

H.438

An act relating to the state's transportation program

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2010 transportation program appended to the agency of transportation's proposed fiscal year 2010 budget, as amended by this act, is adopted to the extent federal, state, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) the term "agency" means the agency of transportation;

(2) the term "secretary" means the secretary of transportation;

(3) the table heading "As Proposed" means the transportation program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading;

(4) the term "ARRA funds" refers to federal funds allocated to the state by the American Recovery and Reinvestment Act of 2009;

(5) the term “TIB funds” refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f (see Sec. 32 of this act); and

(6) the term “TIB proceeds” refers to monies received by the state from the issuance of transportation infrastructure bonds issued pursuant to 32 V.S.A. § 972 (see Sec. 39 of this act).

Sec. 2. TIB PROCEEDS AND FUNDS

(a) All spending of TIB proceeds authorized by this act with respect to an agency program and all appropriations of TIB proceeds shall be limited to eligible projects as defined in 32 V.S.A. § 972(c).

(b) All spending of TIB funds authorized by this act with respect to an agency program and all appropriations of TIB funds shall be limited to eligible projects as defined in 19 V.S.A. § 11f(b) and shall further be limited in amounts to the monies deposited in the transportation infrastructure bond fund during the fiscal year in which the spending is authorized and the appropriation is made.

* * * Fiscal year 2009 transportation program * * *

Sec. 3. FISCAL YEAR 2009 TOWN HIGHWAY AID

Fiscal year 2009 spending authority in the town highway aid program shall be in the total amount of \$23,132,744.

Sec. 4. Sec. 2.617 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 2.617. Transportation - town highway aid program

Grants	24,982,744	<u>23,132,744</u>
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Source of funds

Transportation fund	24,982,744	<u>23,132,744</u>
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Sec. 5. Sec. 16 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 16. Town Highway Class 2 Roadway

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

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

Sec. 6. Sec. 2.615 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) is

amended to read:

Sec. 2.615. Transportation - town highway class 2 roadway

Grants ~~6,448,750~~ 5,748,750

Source of funds

Transportation fund ~~6,448,750~~ 5,748,750

Sec. 7. Sec. 17 of No. 164 of the Acts of the 2007 Adj. Sess. (2008) is

amended to read:

Sec. 17. Town Highway Structures

The following modifications are made to the town highway structures

program:

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

Sec. 8. Sec. 2.613 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 2.613. Transportation - town highway structures

Grants	3,833,500	<u>3,494,500</u>
Source of funds		
Transportation fund	3,833,500	<u>3,494,500</u>

Sec. 9. FISCAL YEAR 2009 PROGRAM DEVELOPMENT

In addition to any other changes in spending authority in the fiscal year 2009 program development budget which may be enacted, such authority is reduced by \$2,347,564 in transportation funds and increased by \$2,347,564 in TIB funds.

Sec. 10. Sec. 2.604 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 2.604. Transportation - program development

Personal services	35,192,941	35,192,941
Operating expenses	106,514,171	<u>106,754,171</u>
Grants	<u>23,370,050</u>	<u>23,370,050</u>
Total	165,077,162	165,317,162
Source of funds		
Transportation fund	28,465,101	<u>25,151,503</u>
Local match	1,476,992	1,476,992

Federal funds	131,223,819	<u>131,463,819</u>
ARRA funds	0	<u>966,034</u>
TIB funds	0	<u>2,347,564</u>
Interdepartmental transfer	<u>3,911,250</u>	<u>3,911,250</u>
Total	165,077,162	165,317,162

Sec. 11. Sec. 51(d) of No. 164 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(d) ~~Any funding not needed to maintain existing services shall remain in the capital program.~~ To the extent the funding provided in this section is not needed to maintain existing services, the agency is authorized to make grants of the unneeded funds to cover unanticipated shortfalls in the funding of elder and persons with disabilities (E&D) program services and critical medical care transportation services incurred by transit agencies with grant agreements to provide such services. The public transit administrator shall distribute the E&D and system integrity surplus from FY2009 to the regional transit providers to cover critical care shortfall. The remaining funds shall be used for the shortfall in E&D funds for adult day services and area agencies on aging.

* * * Town highway programs * * *

Sec. 12. TOWN HIGHWAY STATE AID

(a) The following modifications are made to the town highway state aid program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	24,982,744	27,282,744	2,300,000
Total	24,982,744	27,282,744	2,300,000

Source of funds

State	24,982,744	27,282,744	2,300,000
Total	24,982,744	27,282,744	2,300,000

(b) Town highway state aid shall be disbursed to towns in four quarterly installments. The first quarterly installment shall be in the total amount of \$8,208,186 and the second, third, and fourth quarterly installments shall each be in the total amount of \$6,358,186.

Sec. 13. TOWN HIGHWAY STRUCTURES

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

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	3,833,500	7,667,000	3,833,500
Total	3,833,500	7,667,000	3,833,500

Source of funds

State	3,833,500	3,833,500	0
TIB proceeds	0	3,833,500	3,833,500
Total	3,833,500	7,667,000	3,833,500

Sec. 14. TOWN HIGHWAY CLASS 2 ROADWAY

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

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	6,448,750	7,448,750	1,000,000
Total	6,448,750	7,448,750	1,000,000
<u>Source of funds</u>			
State	6,448,750	7,448,750	1,000,000
Total	6,448,750	7,448,750	1,000,000

Sec. 15. ARRA FUNDING OF TOWN PROJECTS

Any town transportation project which as a matter of state law requires a local match shall retain the local match requirement regardless of the state's use of ARRA funds to fund the project.

* * * Bridge programs * * *

Sec. 16. STATE BRIDGE

The following modifications are made to the program development state bridge program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	3,550,576	3,550,576	0
Row	1,181,202	1,181,202	0
Construction	19,002,022	19,002,022	0

Total	23,733,800	23,733,800	0
<u>Source of funds</u>			
State	5,186,420	0	-5,186,420
Federal	18,547,380	18,547,380	0
TIB proceeds	0	5,186,420	5,186,420
Total	23,733,800	23,733,800	0

Sec. 17. INTERSTATE BRIDGE

The following modifications are made to the program development interstate bridge program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	607,500	607,500	0
Row	26,000	26,000	0
Construction	5,315,000	5,315,000	0
Total	5,948,500	5,948,500	0
<u>Source of funds</u>			
State	594,850	0	-594,850
Federal	5,353,650	5,353,650	0
TIB proceeds	0	594,850	594,850
Total	5,948,500	5,948,500	0

Sec. 18. TOWN BRIDGE

The following modifications are made to the town bridge program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	1,663,951	1,663,951	0
Row	588,278	588,278	0
Construction	18,418,870	18,418,870	0
Total	20,671,099	20,671,099	0

Source of funds

State	3,040,899	0	-3,040,899
Federal	16,273,728	16,273,728	0
Local	1,356,472	1,356,472	0
TIB proceeds	0	3,040,899	3,040,899
Total	20,671,099	20,671,099	0

Sec. 19. BRIDGE MAINTENANCE

The following modifications are made to the bridge maintenance program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	410,000	410,000	0
ROW	21,500	21,500	0
Construction	17,192,200	17,192,200	0
Other	0	0	0
Total	17,623,700	17,623,700	0

Source of funds

State	6,844,140	448,300	-6,395,840
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Federal	10,779,560	10,779,560	0
TIB proceeds	0	6,395,840	6,395,840
Total	17,623,700	17,623,700	0

Sec. 20. STATE, INTERSTATE, AND TOWN BRIDGE PROGRAMS

In addition to the changes made to the state bridge, interstate bridge, bridge maintenance, and town bridge programs in Secs. 16–19 of this act, total authorized spending in the four programs is increased by the amount of \$10,648,491 in TIB proceeds or such adjusted amount after deducting the spending of TIB proceeds authorized in Secs. 16–19 and Sec. 13 of this act from the net amount of TIB proceeds available as determined by the treasurer. The amount of the increased funding which is allocated to each program shall be determined by the secretary. Within each program, the allocated amount shall be apportioned among eligible projects as defined in 32 V.S.A. § 972(c) in the order of their priority ranking. If the secretary determines that funds would be more efficiently spent advancing a lower-ranking project due to permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project in the program or to a different program.

* * * Roadway * * *

Sec. 21. PROGRAM DEVELOPMENT — ROADWAY

The following modifications are made to the program development — roadway program:

(1) Authorized spending on the Cabot-Danville FEGC F 028-3(26)C/1

project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Construction	4,000,000	2,500,000	-1,500,000
Other	0	0	0
Total	4,000,000	2,500,000	-1,500,000

Source of funds

State	200,000	125,000	-75,000
Federal	3,800,000	2,375,000	-1,425,000
Local	0	0	0
Total	3,800,000	2,500,000	-1,500,000

(2) Authorized spending on the Morristown VT 100 STP F 029-1(2)

project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	200,000	200,000	0

ROW	500,000	2,000,000	1,500,000
Construction	0	0	0
Other	200,000	200,000	0
Total	900,000	2,400,000	1,500,000

Source of funds

State	182,440	480,000	297,560
Federal	717,560	1,920,000	1,202,440
Local	0	0	0
Total	900,000	2,400,000	1,500,000

(A) Subject to unforeseeable delays in the judicial process, to ensure the funds authorized for right-of-way acquisition are expended in fiscal year 2010, the agency shall either prioritize staff resources or outsource the work to an independent contractor. The agency shall inform the joint transportation oversight committee at its September 2009 meeting of the status of the project and the agency's decision regarding the execution of the right-of-way work.

