

Journal of the House

Wednesday, June 3, 2009

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. William Aswad of Burlington.

Message from the Senate No. 3

Special Session

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

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

And has accepted and adopted the same on its part.

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

J.R.H. 2. Joint resolution authorizing the 2009 Girls' State civic education program to use the state house.

And has adopted the same in concurrence.

Recess

At ten o'clock and twenty minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and fifty minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 4

Special Session

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill 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).

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

**Rules Suspended; Report of Second Committee of Conference Adopted;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 442

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Nease of Johnson**, the rules were suspended and House bill, entitled

An act relating to miscellaneous tax provisions;

Was taken up for immediate consideration.

The Speaker placed before the House the following Second Committee of Conference 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 the bill respectfully reported that it has met and considered the same and recommended that the bill be amended by striking 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</u>	<u>That taxable income</u>
<u>the passage of this act, would be</u>	<u>shall instead be taxed</u>
<u>subject to tax at the following rate (%):</u>	<u>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>

9.008.909.509.40

(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:

For taxable income which, without

That taxable income

the passage of this act, would be

shall instead be taxed

subject to tax at the following rate (%):

at the following rate (%):

3.603.557.206.808.507.809.008.809.508.95

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'NEILL CONDON

Committee on the part of the House

Pending the question, Shall the report of the Second Committee of Conference be adopted? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Second Committee of Conference be adopted? was decided in the affirmative. Yeas, 124. Nays, 12.

Those who voted in the affirmative are:

Acinapura of Brandon	Geier of South Burlington	Milkey of Brattleboro
Adams of Hartland *	Gilbert of Fairfax	Miller of Shaftsbury
Ainsworth of Royalton	Grad of Moretown	Minter of Waterbury
Ancel of Calais	Greshin of Warren	Mitchell of Barnard
Andrews of Rutland City	Haas of Rochester	Mook of Bennington
Aswad of Burlington	Head of South Burlington	Moran of Wardsboro
Atkins of Winooski	Heath of Westford	Morley of Barton
Bissonnette of Winooski	Hooper of Montpelier	Morrissey of Bennington
Bohi of Hartford	Howard of Rutland City	Mrowicki of Putney
Botzow of Pownal	Howrigan of Fairfield	Myers of Essex
Branagan of Georgia	Hube of Londonderry	Nease of Johnson
Bray of New Haven *	Jerman of Essex	O'Brien of Richmond
Browning of Arlington	Jewett of Ripton	Obuchowski of Rockingham
Burke of Brattleboro	Johnson of South Hero	O'Donnell of Vernon
Canfield of Fair Haven	Keenan of St. Albans City	Orr of Charlotte
Cheney of Norwich	Kilmartin of Newport City *	Partridge of Windham
Clark of Vergennes	Kitzmiller of Montpelier	Pearce of Richford
Clarkson of Woodstock	Klein of East Montpelier	Pellett of Chester
Clerkin of Hartford	Koch of Barre Town	Peltz of Woodbury
Condon of Colchester	Komline of Dorset	Perley of Enosburg
Conquest of Newbury	Lanpher of Vergennes	Potter of Clarendon
Consejo of Sheldon	Larocque of Barnet	Pugh of South Burlington
Copeland-Hanzas of Bradford	Larson of Burlington	Ram of Burlington
Corcoran of Bennington	Lawrence of Lyndon	Savage of Swanton *
Courcelle of Rutland City	Lenes of Shelburne	Shand of Weathersfield
Crawford of Burke	Leriche of Hardwick	Smith of Mendon
Davis of Washington	Lewis of Derby	South of St. Johnsbury
Devereux of Mount Holly	Lippert of Hinesburg	Stevens of Waterbury
Dickinson of St. Albans Town	Lorber of Burlington	Sweaney of Windsor
Donaghy of Poultney *	Macaig of Williston	Taylor of Barre City
Donovan of Burlington	Maier of Middlebury	Till of Jericho
Edwards of Brattleboro	Malcolm of Pawlet	Toll of Danville
Emmons of Springfield	Manwaring of Wilmington	Townsend of Randolph
Evans of Essex	Marcotte of Coventry	Waite-Simpson of Essex
Fagan of Rutland City *	Marek of Newfane *	Webb of Shelburne
Fisher of Lincoln	Martin of Springfield	Westman of Cambridge
Flory of Pittsford *	Martin of Wolcott	Weston of Burlington
Frank of Underhill	Masland of Thetford	Wheeler of Derby
French of Shrewsbury	McCullough of Williston	Wizowaty of Burlington
French of Randolph	McDonald of Berlin	Wright of Burlington *
	McFaun of Barre Town	Zenie of Colchester
	McNeil of Rutland Town	Zuckerman of Burlington *

