Governor should *not* so return any bill to either house.

Senate Concurrent Resolutions

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the Senate:

By Senators Doyle, Cummings and Scott,

By Representatives Koch and McFaun,

S.C.R. 1.

Senate concurrent resolution honoring Barre Town Middle and Elementary School Co-Principal Dr. Theodore Riggen.

By Senators Doyle, Cummings, MacDonald, McCormack and Scott,

By Representative French and others,

S.C.R. 2.

Senate concurrent resolution honoring Stephen Metcalf as an exemplary public education leader in Vermont.

By Senators Sears and Hartwell,

By Representative Miller and others,

S.C.R. 3.

Senate concurrent resolution in memory of Dr. Anna E. Worth.

By Senators Campbell, McCormack and Nitka,

By Representatives Ainsworth and Mitchell,

S.C.R. 4.

Senate concurrent resolution congratulating Jenny Hewitt on her selection to attend the 2009 National Mickelson ExxonMobil Teachers Academy.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By Representative Obuchowski and others,

H.C.R. 1.

House concurrent resolution congratulating Tom and Sally's Handmade Chocolates Inc. of Brattleboro on its recognition in the *Yankee Magazine* Travel Guide as the home of the "Best Sweets in New England".

By Representative McDonald and others,

By Senators Mazza, Kitchel, Maynard, Scott and Shumlin,

H.C.R. 2.

House concurrent resolution honoring Commissioner of Motor Vehicles Bonnie Rutledge.

By All Members of the House,

By All Members of the Senate,

H.C.R. 3.

House concurrent resolution in memory of U.S. Army Cpl. Ryan Casey McGhee.

By Representative Howrigan and others,

By Senators Miller and Snelling,

H.C.R. 4.

House concurrent resolution in memory of Rabbi Max Wall of Burlington.

By Representatives Minter and Stevens,

By Senators Cummings, Doyle and Scott,

H.C.R. 5.

House concurrent resolution honoring Crossett Brook Middle School Principal Kenneth J. Page.

By Representative Sweaney and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 6.

House concurrent resolution welcoming the 56th annual Shrine Maple Sugar Bowl Game and Pageant to Windsor, the birthplace of Vermont.

By Representative Hube and others,

By Senators Sears, Hartwell, Carris, Maynard and Mullin,

H.C.R. 8.

House concurrent resolution congratulating Daniel French on being named the 2009 recipient of the Frederick H. Tuttle Superintendent of the Year Award.

Message from the House No. 5

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

Mr. President:

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

H.C.R. 1. House concurrent resolution congratulating Tom and Sally's Handmade Chocolates Inc. of Brattleboro on its recognition in the *Yankee Magazine* Travel Guide as the home of the "Best Sweets in New England".

H.C.R. 2. House concurrent resolution honoring Commissioner of Motor Vehicles Bonnie Rutledge.

H.C.R. 3. House concurrent resolution in memory of U.S. Army Cpl. Ryan Casey McGhee.

H.C.R. 4. House concurrent resolution in memory of Rabbi Max Wall of Burlington.

H.C.R. 5. House concurrent resolution honoring Crossett Brook Middle School Principal Kenneth J. Page.

H.C.R. 6. House concurrent resolution welcoming the 56th annual Shrine Maple Sugar Bowl Game and Pageant to Windsor, the birthplace of Vermont.

H.C.R. 7. House concurrent resolution recognizing the journalistic contributions of retiring WCAX television news director Marselis Parsons.

H.C.R. 8. House concurrent resolution congratulating Daniel French on being named the 2009 recipient of the Frederick H. Tuttle Superintendent of the Year Award.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 1. Senate concurrent resolution honoring Barre Town Middle and Elementary School Co-Principal Dr. Theodore Riggen.

S.C.R. 2. Senate concurrent resolution honoring Stephen Metcalf as an exemplary public education leader in Vermont.

S.C.R. 3. Senate concurrent resolution in memory of Dr. Anna E. Worth.

S.C.R. 4. Senate concurrent resolution congratulating Jenny Hewitt on her selection to attend the 2009 National Mickelson ExxonMobil Teachers Academy.

And has adopted the same in concurrence.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Mazza, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready to adjourn *sine die*, pursuant to the provisions of J.R.H. 3.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Mazza, the President *pro tempore* appointed the following two Senators as members of a committee to wait upon His Excellency, James H. Douglas, the Governor, and inform him that the Senate has completed the business of the special session and is ready to adjourn *sine die*, pursuant to the provisions of J.R.H. 3.

Senator Campbell
Senator Mullin

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn *sine die*, pursuant to the provisions of **J.R.H. 3**, performed the duties assigned to it.

Final Adjournment

On motion of Senator Mazza, at nine o'clock and fifty minutes in the evening, the Senate adjourned *sine die*, pursuant to the provisions of **J.R.H. 3**.

Messages Received After Final Adjournment

Special Session

After final adjournment of the Special Session, the following messages were received by the Secretary:

Message from the Governor**Special Session**

A message was received from His Excellency, the Governor, by Heidi Tringe, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the tenth day of June, 2009, he approved and signed bill originating in the Senate of the following title:

S. 1. An act relating to seeking a Medicaid waiver renewal and relating to technical corrections to the following acts of 2009: underground storage tanks and the petroleum cleanup fund (H. 83), the Vermont Recovery and Reinvestment Act of 2009 (H. 313), the BIG BILL - Fiscal Year 2010 Appropriations Act (H. 441), health care reform (H. 444), and capital construction and bonding (H. 445).