(3) Authorized spending on the Winooski NH 089-3(65) project is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	100,000	100,000	0
ROW			0
Construction	1,000,000	1,000,000	0

Other			0
Total	1,100,000	1,100,000	0
<u>Source of funds</u>			
State	110,000	10,000	-100,000
Federal	990,000	1,090,000	100,000
Local	0	0	0
Total	1,100,000	1,100,000	0

(4) Including the changes made in subdivisions (1), (2), and (3) of this

section, the total budget for the roadway program is amended to read:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	5,446,891	5,446,891	0
ROW	7,115,000	8,615,000	1,500,000
Construction	43,752,270	42,252,270	-1,500,000
Other	1,087,500	1,087,500	0
Total	57,401,661	57,401,661	0

Source of funds

State	7,140,342	0	-7,140,342
TIB funds	0	7,265,342	7,265,342
Federal	48,710,890	48,585,890	-125,000
Local	1,550,429	1,550,429	0
Total	57,401,661	57,401,661	0

* * * Paving * * *

Sec. 22. PROGRAM DEVELOPMENT – PAVING

The following modifications are made to the program development paving program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	2,405,000	2,405,000	0
Construction	66,229,802	66,229,802	0
Total	68,634,802	68,634,802	0

Source of funds

State	13,018,034	4,082,312	-8,935,722
TIB funds	0	8,935,722	8,935,722
Federal	55,616,768	55,616,768	0
Total	68,634,802	68,634,802	0

* * * Rail * * *

Sec. 23. RAIL PROGRAM

The following modifications are made rail program:

(1) A new project is added to the rail program for the purchase of continuously welded rail for installation on the state's western corridor rail lines as follows:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	4,000,000	4,000,000

Total	0	4,000,000	4,000,000
<u>Source of funds</u>			
State	0	0	0
Federal	0	3,200,000	3,200,000
TIB funds		800,000	800,000
Total	0	4,000,000	4,000,000

(2) Authorized spending on the Amtrak contract is amended to read as follows. To the extent the added funding is not required to maintain the Ethan Allen and Vermonter services, the agency shall use the excess to purchase and install automated Amtrak ticketing machines.

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	3,300,000	3,900,000	600,000
Total	3,300,000	3,900,000	600,000
<u>Source of funds</u>			
State	3,300,000	3,900,000	600,000
Total	3,300,000	3,900,000	600,000

* * * Passenger rail equipment * * *

Sec. 24. PASSENGER RAIL EQUIPMENT

In consultation with the joint fiscal office, the agency shall examine the alternatives and relative costs and benefits and service implications available to the state with respect to the purchase of passenger rail equipment to be used in

place of the existing Amtrak equipment employed in the Vermonter and Ethan Allen services, including the purchase of refurbished equipment. The agency shall deliver a report of its analysis to the house and senate committees on transportation on or before January 15, 2010.

* * * Passenger rail service * * *

Sec. 25. PASSENGER RAIL SERVICE; BURLINGTON TO
BENNINGTON TO ALBANY

(a) The agency of transportation shall prepare a comprehensive detailed project plan to create passenger rail service from Burlington to Bennington to Albany, New York. The plan shall include rail, ties, and rail bed installation and improvement, bridge repair where necessary, and safe on-grade rail crossings where needed.

(b) The detailed project plan shall identify each task of the project sequentially with a time schedule for start and completion of each task, a cost estimate for each task, and a time rate of expenditure of cost for the total project, including funding sources. The comprehensive project plan shall be delivered to both the house and senate committees on transportation on or before January 15, 2010.

*** Park & Ride ***

Sec. 26. PROGRAM DEVELOPMENT – PARK & RIDE

The following modifications are made to the program development park & ride municipal grant program:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	250,000	300,000	50,000
Total	250,000	300,000	50,000
<u>Source of funds</u>			
State	250,000	300,000	50,000
Total	250,000	300,000	50,000

*** Department of Motor Vehicles ***

Sec. 27. DEPARTMENT OF MOTOR VEHICLES

Authorized spending by the department of motor vehicles is modified as follows:

<u>FY10</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	17,063,642	17,063,642	0
Operating Expenses	8,176,673	7,502,673	-674,000
Grants	50,000	50,000	0
Total	25,290,315	24,616,315	-674,000
<u>Source of funds</u>			
State	23,807,821	23,133,821	-674,000

Federal	1,482,494	1,482,494	0
Total	25,290,315	24,616,315	-674,000

* * * Public Transit * * *

Sec. 28. PUBLIC TRANSIT

From the funds allocated to the public transit general capital program, \$100,000 in federal funds shall be held by the agency of transportation in reserve to cover shortfalls in the funding of the elders and persons with disabilities program (E&D) that occur as a result of unanticipated demand for non-Medicaid transportation services. Transit agencies that have grant agreements with the agency for the provision of E&D services shall be eligible to receive disbursements from the reserve. The agency shall develop a written policy to govern the evaluation and prioritization of applications for disbursements from the reserve to ensure access to the reserve funds is limited to transit agencies that have administered appropriately constrained E&D programs. The agency shall notify all transit agencies with grant agreements for the provision of E&D services of the policy no later than July 1, 2009, and all disbursements from the reserve shall be in accordance with the policy.

* * * Town highway structures program * * *

Sec. 29. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(e) State aid for town highway structures. There shall be an annual appropriation for grants to municipalities for maintenance, including actions to extend life expectancy, and construction of bridges, culverts, and other structures, including causeways and retaining walls, intended to preserve the integrity of the traveled portion of class 1, 2, and 3 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of \$3,490,000.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title. In any particular fiscal year, a grant for a project shall not exceed \$250,000.00.

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* * * ARRA funds * * *

Sec. 30. FEDERAL ECONOMIC RECOVERY FUNDS

(a) Division A – Title XII of the American Recovery and Reinvestment Act (ARRA) of 2009 allocates federal funds to the state for transportation-related projects. The allocation is subject to a requirement that 50 percent of a portion of the allocation be obligated by the state within a 120-day time period, and that the remaining funds be obligated by February 2010. To the extent the state needs to obligate ARRA funds to satisfy the February 2010 deadline, subject to the approval of the joint transportation oversight committee, the secretary is authorized to obligate ARRA funds:

(1) to eligible projects in the fiscal year 2010 transportation program;

and

(2) to additional town highway projects that meet federal eligibility and readiness criteria.

(b) To the extent ARRA funds are proposed under subsection (a) of this section to be obligated to projects in place of previously authorized state funds or non-ARRA federal funds, the agency shall, subject to the approval of the joint transportation oversight committee, reallocate the authorized funds to advance other projects in the fiscal year 2010 transportation programs in the order of their priority ranking. If the secretary determines that such funds would be more efficiently spent advancing a lower-ranking project due to

permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project.

(c) To the extent ARRA funds have been obligated and appropriated under other authority to projects in the fiscal year 2009 transportation program to projects in place of previously authorized and appropriated state funds or non-ARRA federal funds, the agency is authorized to reallocate the authorized funds to advance other projects in the fiscal year 2009 transportation program.

(d) The agency shall submit its proposal regarding the obligation of ARRA funds under subsection (a) of this section and its proposal regarding the reallocation of funds under subsection (b) of this section to the joint transportation oversight committee for approval at the committee's July 2009 meeting. The agency shall in addition report to the committee on any reallocation of funds executed under authority of subsection (c) of this section.

(e) Up to \$60,000,000 of ARRA funds are authorized for expenditure by the agency in fiscal year 2010 to fund the spending approved by the joint transportation oversight committee under subsection (d) of this section. The agency shall report on the expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular 2009 meetings

* * * Inflation indexing of motor fuels taxes * * *

Sec. 31. 23 V.S.A. § 3032 is added to read:

§ 3032. INFLATION INDEX ADJUSTMENT; DIESEL FUEL TAX

Starting on July 1, 2012 and effective each July 1 thereafter, the tax imposed on diesel fuel pursuant to subsection 3003(a) of this chapter, but not the petroleum distributor license fee imposed pursuant to 10 V.S.A. § 1942 or the motor fuels distributor infrastructure assessment imposed pursuant to subsection 3003(a) of this chapter, shall be annually increased or decreased by the percentage change in the gross domestic product price index during the preceding calendar year as reported by the Bureau of Economic Analysis of the United States Department of Commerce (the GDP price index). The tax rate effective on July 1 of a fiscal year shall be equal to the product of the tax rate effective during the expiring fiscal year and the index ratio, rounded to the nearest one-tenth of a cent. "Index ratio" means: the ratio of the value of the GDP price index for the fourth quarter of the prior calendar year over the corresponding value of the GDP price index for the fourth quarter one year earlier. Each year in April the commissioner of motor vehicles shall determine and publish the tax rate to take effect the following July 1 using, relative to the time of determination, the latest gross domestic product report for the fourth quarter of the prior calendar year available from the Bureau of Economic

Analysis. Subsequent revisions to gross domestic product data shall not affect a tax rate so determined.