Those who voted in the negative are:

Baker of West Rutland	McAllister of Highgate	Scheuermann of Stowe *
Brennan of Colchester	Peaslee of Guildhall	Sharpe of Bristol
Donahue of Northfield *	Poirier of Barre City *	Turner of Milton
Higley of Lowell	Reis of St. Johnsbury *	Wilson of Manchester

Those members absent with leave of the House and not voting are:

Audette of South Burlington	Krawczyk of Bennington	Trombley of Grand Isle
Deen of Westminster	Nuovo of Middlebury	Winters of Williamstown
Helm of Castleton	Rodgers of Glover	Young of St. Albans City
Hubert of Milton	Spengler of Colchester	
Johnson of Canaan	Stevens of Shoreham	

Rep. Adams of Hartland explained his vote as follows:

“Mr. Speaker:

How many times does it take to get a budget right? It obviously wasn’t once nor was it twice. This is attempt number three and I vote yes because there are a few positives included, thanks to our Governor pointing out the fallacies of the original document. I continue to be saddened that we couldn’t do what previous legislatures have done – pass a lean, balanced and responsible budget.”

Rep. Bray of New Haven explained his vote as follows:

“Mr. Speaker:

I have voted yes two days running, knowing full well yesterday that the companion bill publically announced last week, and before us today as H. 442, were offered as a package of bills. Yesterday’s H. 441 budget was 161 pages and 3381 lines long, containing many, many compromises. Today’s companion bill was a further compromise, an explicit response to the Governor’s veto message.

We can improve our process, but let’s not confuse a lack of consensus with a lack of compromise. We can improve our performance, but let’s not confuse disagreement with a lack of respect.

H. 441 and H. 442 combined reflect a fiscally and socially responsible strategy for helping all Vermonters come through this economic downturn to build the better state we all desire.”

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

Our country was founded upon principles of shared power. Fundamental to it is the transparent and open process of government.

Yesterday’s vote was a scam – a scam perpetuated upon this body and the people of Vermont. We were told that we were voting on whether to uphold the budget passed by this Legislature in May, not that we were voting on a budget with pending, substantive, revisions already decided upon.

Our acts today are a culmination of a session in which the deliberative process was eviscerated not only to the point of repeated errors, but also with a growing disrespect for our obligation to stewardship of the democratic process.”

Rep. Donaghy of Poultney explained his vote as follows:

“Mr. Speaker:

Vermonters, I would like to thank you, Governor Douglas, for your leadership and impetus in bringing about these much needed changes as we see in H. 442.

It’s too bad we did it the way we did.”

Rep. Fagan of Rutland City explained his vote as follows:

“Mr. Speaker:

Employers in our state volunteered to be a part of the solution regarding unemployment compensation. They volunteered to increase the taxes they pay into the fund and asked that recipients of benefits take a small reduction in benefits. The Representative from Burlington yesterday said that we should all get out of the car and push, this bill allows those who receive benefits to remain in the car and hot help. Is this how we thank those who volunteer to help!.”

Rep. Flory of Pittsford explained her vote as follows:

“Mr. Speaker:

Although I believe this is akin to putting bubble gum in a cracked dike, I vote yes because we are finally starting to address some of the fiscal issues many of us have been pushing for since January.

