

House Calendar

Thursday, March 25, 2010

80th DAY OF ADJOURNED SESSION

House Convenes at 9:00 A.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Action Postponed Until March 25, 2010	
Committee Bill for Second Reading	
H. 783 Miscellaneous tax provisions	951
Rep. Ancel Amendment.....	951
Rep. Wright et al Amendment	957
Rep. Wright et al Amendment	958
Rep. Scheuermann and Clark Amendment.....	959
Rep. Clark and Scheuermann Amendment.....	960
Rep. Olsen Amendment.....	961
Rep. Ancel Amendment.....	963
Third Reading	
H. 527 Municipal recovery of costs of fire department response	963
Rep. O'Donnell Amendment	963
H. 722 The resale of tickets.....	963
H. 769 The licensing and inspection of plant and tree nurseries.....	963
Favorable with amendment	
H. 789 Appropriations for the support of government.....	964
Rep. Heath for Appropriations	
Rep. Heath Amendment.....	964
Rep. Poirier et al Amendment	966
Favorable	
H. 784 The state's transportation program.....	967
Rep. Brennan for Transportation	
Rep. Minter for Appropriations	967
Rep. Brennan Amendment.....	967
Rep. Howard of Cambridge	967

Senate Proposal of Amendment

H. 456 Seasonal fuel assistance..... 968

Senate Proposal of Amendment to House Proposal of Amendment

S. 117 The date of the primary election 977

NOTICE CALENDAR

Committee Bill for Second Reading

H. 790 Capital construction and state bonding 977
Rep. Emmons for Corrections and Institutions

Favorable

H. 773 Approval of amendments to the charter of the city of Burlington 977
Rep. Hubert for Government Operations

Ordered to Lie

H.R. 19 Urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont 978

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until March 25, 2010

Committee Bill for Second Reading

H. 783

An act relating to miscellaneous tax provisions.

(Rep. Ancel of Calais will speak for the Committee on Ways and Means.)

Amendment to be offered by Rep. Ancel of Calais to H. 783

Rep. Ancel of Calais moves that the bill be amended as follows:

First: In Sec. 24, subdivision (a)(1), by striking the amount “\$1.36” and inserting in lieu thereof the amount “\$1.35”

Second: In Sec. 24, subdivision (b)(2), by striking the amount “\$0.87” and inserting in lieu thereof the amount “\$0.86”

Third: By adding Secs. 36–41 to read as follows:

Sec. 36. 32 V.S.A. § 9741(13) is amended to read:

(13) Sales of food, food stamps, purchases made with food stamps, food products and beverages sold for human consumption off the premises where sold; provided, however, dietary supplements are not exempt.

* * *

Sec. 37. 32 V.S.A. § 5811(18) and (21) are amended to read:

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; ~~and~~

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and

after January 1, 1986 as interest income from state and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; and

(III) one-third of the amount of any domestic production activity deduction under 26 U.S.C. § 199; and

* * *

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

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

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

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

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

(iv) one-third of any domestic production activity deduction under 26 U.S.C. § 199; and

* * *

Sec. 38. 32 V.S.A. § 5811(18) and (21) are amended to read:

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to Section 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for state and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from state and local obligations, other

than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont state or local obligations; and

~~(III) one third of the amount of any domestic production activity deduction under 26 U.S.C. § 199; and~~

* * *

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

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

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

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

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

~~(iv) one third of any domestic production activity deduction under 26 U.S.C. § 199; and~~

Sec. 39. PRODUCTION ACTIVITY DEDUCTION

The federal production activity deduction changes provided for in Sec. 37 of this act require taxpayers to add back as income three percent of the total nine percent federal deduction amount for taxable years beginning on and after January 1, 2010, and before January 1, 2012. It is the judgment of the general assembly that this temporary add-back is necessary in these difficult economic times and that the full deduction of nine percent should be available, as provided for in Sec. 38 of this act, for tax years beginning on and after January 1, 2012.

Sec. 40. 32 V.S.A. chapter 151, subchapter 11M is added to read:

Subchapter 11M. Machinery and Equipment Investment Tax Credit

§ 5930ll. MACHINERY AND EQUIPMENT TAX CREDIT

(a) Definitions.

(1) “Full-time job” has the same meaning as defined in subdivision 5930b(a)(9) of this title.

(2) “Investment period” means the period commencing January 1, 2010, and ending December 31, 2013.