Sec. 32. 23 V.S.A. § 3175 is added to read:

§ 3175. INFLATION INDEX ADJUSTMENT; GASOLINE AND MOTOR
FUELS TAX

Starting on July 1, 2012 and effective each July 1 thereafter, the tax imposed on gasoline and other motor fuels pursuant to subsection 3106(a) of this chapter, but not the petroleum distributor license fee imposed under section 3106a of this chapter or the motor fuels distributor infrastructure assessment imposed under subsection 3106(a) of this chapter, shall be annually increased or decreased by the percentage change in the gross domestic product price index during the preceding calendar year as reported by the Bureau of Economic Analysis of the United States Department of Commerce (the GDP price index). The tax rate effective on July 1 of a fiscal year shall be equal to the product of the tax rate effective during the expiring fiscal year and the index ratio, rounded to the nearest one-tenth of a cent. "Index ratio" means: the ratio of the value of the GDP price index for the fourth quarter of the prior calendar year over the corresponding value of the GDP price index for the fourth quarter one year earlier. Each year in April the commissioner of motor vehicles shall determine and publish the tax rate to take effect the following July 1 using, relative to the time of determination, the latest gross domestic

product report for the fourth quarter of the prior calendar year available from the Bureau of Economic Analysis. Subsequent revisions to gross domestic product data shall not affect a tax rate so determined.

* * * Motor fuels distributor infrastructure assessments
and bond fund * * *

Sec. 33. 19 V.S.A. § 11f is added to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special account within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuels distributor infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

(b)(1) Monies in the fund may be used:

(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to section 972 of Title 32; and

(B) to pay for the rehabilitation, reconstruction, or replacement of:

(i) state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;

(ii) municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and

(iii) for up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.

(2) However, in any fiscal year, no payments shall be made under this subsection unless the amount needed to pay for the following items for that fiscal year, to the extent required by the terms of any trust agreement applicable to the transportation infrastructure bonds, is either in the fund and available to pay for those items, or the items have been paid: debt service due on the bonds for that fiscal year; any associated reserve or sinking funds; and any associated costs of the bonds as defined in subsection 972(b) of Title 32.

(c) The rate of the motor fuels distributor infrastructure assessments paid pursuant to 23 V.S.A. §§ 3003(a) and 3106(a) shall not be reduced below the rates in effect at the time of issuance of any transportation infrastructure bond until the principal, interest, and all costs which must be paid in order to retire the bond have been paid.

Sec. 34. 23 V.S.A. § 3003(a) is amended to read:

(a) A tax of ~~25 cents per gallon and \$0.25~~, a fee of ~~one cent per gallon is imposed on each gallon of fuel~~ \$0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a \$0.05 motor fuels distributor infrastructure

assessment, which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

- (1) sold or delivered by a distributor; or
- (2) used by a user.

Sec. 34a. 23 V.S.A. § 3003(d) is amended to read:

(d)(1) For users, the following uses shall be exempt from ~~taxation~~ the tax and motor fuels distributor infrastructure assessment imposed under this chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title:

* * *

Sec. 35. 23 V.S.A. § 3015(4) is amended to read:

(4) ~~All~~ The taxes, interest, user license fees, petroleum distributor licensing fee, motor fuels distributor infrastructure assessment, and penalties collected by the department of motor vehicles under this chapter shall be paid to the state treasurer and credited to the transportation fund as follows:

(A) the \$0.01 per-gallon fee imposed by this chapter shall be deemed the petroleum distributor licensing fee and shall be paid to the petroleum cleanup fund established by 10 V.S.A. § 1941.

(B) the \$0.05 per-gallon assessment shall be deemed the motor fuels distributor infrastructure assessment and shall be paid to the state treasurer and

credited to the transportation infrastructure bond fund established by 19 V.S.A.

§ 11f.

(C) the remaining taxes, interest, fees, and penalties shall be paid
forthwith to the state treasurer and credited to the transportation fund.

Sec. 36. REPEAL

23 V.S.A. § 3015(5) (directing \$0.01 per gallon to the petroleum cleanup
fund) is repealed.

Sec. 37. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuels distributor infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax of \$0.19 per gallon and a motor fuels distributor infrastructure assessment of \$0.05 per gallon upon each gallon of motor fuel sold by the distributor. The distributor shall also pay to the commissioner a tax and a motor fuels distributor infrastructure assessment in the same ~~amount~~ amounts upon each gallon of motor fuel used within the state by him or her.

Sec. 38. 23 V.S.A. § 3106(e) is added to read:

(e) The \$0.05 motor fuels distributor infrastructure assessment imposed
under subsection (a) of this section shall be paid forthwith to the state treasurer

and be credited to the transportation infrastructure bond fund established by
19 V.S.A. § 11f.

Sec. 39. 32 V.S.A. chapter 13, subchapter 4 is added to read:

Subchapter 4. Transportation Infrastructure Bonds

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

(a) The treasurer may issue bonds pursuant to this subchapter from time to
time in amounts authorized by the general assembly in its annual transportation
bill. Bonds issued under this section shall be referred to as “transportation
infrastructure bonds.”

(b) Principal and interest on the bonds and associated costs shall be paid
from the transportation infrastructure bond fund established in 19 V.S.A. § 11f.
Associated costs of bonds include sinking fund payments; reserves; redemption
premiums; additional security, insurance, or other form of credit enhancement
required or provided for in any trust agreement entered to secure bonds; and
related costs of issuance.

(c) Funds raised from bonds issued under this section may be used to pay
for the rehabilitation, reconstruction, or replacement of:

- (1) state bridges and culverts; and
- (2) municipal bridges and culverts.

(d) Pursuant to section 953 of this title, interest and the investment return
on the bonds shall be exempt from taxation in this state.

(e) Bonds issued under this section shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. The bonds shall likewise be legal investments for all public officials authorized to invest in public funds.

§ 973. ISSUANCE OF BONDS

(a) Transportation infrastructure bonds may be issued at one time or in a series from time to time in any form permitted by law, in such manner and on such terms and conditions as the state treasurer may determine to be in the best interests of the state, except that the state treasurer shall determine the following with the approval of the governor:

- (1) date of issuance;
- (2) place of payment;
- (3) rate of interest (which may be fixed or variable) or the manner of determining such rate of interest;
- (4) original stated value;
- (5) investment returns or manner of determining the investment returns;
- (6) maturity value, time of maturity, and provisions with respect to redemption prior to maturity;
- (7) whether to issue the bonds at par, premium, or discount;
- (8) sinking fund and reserve requirements;

(9) amount and manner of issuance; and

(10) other particulars as to the form of such bonds within the limitations of this subchapter.

(b) The state treasurer shall determine the annual payment schedule for the bonds, including debt service and sinking fund payments, if any, as he or she may deem to be in the best interests of the state. However, any bond issued under this subchapter shall mature not later than 30 years after the date of issuance. Installments on the bonds need not be payable in substantially equal or diminishing amounts. The last bond payment shall be made not later than 30 years after the date of issuance.

(c) The state treasurer may determine at the time of issuance to apply all or a portion of any net premium to the costs of issuance, other related financing costs, or the payment of the principal or interest to come due. If net premium is applied to costs of issuance, the amount of the premium shall not be included in the net proceeds of the issue. Net premium not applied to costs of issuance shall be included in the net proceeds of the issue and may be used for any of the authorized purposes of the bond proceeds.

(d) The principal, interest, investment returns, and maturity value of transportation infrastructure bonds shall be payable in lawful money of the United States or of the country in which the bonds are sold.

(e) Transportation infrastructure bonds shall be registered pursuant to section 981 of this title.

§ 974. SECURITY DOCUMENTS

(a) The state treasurer is authorized to secure bonds authorized under this subchapter by a trust agreement which pledges or assigns monies in the transportation infrastructure bond fund; by additional security, insurance, or other forms of credit enhancement which may be secured with the bonds on a parity or subordinate basis or by both.

(b) Any trust agreement or credit enhancement agreement entered into pursuant to this section shall be valid and binding from the time of the agreement without any physical delivery or further act and without any filing or recording under the Uniform Commercial Code or otherwise, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof.

(c) Any trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the state treasurer, including provisions relating to the establishment of reserves; the issuance of additional or refunding bonds, whether or not secured on a parity basis; the application of receipts, monies, or

funds pledged pursuant to the agreement; and other matters deemed necessary or desirable by the state treasurer for the security of the bonds, and may also regulate the custody, investment, and application of monies.