Hopefully, we can all work together in January to establish a viable, sustainable budget on the first try.

Hopefully, the bubble gum will hold the dam back until then.”

Rep. Kilmartin of Newport City explained his vote as follows:

“Mr. Speaker:

I vote yes, but oh so reluctantly. The process behind H. 442 and the override of the Governor’s veto shows a level of political gamesmanship that violates the rules and reveals the highest level of hypocrisy. The improvements in the budget of the Democratic caucus are marginal at best, but have been carefully contrived to attempt to obfuscate the awfulness of the budget. Make no mistake, H. 441 has been unmasked as a travesty injurious to the people of Vermont. H. 442 cannot remask what has been unmasked..”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This conference report makes several improvements in our already strong budget work. It continues to carry out our responsibility to be both responsible and protect those Vermonters who need it most. That is why it passed so overwhelmingly in this House. No explanation changes that reality.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

While there are good components to H. 442, I voted no because I cannot support any legislation that negates on a commitment to the working people of Vermont. \$13.00 may not seem like a large amount, but it is if, you have lost your job..”

Rep. Reis of St. Johnsbury explained his vote as follows:

“Mr. Speaker:

This so-called “companion bill” is nothing more than sugarcoating on the poison pill this body fed to Vermonters yesterday, with the budget bill.”

Rep. Savage of Swanton explained his vote as follows:

“Mr. Speaker:

I voted yes on H. 442 reluctantly. I feel that it will provide Vermonters some protection from the erupting sewer that we call H. 441..”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

While there are provisions in this bill that will improve the tragedy we passed yesterday, we did not address the underlying problems of the budget – the large spending increases, the large tax increase, and the \$200 million hole. Simply put, this legislature failed the people of Vermont. We failed to do our jobs – what Vermonters expected us to do to get us through this economic crisis.

H. 442 simply tries to cover up our failures and I will not be a part of it.”

Rep. Wright of Burlington explained his vote as follows:

“Mr. Speaker:

I support H. 442 because it makes a seriously flawed bill marginally better. But this “companion” budget legislation was negotiated first in the press, next by a

small number of legislators – but never in an appropriate manner.... Working together with the Governor and the minority. This process was anything but open and transparent and has further served to undermine this body's credibility."

Rep. Zuckerman of Burlington explained his vote as follows:

"Mr. Speaker:

I have never been in the party of power. But I have not felt the process has been disrespected by this leadership or any other in the thirteen years I have been in the Legislature."

Thereupon, pursuant to Rule 41, the title is amended to read as follows:

An act relating to miscellaneous provisions

On motion of **Rep. Nease of Johnson**, the rules were suspended and action on the bill was ordered messaged to the Senate forthwith and the bill delivered to the Governor forthwith.

Recess

At four o'clock in the afternoon, the Speaker declared a recess until the fall of the gavel.

At five o'clock and ten minutes in the afternoon, the Speaker called the House to order.

**Senate Bill Introduced; Rules Suspended; Bill Read Second Time;
Proposals of Amendment Agreed to and Third Reading Ordered;
Consideration Interrupted by Recess**

S. 1

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);

Was taken up, read the first time and referred to the committee on Appropriations.

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Nease of Johnson**, the rules were suspended and the bill was taken up for immediate consideration.

Rep. Larson of Burlington, for the committee on Appropriations, to which the bill had been referred recommended that the House propose to the Senate that the bill be amended by adding Sec. 22c to read as follows:

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 bill was read the second time, report of the committee on Appropriations agreed to and third reading ordered.

Pending the question, Shall the bill be read the third time? **Rep. Ancel of Calais** moved to propose to the Senate to amend the bill as follows:

By adding a new Sec. 22b to read as follows:

Sec. 22b. Sec. 18(a) of H.442 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.

Which was agreed to.

Pending the question, Shall the bill be read the third time? **Rep. Kilmartin of Newport City** moved to propose to the Senate to amend the bill as follows:

By striking 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.