(3) “Qualified capital expenditures” means expenditures properly chargeable to a capital account by a qualified taxpayer during the investment period, totaling at least \$20 million for machinery and equipment to be located and used in Vermont for creating, producing, or processing tangible personal property for sale.

(4) “Qualified taxpayer” means a taxpayer that:

(A) is an existing business on the effective date of this act with an aggregate average annual employment, including all employees of its related business units combined or consolidated for Vermont income tax purposes, during the investment period of no fewer than 200 full-time jobs in Vermont;

(B) is a taxable corporation under Subchapter C of the Internal Revenue Code;

(C) is a business whose operations at the time of application to the Vermont economic progress council are located in a Rural Economic Area Partnership (REAP) zone designated by the United States Department of Agriculture Rural Development Authority, engaged primarily in the creation, production, or processing of tangible personal property for sale; and

(D) proposes to make qualified capital expenditures in a Vermont REAP zone and such expenditures will contribute substantially to the REAP zone’s economy.

(5) “Qualified taxpayer’s Vermont income tax liability” means the corporate income tax otherwise due on the qualified taxpayer’s Vermont net income after reduction for any Vermont net operating loss as provided for under section 5382 of this title. For a qualified taxpayer that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group, its Vermont net income includes the allocable share of the combined net income of the group.

(b) Certification.

(1) A qualified taxpayer may apply to the Vermont economic progress council for a machinery and equipment investment tax credit certification for all qualified capital expenditures in the investment period on a form prescribed by the council for this purpose.

(2) The council shall issue a certification upon determining that the applicant meets the requirements set forth in subsection (a) of this section.

(c) Amount of credit. Except as limited by subsections (e) and (f) of this section, a qualified taxpayer shall be entitled to claim against its Vermont income tax a credit in an amount equal to ten percent of the total qualified capital expenditures.

(d) Availability of credit.

(1) The credit earned under this section with respect to qualified capital expenditures shall be available to reduce the qualified taxpayer's Vermont income tax liability for its tax year beginning on or after January 1, 2012, or, if later, the first tax year within which the qualified taxpayer's aggregate qualified capital expenditures exceed \$20,000,000.00. A taxpayer claiming a credit under this subchapter shall submit with the first return on which a credit is claimed a copy of the qualified taxpayer's certification from the Vermont economic progress council.

(2) The credit may be used in the year earned or carried forward to reduce the qualified taxpayer's Vermont income tax liability in succeeding tax years ending on or before December 31, 2023.

(e) Limitations.

(1) The credit earned under this section, either alone or in combination with any other credit allowed by this chapter, may not be applied to reduce the qualified taxpayer's Vermont income tax liability in any one year by more than 80 percent, and in no event shall the credit reduce the taxpayer's income tax liability below any minimum tax imposed by this chapter.

(2) The total amount of credit authorized under this section shall be \$4,000,000.00 and in no event shall the credit in any one tax year exceed \$1,000,000.00. The credit shall be available on a first-come first-served basis by certification of the Vermont economic progress council pursuant to subsection (b) of this section.

(f) Recapture.

(1) A qualified taxpayer who has earned credit under this section with respect to its qualified capital expenditures shall notify the Vermont economic progress council in writing within 60 days if the taxpayer's trade or business is substantially curtailed in any calendar year prior to December 31, 2019.

(2) A qualified taxpayer's business shall be considered to be substantially curtailed when the average number of the taxpayer's full-time jobs in Vermont for any calendar year prior to December 31, 2019, is less than 80 percent of the highest average number of its full-time jobs in Vermont for any calendar year in the investment period. A business shall not be considered to be substantially curtailed when the assets of the business have been sold but

the business continues to be located in Vermont provided that the employment test of this subdivision is met.

(3) In the event that a qualified taxpayer has substantially curtailed its trade or business, then:

(A) the credit certification for such tax year and all succeeding tax years of the taxpayer shall be terminated;

(B) any credit previously earned and carried forward shall be disallowed; and

(C) any credit which has been previously used by the taxpayer to reduce its Vermont income tax liability shall be subject to recapture in accordance with the following table:

<u>Years between the close of the tax year when credit was earned and year when business was substantially curtailed:</u>	<u>Percent of credits to be repaid (%):</u>
<u>2 or less</u>	<u>100</u>
<u>More than 2, up to 4</u>	<u>50</u>
<u>More than 4, up to 6</u>	<u>25</u>
<u>More than 6</u>	<u>0</u>

(4) The recapture shall be reported on the income tax return of the taxpayer who claimed the credit for the tax year in which the taxpayer's trade or business was substantially curtailed, or the commissioner may assess the recapture in accordance with the assessment and appeal provisions provided for in subchapter 8 of this chapter.