(d) For payment of principal, interest, investment returns, and maturity value of transportation infrastructure bonds, the full faith and credit of the state is hereby pledged. However:

(1) if pledging of full faith and credit of the state is not necessary to market a transportation infrastructure bond in the best interest of the state, the treasurer shall enter into an agreement which establishes that the full faith and credit of the state is not pledged for payment of principal, interest, investment returns, and maturity value of the bond. In determining whether to pledge the full faith and credit of the state, the state treasurer shall consider the anticipated effect of such a pledge on the credit standing of the state, the marketability of the transportation infrastructure bond, and other factors he or she deems appropriate; and

(2) the treasurer shall only use other revenues to pay for debt service and associated costs as defined in section 972 of this title on transportation infrastructure bonds to which the full faith and credit of the state has been pledged in the event that monies in the transportation infrastructure bond fund are insufficient to pay for it.

§ 975. PROCEEDS

(a) Proceeds from the sale of bonds may be expended for the authorized purposes of the bonds; including the expenses of preparing, issuing, and marketing the bonds; any notes issued under section 976 of this title; and amounts for any reserves. However, no purchasers of the bonds shall be bound to see to the proper application of the proceeds thereof.

(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.

(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.

§ 976. ANTICIPATION OF PROCEEDS

(a) Pending the issue of transportation infrastructure bonds, the state treasurer with the approval of the governor may use any available cash in the transportation infrastructure bond fund for the purposes for which the bonds were authorized, and shall restore the borrowed funds from the proceeds of the bonds.

(b) The state treasurer, with the approval of the governor, may borrow upon notes of the state sums of money in anticipation of the proceeds of the bonds. Notes issued under this subsection shall be issued on such terms and at such times as the treasurer and governor may determine, and shall mature not more than three years from the date of issuance, provided that notes issued for a shorter period may be refunded from time to time by the issue of other such notes maturing within the required period of three years.

(c) The authority granted under this section is in addition to and not in limitation of any other authority.

§ 977. REFUNDING BONDS

The state treasurer with the approval of the governor is hereby authorized to issue transportation infrastructure bonds in order to refund all or any portion of outstanding transportation bonds at any time after the issuance of the bonds to be refunded pursuant to subsections 961(b), (c), and (d) of this title.

§ 978. PLEDGE

The general assembly hereby pledges and covenants with holders of the bonds issued under this subchapter that the state will fulfill the terms of any agreement made with the holders of transportation infrastructure bonds and will not in any way impair the rights or remedies of the holders of the bonds until the bonds, interest, and all costs associated with the bonds are fully paid.

§ 979. AUTHORITIES

In addition to the provisions of this subchapter, the following provisions of this title shall apply to transportation infrastructure bonds:

- (1) sections 953, 956, 958, and 960;
- (2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and
- (3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to subdivision 974(e)(2) of this title.

§ 980. MOTOR FUEL DISTRIBUTOR INFRASTRUCTURE

ASSESSMENT EXPIRATION

After all principal and interest have been paid on the transportation infrastructure bonds issued pursuant to this subchapter, and all obligations with

respect to such bonds have been discharged, the motor fuel distributor infrastructure assessments imposed by 23 V.S.A. §§ 3003(a) and 3106(a) shall be reduced to zero on July 1 of the fiscal year succeeding the fiscal year in which all such principal, interest, and obligations have been discharged.

Sec. 40. 32 V.S.A. § 1001(b) is amended to read:

(b)(1) Committee duties. The committee shall review annually the size and affordability of the net state tax-supported indebtedness; and submit to the governor and to the general assembly an estimate of the maximum amount of new long-term net state tax-supported debt that prudently may be authorized for the next fiscal year. The estimate of the committee shall be advisory and in no way bind the governor or the general assembly.

(2) The committee shall conduct ongoing reviews of the amount and condition of bonds, notes, and other obligations of instrumentalities of the state for which the state has a contingent or limited liability or for which the state legislature is permitted to replenish reserve funds, and, when deemed appropriate, recommend limits on the occurrence of such additional obligations to the governor and to the general assembly.

(3) The committee shall conduct ongoing reviews of the amount and condition of the transportation infrastructure bond fund established in section 11f of Title 19 and of bonds and notes issued against the fund for which the state has a contingent or limited liability.

Sec. 41. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

The capital debt affordability advisory committee shall prepare and submit, consistent with 2 V.S.A. § 20(a), a report on:

(1) general obligation debt, pursuant to subsection 1001(c) of this title;

and

(2) how many, if any, transportation infrastructure bonds have been issued and under what conditions.

Sec. 42. TRANSPORTATION INFRASTRUCTURE BOND FUND;

APPROPRIATION AND SPENDING AUTHORIZATION

(a) The amount of \$30,000,000.00 from the issuance of transportation infrastructure bonds is appropriated in fiscal year 2010 to the agency of transportation for eligible projects as defined in 32 V.S.A. § 972(c) in the state bridge, interstate bridge, bridge maintenance, town bridge, and town highway structures programs of the state's fiscal year 2010 transportation program in accordance with the spending authority defined in Sec. 13 and Secs. 16–20 of this act. Of this total, the sum of \$10,648,491 in TIB proceeds identified in Sec. 20 of this act is appropriated to program development, and the secretary shall transfer such portions of the appropriated sum to the bridge maintenance and town bridge programs as required to effect the final spending allocations determined in accordance with Sec. 20 of this act.

(b) Pursuant to 19 V.S.A. § 11f(b)(2), after the amount necessary to pay the fiscal year 2010 debt service and other costs on any bonds secured by monies in the transportation infrastructure bond fund have been deposited into the fund or the debt service and other costs have been paid, up to the following amounts are authorized for expenditure from any other amounts which may be in the transportation infrastructure bond fund by the agency in fiscal year 2010 for the projects in order of priority listed in this subsection. With respect to amounts authorized for expenditure in the roadway and paving programs, the funds shall be apportioned among eligible projects in the state's fiscal year 2010 transportation program in the order of their priority ranking. If the secretary of transportation determines that such funds would be more efficiently spent advancing a lower-ranking project due to permitting, right-of-way, or other practical constraints that impede the advancement of a higher ranking project, the secretary may reallocate funds from the higher ranking to the lower ranking project.

<u>(1) For the purchase of continuously welded rail to be installed on the state's western corridor rail lines:</u>	<u>\$ 800,000</u>
<u>(2) For projects in the roadway program:</u>	<u>\$ 7,265,342</u>
<u>(3) For projects in the paving program:</u>	<u>\$ 8,935,722</u>
<u>Total spending authorization</u>	<u>\$17,001,064</u>

Sec. 43. AUTHORITY TO ISSUE TRANSPORTATION

INFRASTRUCTURE BONDS

(a) The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding the appropriations of Sec. 42(a) of this act and associated costs of the transportation infrastructure bonds as defined in 32 V.S.A. § 972(b) in the amount of \$30,000,000.00 in fiscal year 2010.

(b) The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. §972 for the purpose of funding future appropriations to be made in the amount of :

(1) \$30,000,000.00 in fiscal year 2011; and

(2) \$60,000,000.00 in fiscal year 2012.

* * * State highway law; definitions * * *

Sec. 44. 19 V.S.A. § 1 is amended to read:

§ 1. DEFINITIONS

For the purposes of this title:

(1) "Agency" means the agency of transportation.

(2) "Board" means the transportation board.

(3) "Branch" means a major component of a division of a department or major unit of a department with staff functions.

(4) “Chair” means the chair of the transportation board, unless otherwise specified.

(5) “Commissioner” means the commissioner of the department of motor vehicles responsible to the secretary for the administration of the department.

(6) “Department” means the department of motor vehicles.

(7) “Develop” means the partition or division of any tract of land of any size by a person through sale, lease, transfer or any other means by which any interest in or to the land or a portion of the land is conveyed to another person which will require the construction of permanent new or enlarged points of access to a state or town highway other than a limited access facility pursuant to subsection (a) of section 1702a of this title; excluding however, tracts of land located entirely within a city or incorporated village.

(8) “Director” means the head of a division.

(9) “District” means a geographic subdivision of the state primarily established for maintenance purposes.

(10) “District transportation administrator” means the person in charge of a district.

(11) “Division” means a major unit of the agency engaged in line functions other than the department of motor vehicles.

(12) “Highways” are only such as are laid out in the manner prescribed by statute; or roads which have been constructed for public travel over land which has been conveyed to and accepted by a municipal corporation or to the state by deed or a fee or easement interest; or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located; or such as may be from time to time laid out by the agency or town. The term “highway” includes rights-of-way, bridges, drainage structures, signs, guardrails, areas to accommodate utilities authorized by law to locate within highway limits, areas used to mitigate the environmental impacts of highway construction, vegetation, scenic enhancements, and structures. The term “highway” does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

(13) “Management road” means a road not designated as a “state forest highway” used for the long-term management of lands owned by or under the control of the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation to meet the responsibilities and purposes set forth in chapter 83 of Title 10, part 4 of Title 10, and regulations promulgated under those statutes. The term “management

road” includes associated easements and rights-of-way. A “management road” is not a “highway” or a “town highway” as defined in this title, is not a public road, and the public has no common law or statutory right of access or use of such a road. A “management road” may be open for temporary, seasonal uses by the public or may be closed temporarily or seasonally at the discretion of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation. A “management road” may be closed permanently upon 30 days’ notice to the governing body of the municipality in which the road is located and any affected user groups. Designation of a road as a “management road” shall not diminish any deeded rights of way or easements of private landowners on lands owned or controlled by the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

~~(13)~~(14) “Person” includes a municipality or state agency.