Recess

At five o'clock and fifty minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and thirty-five minutes in the evening, the Speaker called the House to order.

Consideration Resumed; Proposals of Amendment Agreed to;

S. 1

Consideration resumed on 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);

Thereupon, the proposal of amendment offered by Rep. Kilmartin of Newport City was agreed to.

Pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to propose to the Senate to amend the bill as follows:

In Sec. 13, 10 V.S.A. § 6523(e), by striking the first ellipsis after "Management of fund." and inserting in lieu thereof:

(1) There is created the clean energy development board, which shall consist of the following ~~nine~~ 10 directors:

(A) ~~Three~~ Two at-large directors appointed by the speaker of the house;

(B) ~~Three~~ Two at-large directors appointed by the president pro tempore of the senate.

(C) ~~Two~~ Five at-large directors appointed by the governor.

(D) The state treasurer, ex officio.

Which was disagreed to.

Pending third reading of the bill, **Rep. Scheuermann of Stowe** moved to propose to the Senate to amend the bill as follows:

First: By amending Sec. 16a of H.442 of 2009 as enacted to read:

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~~ 65 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~~ 65 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~~ 65 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 of adjusted net capital gain income; and

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

Second: By striking Sec. 16b in its entirety.

Third: By amending Sec. 18 of H.442 of 2009 as enacted to read:

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 \$2,500.00 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.~~

(e) 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.

Pending the question, Shall the bill be amended as offered by Rep. Scheuermann of Stowe? **Rep. Brennan of Colchester** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Scheuermann of Stowe? was decided in the negative. Yeas, 40. Nays, 79.

Those who voted in the affirmative are:

Adams of Hartland	Donahue of Northfield	Morrissey of Bennington
Ainsworth of Royalton	Fagan of Rutland City	Myers of Essex
Atkins of Winooski	Flory of Pittsford	O'Donnell of Vernon
Baker of West Rutland	Higley of Lowell	Pearce of Richford
Brennan of Colchester	Hube of Londonderry	Peaslee of Guildhall
Canfield of Fair Haven	Kilmartin of Newport City	Perley of Enosburg
Clark of Vergennes	Koch of Barre Town	Reis of St. Johnsbury
Clerkin of Hartford	Komline of Dorset	Savage of Swanton
Consejo of Sheldon	Lawrence of Lyndon	Scheuermann of Stowe
Corcoran of Bennington	Lewis of Derby	South of St. Johnsbury
Devereux of Mount Holly	McAllister of Highgate	Toll of Danville
Dickinson of St. Albans	McDonald of Berlin	Turner of Milton
Town	McFaun of Barre Town	Waite-Simpson of Essex
Donaghy of Poultney	McNeil of Rutland Town	

Those who voted in the negative are:

Acinapura of Brandon	Geier of South Burlington	Malcolm of Pawlet
Ancel of Calais	Gilbert of Fairfax	Manwaring of Wilmington
Andrews of Rutland City	Grad of Moretown	Marek of Newfane
Bissonnette of Winooski	Greshin of Warren	Martin of Springfield
Bohi of Hartford	Haas of Rochester	Martin of Wolcott
Botzow of Pownal	Head of South Burlington	Masland of Thetford
Bray of New Haven	Heath of Westford	McCullough of Williston
Browning of Arlington	Hooper of Montpelier	Milkey of Brattleboro
Burke of Brattleboro	Howard of Rutland City	Miller of Shaftsbury
Cheney of Norwich	Howrigan of Fairfield	Minter of Waterbury
Clarkson of Woodstock	Jerman of Essex	Mitchell of Barnard
Conquest of Newbury	Jewett of Ripton	Mook of Bennington
Courcelle of Rutland City	Johnson of South Hero	Moran of Wardsboro
Crawford of Burke	Klein of East Montpelier	Mrowicki of Putney
Davis of Washington	Lanpher of Vergennes	Nease of Johnson
Edwards of Brattleboro	Larson of Burlington	O'Brien of Richmond
Emmons of Springfield	Lenes of Shelburne	Obuchowski of Rockingham
Evans of Essex	Leriche of Hardwick	Orr of Charlotte
Fisher of Lincoln	Lippert of Hinesburg	Partridge of Windham
Frank of Underhill	Lorber of Burlington	Poirier of Barre City
French of Shrewsbury	Macaig of Williston	Potter of Clarendon
French of Randolph	Maier of Middlebury	Pugh of South Burlington