Sec. 41. REPEAL

Subchapter 11M of chapter 151 of Title 32 is repealed July 1, 2023, and no credit under that section shall be available for any taxable year beginning after June 30, 2023; provided, however, that if no qualified capital expenditures are made during the investment period, both terms as defined in 32 V.S.A. § 5930ll(a) of this act, the subchapter shall be repealed effective January 1, 2014.

Fourth: By renumbering the existing Sec. 36 as Sec. 42 and adding at the end of that section the following:

(14) Sec. 36 (dietary supplements) shall take effect on July 1, 2010.

(15) Sec. 37 (add-back of one-third of production activity deduction) shall apply to tax years beginning on and after January 1, 2010, and before January 1, 2012.

(16) Sec. 38 (full flow-through of production activity deduction) shall apply to tax years beginning on and after January 1, 2012.

(17) Sec. 40 (machinery and equipment investment tax credit) shall apply to taxable years beginning on and after January 1, 2012.

Amendment to be offered by Wright of Burlington, Reps. Hubert of Milton, Turner of Milton to H. 783

Reps. Wright of Burlington, Turner of Milton and Hubert of Milton move that the bill be amended by adding new Secs. 35a, 35b and 35c, and by amending Sec. 36 to read:

Sec. 35a. 32 V.S.A. § 5410(i) is amended to read:

(i) An owner filing a new or corrected declaration, or rescinding an erroneous declaration, after September 1 shall not be entitled to a refund resulting from the correct property classification; from the municipality, but may apply to the commissioner of taxes by December 15 on such forms and in such manner as the commissioner shall prescribe; and the commissioner shall then issue to a qualified applicant the refund, without interest, from the education fund. ~~and any~~ Any additional property tax and interest which would result from the correct classification shall not be assessed as tax and interest, but shall instead constitute an additional penalty, to be assessed and collected in the same manner as penalties under subsection (g) of this section. Any change in property classification under this subsection shall not be entered on the grand list.

Sec. 35b. 16 V.S.A. § 4025(b) is amended to read:

(b) Moneys in the education fund shall be used for the following:

* * *

(4) To refund without interest, as provided in 32 V.S.A. § 5410(i), any overpayment of education property taxes received by the education fund and due solely to filing after September 1 of a new or corrected declaration, or rescission of an erroneous declaration, upon application satisfactory to the commissioner.

Sec. 35c. APPROPRIATION AND TRANSITION RULES

There is appropriated in fiscal year 2011 from the education fund to the commissioner of taxes the sum of \$150,000.00 for pro rata payment of refunds related to 2009 property taxes, and allowed under 32 V.S.A. § 5410(i) and

subsection 36(13) of this act. The pro rata calculation under this section shall be on the basis of the amount of the taxpayer's refund as a portion of the total qualifying refund claims related to 2009 property taxes, but no pro rata portion distributed to a taxpayer shall exceed the actual refund amount due to the taxpayer. Any amount not distributed to taxpayers under this section shall revert to the education fund.

Sec. 36. EFFECTIVE DATES

* * *

(13) Secs. 35a and 35b of this act (refund of overpayment of property taxes due to reclassification of property) shall apply to taxpayers filing homestead declarations after September 1, 2009; except that refunds due to 2009 declarations shall be paid pro rata from available funds under section 35c of this act, in accordance with such deadlines and other requirements as the commissioner shall impose for the 2009 refund applications.

Amendment to be offered by Reps. Wright of Burlington, Hubert of Milton and Turner of Milton to H. 783

Rep. Wright of Burlington, Turner of Milton and Hubert of Milton moves that the bill be amended by inserting a new Sec. 36 to read as follows:

Sec. 36. 32 V.S.A. § 5410(b) is amended to read:

(b)(1) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made for property that was acquired by the declarant or was made the declarant's homestead after April 1 of the previous year. The declaration of homestead shall remain in effect until the earlier of:

(1) the transfer of title of all or any portion of the homestead; or

(2) that time that the property or any portion of the property ceases to qualify as a homestead.