~~(14)~~(15) “Scenic road” means any road designated pursuant to this title.

~~(15)~~(16) “Secretary” means the head of the agency who shall be a member of the governor’s cabinet responsible directly to the governor for the administration of the agency.

~~(16)~~(17) “Section” means a major component of a division or department or major unit of the agency.

~~(17)~~(18) "Selectboard" includes village trustees and city councils.

(19) "State forest highway" means a road used for the long-term management of lands owned by or under the control of the department of forests, parks and recreation to meet the responsibilities and purposes set forth in 10 V.S.A. § 2601, et seq. and regulations promulgated under that statute. The term "state forest highway" includes easements and rights-of-way. A "state forest highway" is not a "highway" or "town highway" as defined in this title, is not a public road, and the public has no common law or statutory right of access or use of such road. A "state forest highway" may be open for temporary, seasonal uses by the public or may be closed temporarily or seasonally for any reason at the discretion of the agency of natural resources or the department of forests, parks and recreation. A "state forest highway" may be closed permanently upon 30 days' notice to the governing body of the municipality in which the road is located and to any affected user groups. Designation of a road as a "state forest highway" shall not diminish any deeded rights of way or easements of private landowners on lands owned or controlled by the agency of natural resources or the department of forests, parks and recreation.

~~(18)~~(20) "State highways" are those highways maintained exclusively by the agency of transportation.

~~(19)~~(21) “Throughway” means a highway specially designated giving traffic traveling on the throughway the right-of-way at all intersections.

~~(20)~~(22) “Town” includes incorporated villages and cities.

~~(21)~~(23) “Town highways” are those highways exclusively maintained by the towns and those highways maintained by the towns except for scheduled surface maintenance performed by the agency pursuant to section 306a of this title.

~~(22)~~(24) “Traffic committee” consists of the secretary of transportation or his or her designee, the commissioner of motor vehicles or his or her designee, and the commissioner of public safety or his or her designee and is responsible for establishing speed zones, parking and no parking areas, regulations for use of limited access highways, and other traffic control procedures.

~~(23)~~(25) “Limited access highway” means a highway where the right of owners or occupants of abutting land or other persons to access, light, aire, or view in connection with the highway is fully or partially controlled by public authority, in accordance with chapter 17 of this title. The term “highway” does not include state forest highways, management roads, easements, or rights-of-way owned by or under the control of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

* * * Cancellation of projects * * *

Sec. 45. CANCELLATION OF PROJECTS

Pursuant to 19 V.S.A. § 10g(f) (legislative approval for cancellation of projects), the general assembly approves cancellation of the following projects:

(1) Town highway bridges:

(A) Albany BRO 1449(23) (BR 30 on TH 25/Poor Farm Road, over Black River) (town has requested termination);

(B) Chester BRO 1442(31) (BR 63 on TH 9/First Avenue, over Williams River) (town has requested termination);

(C) Richford TH3 0305 (BR 28 on TH 18/Noyes Street, over Loveland Brook) (town has requested termination); and

(D) Woodstock BRO 1444(33) (BR 37 on TH 66, over Kedron Brook) (town has requested termination).

(2) Bicycle and pedestrian facilities:

(A) Irasburg STP WALK(16) (installation of sidewalks and curbs along VT 58) (town has requested termination);

(B) Ludlow STP BIKE(44)S (bike/ped path along Black River) (agency has requested termination); and

(C) Ludlow STP WALK () (adaptive re-use of historic truss bridge on bike/ped path, over Black River) (agency has requested termination).

* * * Transportation fund; sales of surplus property * * *

Sec. 46. 19 V.S.A. § 11(8) is amended to read:

(8) other miscellaneous sources including the sale of maps, plans and reports, fees collected by the travel information council, ~~and~~ leases for property at state-owned airports and railroads, proceeds from the sale of state surplus property under the provisions of 29 V.S.A. §§ 1556 and 1557, and proceeds from the sale of recycled materials.

Sec. 47. 29 V.S.A. § 1557(b) is amended to read:

(b) Transfer charges and credits shall be made against the appropriation of the respective department or agency. Funds credited shall be classified as special funds, and managed in accordance with subchapter 5 of chapter 7 of Title 32, provided, however, that any funds credited to the agency of transportation shall be transferred to the transportation fund.

* * * Relinquishments of state highway segments
to municipal control * * *

Sec. 48. RELINQUISHMENT OF VERMONT ROUTE 15 IN THE
VILLAGE OF ESSEX JUNCTION

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the village of Essex Junction to relinquish to the village's jurisdiction a segment of the state highway known as Vermont Route 15 (Pearl Street) in the village of Essex

Junction starting at the Essex Junction village boundary, near the intersection with Susie Wilson Road (TH #4), and extending in an easterly direction for 1.004 miles, connecting to existing class 1 town highway TH #1 at a point 0.261 miles west of West Hillcrest Road (TH #551). The relinquishment shall include the Vermont Route 15 approaches to West Street Extension (TH #5). Upon relinquishment, the former state highway shall become a class 1 town highway.

(b) Control of the highway, not including ownership of the lands or easements within the highway right-of-way, shall be relinquished to the village of Essex Junction. The village of Essex Junction shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.

* * Transportation enhancement grants * * *

Sec. 49. ENHANCEMENT GRANTS FISCAL YEAR 2009

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

Sec. 50. ENHANCEMENT GRANTS FISCAL YEAR 2010

(a) Notwithstanding 19 V.S.A. § 38, the secretary shall increase the size of the fiscal year 2010 enhancement grant program by an amount equal to the federal funds made available to the state under the American Recovery and Reinvestment Act of 2009 (ARRA) which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35). The transportation enhancement grant committee shall award grants of ARRA enhancement funds in a separate grant round before June 30, 2009. The agency shall notify potential applicants of the separate grant round and fix a deadline for the filing of applications of May 15, 2009. All enhancement grant awards of ARRA enhancement project funds shall require a local match in accordance with the same rules that apply to enhancement grants not funded with ARRA funds.

(b) Notwithstanding 19 V.S.A. § 38, the fiscal year 2010 enhancement grant program shall include a second grant round with respect to non-ARRA funds in the amount of \$2,227,000. The provisions of 19 V.S.A. § 38 shall otherwise apply to such grants.

(c) Notwithstanding 19 V.S.A. § 38, the fiscal year 2011 enhancement grant program shall be in the amount of \$2,227,000, with the provisions of 19 V.S.A. § 38 otherwise applying to the awarding of such grants.

* * * Town highways * * *

Sec. 51. 19 V.S.A. § 305(g) is amended to read:

(g) The agency shall provide each town with a map of all of the highways in that town together with the mileage of each class 1, 2, ~~and 3,~~ and 4 highway, as well as each trail, and such other information as the agency deems appropriate.

Sec. 52. 19 V.S.A. § 305(i) is amended to read:

(i)(1) Prior to a vote to discontinue town highways provided in subsection (h) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 30 days prior to the hearing in at least two public places within the municipality and in the town clerk's office. The notice shall include the most recently available map of all town highways prepared by the agency of transportation pursuant to subsection (g) of this section. At least 30 days prior to the hearing, the legislative body shall also deliver the warning and map together with proof of receipt or mail by certified mail, return receipt requested, to each of the following:

(A) The chair of any municipal planning commission in the municipality;

(B) The chair of a conservation commission, established under chapter 118 of Title 24, in the municipality;

(C) The chair of the legislative body of each abutting municipality;

(D) The executive director of the regional planning commission of the area in which the municipality is located; ~~and~~

(E) The commissioner of forests, parks and recreation; and

(F) The secretary of transportation.

(2) The hearing shall be held within the 10 days preceding the meeting at which the legislative body will vote whether to discontinue all town highways as provided in subsection (h) of this section.

* * * Trucks and buses; use of tire chains * * *

Sec. 53. 23 V.S.A. § 1006c is added to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE REQUIREMENTS

(a) The traffic committee may require the use of tire chains or winter tires on specified portions of state highways during periods of winter weather for motor coaches, truck-tractor-semitrailer combinations, and truck-tractor-trailer combinations.

(b) When tire chains or winter tires are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains or winter tires are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

(c) Under chapter 25 of Title 3, the traffic committee may promulgate such rules as are necessary to administer this section and may delegate this authority to the secretary.

Sec. 54. USE OF CHAINS; IMPLEMENTATION

The use of chains shall not be required until signage and designated areas are available for vehicles to affix tire chains before proceeding further.
Advanced public notice of these requirements shall be given to interested parties in the most feasible manner possible.