Ram of Burlington	Sweaney of Windsor	Wilson of Manchester
Shand of Weathersfield	Taylor of Barre City	Wizowaty of Burlington
Sharpe of Bristol	Townsend of Randolph	Zuckerman of Burlington
Smith of Mendon	Webb of Shelburne	
Stevens of Waterbury	Weston of Burlington	

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Keenan of St. Albans City	Stevens of Shoreham
Audette of South Burlington	Kitzmiller of Montpelier	Till of Jericho
Branagan of Georgia	Krawczyk of Bennington	Trombley of Grand Isle
Condon of Colchester	Larocque of Barnet	Westman of Cambridge
Copeland-Hanzas of Bradford	Marcotte of Coventry	Wheeler of Derby
Deen of Westminster	Morley of Barton	Winters of Williamstown
Donovan of Burlington	Nuovo of Middlebury	Wright of Burlington
Helm of Castleton	Pellett of Chester	Young of St. Albans City
Hubert of Milton	Peltz of Woodbury	Zenie of Colchester
Johnson of Canaan	Rodgers of Glover	
	Spengler of Colchester	

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

A poor Vermonter who has a gain in their retirement account pays tax on every cent of that gain. This amendment would have given a 40% tax break on the same exact gain to a wealthy Vermonter if it happens outside a retirement account. That’s not fair and it’s not the Vermont way. That’s why I voted no.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

With this vote, we had a choice to drastically raise taxes on our struggling senior citizens or not. By choosing to raise the capital gains tax on them. Vermont seniors will be disappointed that we, in fact, just made their lives and retirement that much more difficult.”

Rep. Webb of Shelburne explained her vote as follows:

“Mr. Speaker:

While I would like to support this amendment, I do not believe it can be accomplished without revisiting the entire bill to balance the difference.”

Pending third reading of the bill, **Rep. Koch of Barre Town** moved to propose to the Senate to amend the bill as follows:

First: By adding a new Sec. 11(c) to read:

(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)

Second: 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.

Which was agreed to

Thereupon, **Rep. Poirier of Barre City** raised a Point of Order that in Sec. 16 of the bill the delegation of authority to the Joint Fiscal Committee is in violation of Sec. 51 of Mason's Manual of Legislative Procedure.

Which Point of Order the Speaker ruled not well taken.

Pending third reading of the bill, **Rep. Poirier of Barre City** moved to propose to the Senate to amend the bill as follows:

By striking Sec. 16 in its entirety.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. Poirier of Barre City? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. Poirier of Barre City was decided in the negative. Yeas, 21. Nays, 97.

Those who voted in the affirmative are:

Baker of West Rutland

Canfield of Fair Haven

Clark of Vergennes

Donahue of Northfield
 Howrigan of Fairfield
 Hube of Londonderry
 Kilmartin of Newport City
 Komline of Dorset
 Lorber of Burlington

McAllister of Highgate
 McFaun of Barre Town
 Moran of Wardsboro
 Myers of Essex
 O'Donnell of Vernon
 Peaslee of Guildhall

Perley of Enosburg
 Poirier of Barre City
 Ram of Burlington
 Savage of Swanton
 Taylor of Barre City
 Weston of Burlington

Those who voted in the negative are:

Acinapura of Brandon
 Adams of Hartland
 Ainsworth of Royalton
 Ancel of Calais
 Andrews of Rutland City
 Atkins of Winooski
 Bissonnette of Winooski
 Bohi of Hartford
 Botzow of Pownal
 Bray of New Haven
 Brennan of Colchester
 Browning of Arlington
 Burke of Brattleboro
 Cheney of Norwich
 Clarkson of Woodstock
 Clerkin of Hartford
 Conquest of Newbury
 Consejo of Sheldon
 Corcoran of Bennington
 Courcelle of Rutland City
 Crawford of Burke
 Davis of Washington
 Devereux of Mount Holly
 Dickinson of St. Albans
 Town
 Donaghy of Poultney
 Edwards of Brattleboro
 Emmons of Springfield
 Evans of Essex
 Fagan of Rutland City
 Fisher of Lincoln
 Flory of Pittsford
 Frank of Underhill

French of Shrewsbury
 French of Randolph
 Geier of South Burlington
 Gilbert of Fairfax
 Grad of Moretown
 Greshin of Warren
 Haas of Rochester
 Head of South Burlington
 Heath of Westford
 Higley of Lowell
 Hooper of Montpelier
 Howard of Rutland City
 Jerman of Essex
 Jewett of Ripton
 Johnson of South Hero
 Klein of East Montpelier
 Koch of Barre Town
 Lanpher of Vergennes
 Larson of Burlington
 Lawrence of Lyndon
 Lenes of Shelburne
 Leriche of Hardwick
 Lewis of Derby
 Lippert of Hinesburg
 Macaig of Williston
 Maier of Middlebury
 Malcolm of Pawlet
 Manwaring of Wilmington
 Marek of Newfane
 Martin of Springfield
 Martin of Wolcott
 Masland of Thetford
 McCullough of Williston

McDonald of Berlin
 McNeil of Rutland Town
 Milkey of Brattleboro
 Miller of Shaftsbury
 Minter of Waterbury
 Mitchell of Barnard
 Mook of Bennington
 Morrissey of Bennington
 Mrowicki of Putney
 Nease of Johnson
 O'Brien of Richmond
 Obuchowski of Rockingham
 Orr of Charlotte
 Partridge of Windham
 Pearce of Richford
 Potter of Clarendon
 Pugh of South Burlington
 Reis of St. Johnsbury
 Scheuermann of Stowe
 Shand of Weathersfield
 Sharpe of Bristol
 Smith of Mendon
 South of St. Johnsbury
 Stevens of Waterbury
 Sweaney of Windsor
 Toll of Danville
 Townsend of Randolph
 Turner of Milton
 Waite-Simpson of Essex
 Webb of Shelburne
 Wilson of Manchester
 Wizowaty of Burlington

Those members absent with leave of the House and not voting are:

Aswad of Burlington
 Audette of South Burlington
 Branagan of Georgia
 Condon of Colchester
 Copeland-Hanzas of
 Bradford

Deen of Westminster
 Donovan of Burlington
 Helm of Castleton
 Hubert of Milton
 Johnson of Canaan
 Keenan of St. Albans City

Kitzmiller of Montpelier
 Krawczyk of Bennington
 Larocque of Barnet
 Marcotte of Coventry
 Morley of Barton
 Nuovo of Middlebury

Pellett of Chester
Peltz of Woodbury
Rodgers of Glover
Spengler of Colchester
Stevens of Shoreham

Till of Jericho
Trombley of Grand Isle
Westman of Cambridge
Wheeler of Derby
Winters of Williamstown

Wright of Burlington
Young of St. Albans City
Zenie of Colchester
Zuckerman of Burlington

Thereupon, third reading was ordered.

On motion of **Rep. Nease of Johnson**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Nease of Johnson**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Joint Resolution Adopted

J.R.H. 3

By Representatives Nease of Johnson and Komline of Dorset

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.

Was taken up and adopted on the part of the House.

Adjournment

At nine o'clock and twenty-five minutes in the evening, on motion of **Rep. Nease of Johnson**, the House adjourned *sine die* pursuant to the provisions of J.R.H. 3.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent

Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

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;

S.C.R. 1

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

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;

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2009, seventieth Biennial session.]