(2) With 30 days of the transfer of title of all or any portion of the homestead, or upon any portion of the property ceasing to be a homestead, the declarant shall provide notice to the commissioner on a form to be prescribed by the commissioner.

and by renumbering Sec. 36 to be Sec. 37

Amendment to be offered by Rep. Scheuermann of Stowe and Clark of Vergennes to H. 783

Reps. Scheuermann of Stowe and Clark of Vergennes move that the bill be amended as follows:

First: By striking Sec. 27 in its entirety and inserting in lieu thereof the following:

Sec. 27. 32 V.S.A. § 5811(21) is amended to read:

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

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

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

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

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

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

(i) income from United States government obligations;

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

~~(I) if the taxpayer is aged 70 or older as of the last day of the tax year, or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (27) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer aged 70 or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.~~

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

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

Second: By inserting a new Sec. 36 to read:

Sec. 36. REPEAL

The following sections of No. 2 of the Acts of 2009 (Sp. Sess.) are repealed:

(1) Sec. 16b (amending the definition of taxable income for taxable years beginning on and after January 1, 2011).

(3) Sec. 18(b) (providing an effective date for the change in the treatment of capital gains).

Third: By renumbering the existing Sec. 36 to be Sec. 37.

Fourth: In Sec. 37, by striking subdivision (9) in its entirety and inserting in lieu thereof the following:

(9) Sec. 27 (treatment of capital gains) shall apply to tax years beginning on and after January 1, 2011.

Amendment to be offered by Rep. Clark of Vergennes and Scheuermann of Stowe to H. 783

Reps. Clark of Vergennes and Scheuermann of Stowe move that the bill be amended as follows:

First: By striking Sec. 26 in its entirety and inserting in lieu thereof the following:

Sec. 26. 32 V.S.A. § 7475 is amended to read:

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

The laws of the United States, relating to federal estate and gift taxes as in effect on January 1, 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

(1) the credit for state death taxes shall remain as provided for under Sections 2011 and 2604 of the Internal Revenue Code as in effect on January 1, 2001; and

~~(2) the applicable credit amount shall remain as provided for under Section 2010 of the Internal Revenue Code as in effect on January 1, 2008; and~~

~~(3) the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.~~

Second: In Sec. 36, by adding a subdivision (9) to read:

(9) Sec. 26 of this act (estate tax) shall apply to estates of decedents dying on or after January 1, 2011.

and by renumbering the remaining subdivisions of Sec. 36 to be numerically correct

Amendment to be offered by Rep. Olsen of Jamaica to H. 783

Rep. Olsen of Jamaica moves that the bill be amended by striking Sec. 35 in its entirety and inserting in lieu thereof the following:

Sec. 35. FUTURE OF EDUCATION GOVERNANCE AND EDUCATION FINANCE

(a) The general assembly finds:

(1) The education finance system as currently constituted is overly complex, is cumbersome and burdensome, and must be replaced with a system that is fair, transparent and affordable for all Vermonters.

(2) An education finance system that allows property taxes to increase, even as local school districts are reducing their school budgets, is unsustainable.

(b) Accordingly, the blue ribbon tax structure commission created in Sec. H. 56 of No. 1 of the Acts of the Special Session of 2009 shall, with the aid of public hearings and other public involvement, undertake a study of the state's education system using the following guidelines.

(1) Goals. In consultation with the house committees on education and on ways and means and the senate committees on education and on finance, identify the five most important short-term goals and the five most important long-term goals for an education system, taking into account the following: student educational achievement, education governance, finance, spending controls, and cost savings; and design a quantifiable nonmonetary measure of whether schools provide a "substantially equal educational opportunity" for student educational achievement; and report its findings by November 1, 2010.

(2) Evaluation. Evaluate Vermont's current education governance, finance, and spending control systems in light of the goals established in subdivision (1) of this subsection, the current education governance model, and the proposed changes to education governance made by the general assembly and determine the elements of the current systems which achieve these goals well and should be maintained and those elements which do not achieve these goals well and should be modified or eliminated, and report its findings by March 1, 2011.

(3) Proposals. Develop new systems of education finance, spending controls, and cost savings guided by but not limited to the goals established in subdivision (1) of this subsection and the elements identified in subdivision (2)

of this subsection to be maintained, modified, or eliminated, and report its proposals by July 1, 2011.