* * * Public transportation planning * * *

Sec. 55. 24 V.S.A. § 5089 is amended to read:

§ 5089. PLANNING

~~(a) By January 31, 1996, all public transit systems shall have completed a short-range public transit plan. In the meantime, the agency of transportation may continue to provide funding for capital, statewide operating and new services.~~

~~(b) The short-range public transit plans must be coordinated with the efforts of the regional planning commission under the transportation plan.~~

~~(e) The agency of transportation's public transit plan for the state shall be updated amended no less frequently than every five years ~~so as to include, and incorporate the public transportation elements of regional plans that have not been disapproved under the provisions of chapter 117 of this title.~~ The~~

development of the state public transit plan shall include consultation with public transit providers, the metropolitan planning organization, and the regional planning commissions and their transportation advisory committees to ensure the integration of transit planning with the transportation planning initiative as well as conformance with chapter 117 of Title 24, (municipal and regional planning and development). Regional plans, together with the agency of transportation's public transit plan shall function to coordinate the provision of public, private nonprofit, and private for-profit regional public transit services, in order to ensure effective local, regional and statewide delivery of services.

(b) Recognizing that the growing demand for new regional and commuter services must be considered within the context of the continuing need for local transit services that meet basic mobility needs, the agency of transportation shall consult annually with the regional planning commissions and public transit providers in advance of the award of available planning funds. The agency shall maintain a working list of both short- and long-term planning needs, goals, and objectives that balances the needs for regional service with the need for local service. Available planning funds shall be awarded in accordance with state and federal law and as deemed necessary and appropriate by the agency following consultation with the regional planning commissions and the public transit providers. The agency shall report annually to the

general assembly on planning needs, expenditures, and cooperative planning efforts.

* * * Budget surplus; towns of Glastenbury and Somerset * * *

Sec. 56. FISCAL YEAR 2009 FUND TRANSFERS

Notwithstanding the provisions of 24 V.S.A. § 1406, in fiscal year 2009, the following amounts shall be transferred to the transportation fund from the funds indicated:

(1) 21345 Unorganized town—Bennington (Glastenbury) \$241,652.

(2) 21355 Unorganized towns—Windham (Somerset) \$121,180.

Sec. 57. 32 V.S.A. § 4961 is amended to read:

§ 4961. ASSESSMENT OF TAX

(a) A state tax determined pursuant to this section is hereby annually assessed upon the grand list of the Gore in Chittenden County. ~~A state tax of \$0.50 is hereby annually assessed on~~ and upon the grand list of the town of Glastenbury in the county of Bennington and of the unorganized town of Somerset in the county of Windham.

(b) Annually, on or before August 1, the supervisor of Buel's Gore, shall call a meeting of the residents of the Gore for the purpose of presenting the proposed budget and tax rate for the Gore for the ensuing year and inviting discussion thereon. Notice of the meeting shall be sent by first class mail to all residents of the Gore at least 14 days before the meeting. The meeting shall be

held at a place within the Gore or within a town that adjoins the Gore.

Included with the notice shall be an itemized proposed budget which shall, in the judgment of the supervisor, cover the education, road maintenance and general government costs within the Gore. Also included with the notice shall be proposed tax rates consistent with the budget. Annually, on or before September 10, the supervisor shall adopt a budget and tax rate and notify the residents and appraisers for the Gore.

(c) Annually, on or before August 1, the supervisors of Glastenbury and Somerset shall each present the proposed budget and tax rate for the town for the ensuing year. Upon a finding by the commissioner of taxes before September 10 that the budget and tax rate are reasonable and show no obvious irregularities, the commissioner shall approve the budget and tax rate, and the supervisor shall then adopt the budget and tax rate and notify the residents of the town. If the commissioner does not approve the budget and tax rate by September 10, the budget and tax rate shall remain the same as the budget and tax rate for the prior year, and the supervisor shall so notify the residents of the town.

Sec. 58. 24 V.S.A. § 1406 is amended to read:

§ 1406. TAXES EXPENDED; HOW

Upon allowance of the accounts of supervisors and appraisers for unorganized towns and gores, the commissioner of finance and management

shall certify forthwith the amount as allowed to the state treasurer and the balance, if any, of the moneys received from any supervisor, after deducting the amount of the county tax and regional planning costs, if any. The amount of such supervisors' and appraisers' accounts, so certified, shall be used for the laying out, construction and maintenance of highways and bridges in the unorganized towns and gores for which the supervisor is appointed, to be expended by and under the direction of the secretary of transportation, in the same manner as state transportation appropriations. The portion of the money which remains unexpended for more than one year may be ~~used~~ carried forward in the supervisors' accounts for like purposes ~~and expended in a like manner in towns adjoining unorganized towns and gores.~~

* * * Transportation funds for the support of general government * * *

Sec. 59. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR SUPPORT OF
~~GOVERNMENT~~ THE DEPARTMENT OF PUBLIC SAFETY

~~The maximum amount of~~ No transportation funds ~~that may~~ shall be appropriated for the support of government, other than for the agency of transportation, the transportation board, transportation pay act funds, construction of transportation capital facilities used by the agency of transportation, ~~and transportation debt service shall not exceed \$32,852,807 .~~

and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

- (1) in fiscal year 2010 not exceed \$30,850,000.00;
- (2) in fiscal year 2011 not exceed \$28,350,000.00; and
- (3) in fiscal year 2012 not exceed \$25,250,000.00.

* * * Distinctive registration plates * * *

Sec. 60. 23 V.S.A. § 304 is amended to read:

§ 304. REGISTRATION CERTIFICATES; NUMBER PLATES

* * *

(b) The authority to issue special motor vehicle number plates or receive applications or petitions for special number plates for ~~safety~~ organizations ~~and service organizations~~ shall reside with the commissioner. Determination of compliance with the criteria contained in this subsection shall be within the discretion of the commissioner. Series of number plates for ~~safety and service~~ organizations which are authorized by the commissioner shall be issued in order of approval, subject to the operating considerations in the department as determined by the commissioner. The commissioner shall issue special number plates marked with initials, letters, or combination of numerals and letters, in the following manner:

- (1) Except as otherwise provided, at the request of the registrant of any motor vehicle, upon application and upon payment of an annual fee of \$35.00

in addition to the annual fee for registration. He or she may not issue two sets of special number plates bearing the same initials or letters unless the plates also contain a distinguishing number. Special number plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) For the purposes of this subdivision, “organizations” ~~shall include~~ means groups which have at least 100 instate members in good standing and ~~provide police and fire protection, rescue squads, national guard, together with those organizations required to respond to public emergencies.~~ It shall include amateur radio operators licensed by the U.S. Federal Communications Commission. ~~For purposes of this subdivision, “service organization” includes any group which (i) has as a primary purpose, service to the community through specific programs for the improvement of public health, education, or environmental awareness and conservation, and are not limited to social activities; (ii) has nonprofit status under Section 50 (c)(3) or (10) of the United States Internal Revenue Code, as amended; (iii) is registered as a nonprofit corporation with the office of the secretary of state; and (iv) except for a military veterans group, has at least 100 instate members in good standing.~~ “Service organization” also includes congressionally chartered and ~~nonectionally chartered United States military service veterans group.~~

(A) At the request of the leader of a ~~safety organization or service~~ an organization, upon application and payment of a fee of \$15.00 for each set of

plates in addition to the annual fee for registration, special plates indicating membership in one of the ~~“safety organizations” or “service organizations”~~ “organizations” may be issued to registrants of vehicles registered at the pleasure car rate and of trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, who are members of these organizations. The applicant must provide a written statement from the appropriate official of the organization, authorizing the issuance of the plates.

(B) At the time that an organization requests the plates, it shall deposit ~~\$1,000.00~~ \$2,000.00 with the commissioner. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and the balance shall be deposited in the transportation fund. For ~~each set~~ the first 100 sets of plates issued, ~~\$10.00~~ \$15.00 of this deposit shall be deemed to be the ~~safety organization or service organization~~ special plate fee for each authorized applicant. \$500.00 of this deposit shall be retained by the department to recover costs of developing the organization plate. When the initial deposit of ~~\$1,000.00~~ \$1,500.00 is depleted, applicants shall be required to pay the ~~\$10.00~~ \$15.00 fee as provided for in subdivision (1) of this subsection. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and shall remit the balance to the transportation fund.

No organization shall charge its members any additional fee or premium charge for the authorization, right or privilege to display these special number plates. This provision shall not prevent any organization from recovering up to ~~\$1,000.00~~ \$1,500.00 from applicants for the special plates.

(C) After consulting with representatives of the ~~safety or service~~ organization, the commissioner shall determine the design of the special plates, on the basis that the primary purpose of motor vehicle number plates is vehicle identification. An organization applying for a special plate under this subsection shall present the commissioner with a name and emblem that is not obscene, offensive or confusing to the general public and does not promote, advertise or endorse a product, brand, or service provided for sale, or promote any specific religious belief or political party. The organization's name and emblem must not infringe or violate trademarks, trade names, service marks, copyrights, or other proprietary or property rights and the organization must have the right to use the name and emblem. The organization shall designate an officer or member to act as the principal contact and to submit a distinctive emblem for use on a special number plate, if authorized. An organization may have only one design, regardless of the number of individual organizational units within the state that may provide the same or substantially similar services. Nothing herein shall be construed as authorizing any individual

squad, department, or unit to request a unique or specially designed plate different than the plate designed by the commissioner.

* * *

Sec. 61. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate, ~~and~~ on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title, and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of ~~\$20.00~~ \$23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall

pay a renewal fee of ~~\$20.00~~ \$23.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$10.00~~ \$11.00 to the transportation fund.

(2) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(3) ~~\$5.00~~ \$6.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the nongame wildlife account created in 10 V.S.A. § 4048.

(2) ~~\$9.00~~ \$10.00 to the department of fish and wildlife for deposit into the watershed management account created in 10 V.S.A. § 4050.

(3) ~~\$2.00~~ \$3.00 to the transportation fund.

Sec. 62. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING
BRIGHT SPACES FOR BRIGHT FUTURES FUND

(a) The commissioner shall, upon application, issue “building bright spaces for bright futures fund,” hereinafter referred to as “the bright futures fund,” registration plates for use only on vehicles registered at the pleasure car rate, ~~and~~ on trucks registered for less than 26,001 pounds, on plates registered to state agencies under section 376 of this title, and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles shall utilize the graphic design recommended by the commissioner of social and rehabilitation services for the special plates to enhance the public awareness of the state’s Interest in supporting children’s services. Applicants shall apply on forms prescribed by the commissioner of motor vehicles, and shall pay an initial fee of \$20.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a bright futures fund plate shall pay a renewal fee of \$20.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * *

* * * Sidewalks; landowner liability * * *

Sec. 63. Chapter 23 of Title 19 is redesignated to read:

CHAPTER 23. BICYCLE ROUTES AND SIDEWALKS

Sec. 64. 19 V.S.A. § 2301 is amended to read:

§ 2301. DEFINITIONS

* * *

(6) "Sidewalk" means the portion of a street or highway right-of-way designated for primary or exclusive pedestrian use.

Sec. 65. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner's property pursuant to this chapter, unless the landowner charges a fee for the use of the property.

* * * Special examinations * * *

Sec. 66. 23 V.S.A. § 636 is amended to read:

§ 636. SPECIAL EXAMINATIONS

* * *

(c) Notwithstanding § 631 of this title, no person subject to a special examination under this section shall be required to undergo a written or oral driving test in order to determine competence to be licensed or as a condition of maintaining his or her operator's license. This subsection shall not preclude the commissioner from requiring a road test to determine competence to be licensed or as a condition of maintaining an operator's license. This subsection shall not apply to a person subject to a special examination because of a medical condition.

* * * Snowmobile and motorboat registration fees * * *

Sec. 67. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

(a) Fees. Registration fees for snowmobiles other than as provided for in subsection (b) of this section are ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents. Duplicate registration certificates may be obtained upon payment of ~~\$2.00~~ \$5.00.

(b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted pursuant to subsection 3205(d) of this title, any person engaged in the manufacture or sale of snowmobiles shall obtain registration certificates and identifying number plates subject to such rules as may be adopted by the commissioner which shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to

exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows or races when no charge is made for such use.

(2) Fees. Fees for dealer registration certificates shall be \$40.00 for the first certificate issued to any person and \$5.00 for any additional certificate issued to the same person within the current registration period. Fees for temporary number plates shall be \$1.00 for each plate issued.

(c) Temporary registration pending issuance of permanent registration. The commissioner, by rules adopted pursuant to 3 V.S.A. chapter 25, shall provide for the issuance of temporary registrations of snowmobiles pending issuance of the permanent registration. VAST shall be an agent of the commissioner for the issuance of such temporary registrations. The fees for the temporary registrations shall be ~~\$15.00~~ \$25.00 for residents and ~~\$22.00~~ \$32.00 for nonresidents and shall also constitute payment of the registration fee required by subsection (a) of this section. Temporary registrations shall be kept with the snowmobile while being operated and shall authorize operation without the registration decal being affixed for a period not to exceed 60 days from the date of issue.

* * *

Sec. 68. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY

INSURANCE; AUTHORITY TO CONTRACT FOR LAW

ENFORCEMENT SERVICES

(a) The amount of \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, ~~are~~ is hereby allocated to the agency of natural resources for use by VAST for development and maintenance of the statewide snowmobile trail program (SSTP), for trails' liability insurance, and an amount equal to \$5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to \$11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

* * *

Sec. 69. 23 V.S.A. § 3305(b) is amended to read:

(b) Annually, the owner of each motorboat required to be registered by this state shall file an application for a number with the commissioner of motor vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ~~\$17.00~~ \$22.00 and a surcharge of \$5.00 for a motorboat in class A; by a fee of ~~\$28.00~~ \$33.00 and a surcharge of \$10.00 for a motorboat in class 1; by a fee of ~~\$55.00~~ \$60.00 and a surcharge of \$10.00 for a motorboat in class 2; by a fee of ~~\$121.00~~ \$126.00 and a surcharge of \$10.00 for a motorboat in class 3. Upon receipt of the application in approved form, the commissioner shall enter the application upon the records of the department of motor vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number “1” after the number. The number shall be maintained in legible condition. The

registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of \$2.00 to the commissioner. Notwithstanding section 3319 of this chapter, \$5.00 of each registration fee shall be allocated to the transportation fund. The remainder of the fee shall be allocated in accordance with section 3319 of this chapter.

* * * All-terrain vehicles * * *

Sec. 70. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

(a) An all-terrain vehicle may not be operated unless registered pursuant to this chapter or any other section of this title, by the state of Vermont and unless the all-terrain vehicle displays a valid Vermont ATV Sportsman's Association (VASA) Trail Access Decal (TAD), except when operated:

* * *

Sec. 71. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

* * *

(b) An all-terrain vehicle may not be operated:

* * *

(3) On any privately owned land or body of private water unless:

* * *

(B) the operator has, on his or her person, the written consent of the owner or lessee of the land to operate an all-terrain vehicle in the specific area and during specific hours and/or days in which the operator is operating, ~~or proof that he or she is a member of a club or association to which consent has been given orally or in writing;~~ or the all-terrain vehicle displays a valid TAD decal as required by subsection 3502(a) of this title that serves as proof that the all-terrain vehicle and its operator, by virtue of the TAD, are members of a VASA-affiliated club to which such consent has been given orally or in writing to operate an all-terrain vehicle in the area in which the operator is operating;

* * *

Sec. 72. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR
LAW ENFORCEMENT SERVICES

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for development and maintenance of a statewide ATV trail program ~~on private property~~, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for

purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to \$7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

* * *

* * * Vintage registration plates * * *

Sec. 73. 23 V.S.A. § 304d is added to read:

§ 304d. YEAR OF MANUFACTURE REGISTRATION PLATES

The commissioner shall permit the use of Vermont registration plates manufactured by the state of Vermont and issued prior to 1939 that are determined to be legible and serviceable by the commissioner. These plates, to be known as year of manufacture (YOM) registration plates, may be assigned by the commissioner in lieu of regular registration plates to a vehicle of a model year older than 1939 registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan. YOM plates so acquired shall be mounted on the front and rear of the vehicle, unless vehicle style precludes mounting on one end of the vehicle, in which case one plate shall be mounted on the vehicle. The year of the YOM registration plate must correspond with the year of vehicle manufacture. Kit cars or replicas of pre-1939 vehicles are not

eligible for YOM registration plates. Applicants shall apply for YOM registration plates on forms prescribed by the commissioner of motor vehicles. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * * Design-build contracts * * *

Sec. 74. 19 V.S.A. chapter 26 is added to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS

§ 2601. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

(1) “Best value” means the highest overall value to the state, considering quality and cost.

(2) “Design-build contracting” means a method of project delivery whereby a single entity is contractually responsible to perform design, construction, and related services.

(3) “Major participant” means any entity that would have a major role in the design or construction of the project as specified by the agency in the request for proposals.

(4) “Project” means the highway, bridge, railroad, airport, trail, transportation, building, or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials,

tools, supplies, warranties, and incidentals needed for a complete and functioning product.

(5) "Proposal" means an offer by the proposer to design and construct the project in accordance with all request-for-proposals provisions for the price contained in the proposal.

(6) "Proposer" means an individual, firm, corporation, limited-liability company, partnership, joint venture, sole proprietorship, or other entity that submits a proposal. After contract execution, the successful proposer is the design-builder.

(7) "Quality" means those features that the agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and other factors that the agency considers to be in the best interest of the state.

§ 2602. AUTHORIZATION

(a) Notwithstanding section 10 of this title or any other provision of law, the agency may use design-build contracting to deliver projects. The agency may evaluate and select proposals on either a best-value or a low-bid basis. If the scope of work requires substantial engineering judgment, the quality of which may vary significantly as determined by the agency, then the basis of award shall be best-value.

(b) The agency shall identify those projects it believes are candidates for design-build contracting, including but not limited to those involving extraordinary circumstances, such as emergency work, unscheduled projects, or loss of funding.

(c) The agency retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities, or to advertise for new proposals if the agency determines that it is in the best interest of the state.

§ 2603. PREQUALIFICATION

(a) The agency may require that entities be prequalified to submit proposals. If the agency requires prequalification, it shall give public notice requesting qualifications from interested entities electronically through the agency's publicly accessible website or through advertisements in newspapers. The agency shall issue a request-for-qualifications package to all entities requesting one in accordance with the notice.

(b) Interested entities shall supply for themselves and for all major participants all information required by the agency. The agency may investigate and verify all information received. All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the agency shall be confidential.

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a

request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project.

§ 2604. REQUEST FOR PROPOSALS

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality of the project and the project development process, as determined by the agency. The request for proposals shall include the criteria for acceptable proposals. For projects to be awarded on a best-value basis, the scoring process and quality criteria must also be contained in the request for proposals. In the agency's discretion, the request for proposals may provide for a process, including the establishment of a team to review proposals, for the agency to review conceptual technical elements of each proposal before full proposal submittal for the purposes of identifying defects that would cause rejection of the proposal as nonresponsive. All such conceptual submittals and responses shall be confidential until award of the contract. The request for proposals may also provide for a stipend upon specified terms to unsuccessful proposers that submit proposals conforming to all request-for-proposals requirements.

§ 2605. LOW-BID AWARD

If the basis of the award of responsive proposals is low-bid, then each proposal, including the price or prices, shall be sealed by the proposer and submitted to the agency as one complete package. The agency shall award the design-build contract to the proposer that submits a responsive proposal with the lowest cost, if the proposal meets all request-for-proposals requirements.

§ 2606. BEST-VALUE AWARD

(a) If the basis of the award of responsive proposals is best-value, then each proposal shall be submitted by the proposer to the agency in two separate components: a sealed technical proposal and a sealed price proposal. These two components shall be submitted simultaneously. The agency shall first open, evaluate, and score each responsive technical proposal, based on the quality criteria contained in the request for proposals. The request for proposals may provide that the range between the highest and lowest quality score of responsive technical proposals must be limited to an amount certain. During this evaluation process, the price proposals shall remain sealed and all technical proposals shall be confidential.

(b) After completion of the evaluation of the technical proposals, the agency shall open and review each price proposal. The agency shall develop a system for assessing the cost and quality criteria. The agency shall award the

contract to the proposer of the project representing the best value to the agency.

* * * Sign theft * * *

Sec. 75. 23 V.S.A. § 1028 is amended to read:

§ 1028. INTERFERENCE WITH DEVICES OR SIGNALS

(a) No person shall, without lawful authority, alter or attempt to alter, deface, injure, knock down, ~~or remove,~~ or possess any official traffic-control sign, signal, or device, or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof, or any municipal sign erected pursuant to section 1029 of this title, or any official directional sign erected pursuant to section 486 of Title 10.

(b) A person found to be in violation of this section may be required to pay a fine of no more than \$238.00.

* * * Aviation maintenance equipment * * *

Sec. 76. REPORT; AVIATION MAINTENANCE EQUIPMENT

The agency of transportation shall, by January 15, 2010, submit to the house and senate transportation committees a report regarding the agency's current inventory of aviation maintenance equipment. The report shall set forth equipment type, cost, funding source, and useful life. The report also shall contain a five-year plan for future equipment purchases.

* * * State-owned railroad property * * *

Sec. 77. Sec. 17(e) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(e) The authority granted by this section shall expire on ~~June 30~~
December 31, 2009.

* * * Transportation buildings * * *

Sec. 78. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Consistent with the recommendations of the January 15, 2009 legislative report (Sec. 8(2) of No. 164 of the Acts of 2008) titled "VTrans' Plans for Maintenance Facilities in Chittenden and Addison Counties," the agency of transportation shall proceed with Option A (Stay at "Fort) for the Colchester "Fort" Facility project and shall proceed with Option B (Truck Inspection / Motorcycle Training Facility only) for the North Ferrisburgh Facility project.

(2) As part of the Colchester "Fort" Facility renovation project, the agency of transportation shall sell the 25 +/- acre property located off VT Route 117 and owned by the agency of transportation in the Town of Essex. Pursuant to 19 V.S.A. § 26, the proceeds from this sale shall be credited to the

transportation buildings appropriation to be used for the Colchester "Fort"
Facility renovation project.

* * * Signs on state bridge projects * * *

Sec. 79. 19 V.S.A. § 10c(n) is added to read:

(n) Commencing in fiscal year 2010, on all state, interstate, and town
bridge projects with a total cost in excess of \$1,000,000.00, the agency shall
erect signage at the project for the duration of the project's construction
identifying the project and its total cost, provided the total cost of acquiring
and installing the signs does not exceed \$2,000.00. The signs shall be
designed in accordance with the agency's recommendations regarding size and
lettering contained in the agency's 2009 report on the issue.

* * * Town local match requirements * * *

Sec. 80. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

* * *

(c) Notwithstanding subsections 309a(a), (b), and (c) of this title, a
municipality may use a grant awarded under the town highway structures
program or the class 2 town highway roadway program to provide the
nonfederal matching funds required to draw down a federal earmark or to
match grants provided to towns under the American Recovery and
Reinvestment Act of 2009. In all such cases, the grant shall be matched by

local funds as provided in this section. The intended use of a town highway grant as matching funds for a federal earmark or for grants provided to towns under the American Recovery and Reinvestment Act of 2009 shall not entitle a municipal grant applicant to any priority for a grant award in any fiscal year. When grants awarded under the town highway structures program or the class 2 town highway roadway program are used to satisfy nonfederal matching requirements for federal earmarks or for grants provided to towns under the American Recovery and Reinvestment Act of 2009, the term “project costs” in subsections (a) and (b) of this section shall refer only to the nonfederal match for the federal earmark or for a grant provided to towns under the American Recovery and Reinvestment Act 2009.

* * * Central garage * * *

Sec. 81. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), the amount of \$1,345,255 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

Sec. 81a. 23 V.S.A. § 372 is amended to read:

§ 372. MOTOR BUS

The annual fee for registration of a motor bus shall be based on the actual weight of such bus, plus passenger carrying capacity at 150 pounds per person, and shall be \$1.40 per 100 pounds of such weight, except for motor buses

registered under section 372a or 376 of this title. Fractions of a hundred-weight shall be disregarded. The minimum fee for the registration of any motor bus shall be \$43.00.

Sec. 81b. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE
BUSES; FEE

(a) The annual registration fee for any motor bus used in local transit or public transportation service ~~entirely within any city or town, or not over 10 miles beyond the boundaries thereof,~~ shall be \$45.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) For the purposes of this section, a public transportation service bus is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a local transit bus is a motor bus used entirely within or not more than 10 miles beyond the boundaries of a city or town.

Sec. 82. REST AREA COMMERCIALIZATION

By July 1, 2009, the secretary of the agency of transportation shall:

(1) request from the Federal Highway Administration a waiver from the provisions of Title 23, section 111 of the United States Code prohibiting commercial establishments from operating at rest areas along the interstate highway system; and

(2) seek the assistance of the state's federal congressional delegation for the purpose of securing the waiver.

Sec. 83. 23 V.S.A. § 1003 is amended to read:

§ 1003. STATE SPEED ZONES

(a) When the traffic committee constituted under 19 V.S.A. § 1(22) determines, on the basis of an engineering and traffic investigation, that a maximum speed limit established by this chapter is greater or less than is reasonable or safe under conditions found to exist at any place or upon any part of a state highway, except the national system of interstate and defense highways, it may determine and declare a reasonable and safe limit which is effective when appropriate signs stating the limit are erected. This limit may be declared to be effective at all times or at times indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, or based on other factors, bearing on safe speeds which are effective when posted upon appropriate fixed or alterable signs.

(b) The legislative body of a municipality may establish a speed limit on a state highway contiguous to a school, up to a distance of 0.7 miles from the school, if that state highway has been designated as a “safe route to school.” The speed limit thus set shall be no less than 25 miles per hour.

Sec. 84. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

* * *

(c) The commissioner may issue number plates to be used for a period of two or more years. ~~Validating stickers~~ One validating sticker shall be issued by the department of motor vehicles upon payment of the registration fee for the second and each succeeding year the plate is used. No plate is valid for the second and succeeding years unless the ~~stickers are~~ sticker is affixed to the rear plate in the manner prescribed by the commissioner.

Sec. 85. 23 V.S.A. § 3501(5) is amended to read:

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having no less than ~~three~~ two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be

considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (ZZ); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A); and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

Sec. 86. EFFECTIVE DATES

(a) The following sections of this act shall take effect from passage:

(1) Secs. 3–11 (changes to fiscal year 2009 program)

(2) Secs. 33, 37, and 38 (transportation infrastructure bond fund and motor fuels distributor infrastructure assessment on gasoline).

(3) Sec. 30 (ARRA funds).

(4) Sec. 50 (enhancement grants, fiscal year 2010).

(b) Secs. 34–36 (motor fuels distributor infrastructure assessment on diesel) shall take effect on October 1, 2009:

(c) All other sections of this act not specifically enumerated in subsections (a) and (b) of this section shall take effect on July 1, 2009.