(c) Advisory panel. In order to facilitate its study of these education systems, the commission shall have the assistance of an advisory panel of individuals who have a familiarity with education assessment, education governance, or education finance, have a demonstrated commitment to supporting a high-quality and efficient public education system with high outcomes, and have demonstrated an understanding of both the state and local aspects of public education in Vermont. The advisory panel may include professionals in education and in taxation; representatives of municipal government, of the education community, of taxpayers, or of other interests; civic-minded Vermonters; or others as the commission may determine, but shall not include current members of the general assembly. The commission may delegate fact-finding and other supporting tasks to the advisory panel and may request the panel to participate in any meetings or hearings of the commission; and the panel may itself convene meetings, including public hearings. The advisory panel may be comprised of the following:

- (1) The commissioner of taxes or his or her designee;
- (2) The commissioner of education or his or her designee;
- (3) A member of the public appointed by the governor;
- (4) A member of the public appointed by the speaker of the house;
- (5) A member of the public appointed by the senate committee on committees;
- (6) A member appointed by the board of trustees of the Vermont School Boards Association; and
- (7) A member appointed by the board of directors of the Vermont League of Cities and Towns.

(d) Reports. All reports required in this section shall be submitted to the house committees on education and on ways and means and to the senate committees on education and on finance and to the house clerk and the senate secretary.

(e) The house committees on education and on ways and means and the senate committees on education and on finance may meet in October, November, and December 2011 to consider and propose legislation based upon the reports of the commission under this section for the 2012 session.

Amendment to be offered by Rep. Ancel of Calais to H. 783

Rep. Ancel of Calais moves that the bill be amended as follows:

First: By adding Secs. 36 and 37 to read as follows:

Sec. 36. 32 V.S.A. 9701(48) is added to read:

(48) Prescription: means a direction in the form of an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed health care professional.

Sec. 37. 32 V.S.A. § 9741(13) is amended to read:

(13) Sales of food, food stamps, purchases made with food stamps, food products and beverages sold for human consumption off the premises where sold; provided, however, dietary supplements are not exempt unless purchased pursuant to a prescription.

Fourth: By renumbering the existing Sec. 36 to be numerically correct and adding at the end of that section the following:

(14) Sec. 37 (dietary supplements) shall take effect on July 1, 2010.

Third Reading

H. 527

An act relating to municipal recovery of costs of fire department response

Amendment to be offered by Rep. O'Donnell of Vernon to H. 527

Rep. O'Donnell of Vernon moves that the bill be amended in Sec. 1, in subsection (b), by striking out the word "seven" and inserting the word "eight"; in subdivision (5), before the final period by inserting a semicolon after the word "firefighters" and adding a subdivision (b)(6) to read:

(6) One member appointed by the Vermont ambulance association

H. 722

An act relating to the resale of tickets

H. 769

An act relating to the licensing and inspection of plant and tree nurseries

Favorable with amendment

H. 789

An act making appropriations for the support of government.

(Rep. Heath of Westford will speak for the Committee on Appropriations.)

Amendment to be offered by Rep. Heath of Westford to H. 789

Rep. Heath of Westford moves to amend H.789 as follows:

First: On pages 23 and 24, by striking out Sec. B.140 in its entirety and inserting in lieu thereof a new Sec. B.140 to read as follows:

Sec. B.140 Municipal current use

Grants	<u>11,700,000</u>
Total	11,700,000
Source of funds	
General fund	<u>11,700,000</u>
Total	11,700,000

Second: On page 52, by striking out Sec. B.309 in its entirety and inserting in lieu thereof a new Sec. B.309 to read as follows:

Sec. B.309 Office of Vermont health access - Medicaid program - state only

Grants	<u>19,324,256</u>
Total	19,324,256
Source of funds	
General fund	17,614,747
Global Commitment fund	<u>1,709,509</u>
Total	19,324,256

Third: On page 62, by striking out Sec. B.325 in its entirety and inserting in lieu thereof a new Sec. B.325 to read as follows:

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	266,289
Operating expenses	78,339
Grants	<u>4,747,762</u>

Total	5,092,390
Source of funds	
General fund	1,241,285
Special funds	57,990
Federal funds	<u>3,793,115</u>
Total	5,092,390

Fourth: On pages 62 and 63, by striking out Sec. B.326 its entirety and inserting in lieu thereof a new Sec. B.326 to read as follows:

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	183,254
Operating expenses	130,762
Grants	<u>14,959,936</u>
Total	15,273,952
Source of funds	
ARRA funds	8,421,288
Special funds	4,602,998
Federal funds	<u>2,249,666</u>
Total	15,273,952

Fifth: On page 76, by striking out Sec. B.502 in its entirety and inserting in lieu thereof a new Sec. B.502 to read as follows:

Sec. B.502 Education - special education: formula grants

Grants	<u>142,687,975</u>
Total	142,687,975
Source of funds	
Education fund	142,457,975
Global Commitment fund	<u>230,000</u>
Total	142,687,975

Sixth: On pages 77 and 78, by striking out Sec. B.505 in its entirety and inserting in lieu thereof a new Sec. B.505 to read as follows:

Sec. B.505 Education - adjusted education payment

Grants	<u>1,136,275,036</u>
Total	1,136,275,036
Source of funds	
ARRA interdepartmental transfer	38,575,036
Education fund	<u>1,097,700,000</u>
Total	1,136,275,036

Seventh: On page 119, in Sec. D.101(a)(1), after line 18, by adding a new subparagraph (D) to read as follows:

(D) education fund for reserve within the education fund in fiscal year 2011: \$2,300,000.

Eighth: On page 120, by striking out Sec. D.104 in its entirety

Ninth: In Sec. E.321.2(a) by striking subdivision (2) in its entirety and, on line 8, by striking the number “(1)”

Tenth: In Sec. E.323.2, 33 V.S.A. § 1116(h), by striking subdivision (3) in its entirety

Amendment to be offered by Reps. Poirier of Barre City, McFaun of Barre Town, Nuovo of Middlebury, O'Donnell of Vernon and Olsen of Jamaica to H. 789

Reps. Poirier of Barre City, McFaun of Barre Town, Nuovo of Middlebury O'Donnell of Vernon and Olsen of Jamaica move to amend the bill by adding a Sec. E.314a to read as follows:

Sec. E.314a. VERMONT STATE HOSPITAL; CANTEEN

(a) The general assembly finds that the availability of a cafeteria, also known as “the canteen,” for use by patients of the Vermont state hospital is therapeutic for them and should be available for their use, as well as for their guests, hospital staff, and members of the general public.

(b) From any appropriation contained in any act of the general assembly to the department of buildings and general services, the sum of up to \$25,000 shall be used to make necessary repairs and upgrades to bring up to code the premises used as the canteen, which repairs and upgrades shall be completed by October 30, 2010.

(c) On or before November 1, 2010, the secretary of human services shall cause the canteen to reopen for no fewer than five days per week for a reasonable number of hours per day, for use by state hospital patients, their guests, staff, and members of the public. The cafeteria service shall be

provided either by state employees or a contracted vendor, so long as the operation is cost-neutral to the general fund. If the cafeteria service is offered by a vendor, the premises used by the vendor shall be leased at an annual cost of \$1.00, and the leased premises shall otherwise be offered to the vendor on the same terms and conditions as those offered to the vendor who operates the state house cafeteria.

(d) The canteen service shall continue in operation unless closure is authorized by act of the general assembly.

(e) The vendor shall strive to offer affordable lower-cost food to state hospital patients.

Favorable

H. 784

An act relating to the state's transportation program.

(Rep. Brennan of Colchester will speak for the Committee on **Transportation.**)

Rep. Minter of Waterbury, for the Committee on **Appropriations**, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Amendment to be offered by Rep. Brennan of Colchester to H. 784

Rep. Brennan of Colchester moves that the bill be amended as follows:

First: In Sec. 17, subsection (h), by striking the third sentence in its entirety and inserting in lieu thereof the following: "Upon authorizing a project to resolve an emergency or safety issue, the secretary shall give prompt notice of the decision and action taken to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, the joint transportation oversight committee."

Second: By striking out Secs. 46–62 in their entirety and by renumbering the remaining section to be numerically correct

Amendment to be offered by Rep. Howard of Cambridge to H. 784

Rep. Howard of Cambridge moves that the bill be amended by striking Sec. 38 in its entirety and inserting in lieu thereof a new Sec. 38 to read:

Sec. 38. ON-PREMISE SIGN ON LIMITED ACCESS FACILITY

Notwithstanding the restriction on on-premise signs located as to be readable primarily from a limited access facility set forth in 10 V.S.A. § 495(b)

and the requirement set forth in 10 V.S.A. § 493(1) that on-premise signs be erected no more than 1,500 feet from a main entrance from the highway to the activity or premises advertised, an on-premise sign directing traffic to the facilities of a postsecondary educational institution may be erected at the intersection of U.S. Route 4 Western Bypass and U.S. Route 7 in the city of Rutland.

Senate Proposal of Amendment

H. 456

An act relating to seasonal fuel assistance

The Senate proposes to the House to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 2601 is amended to read:

§ 2601. POLICY AND PURPOSE

(a) It is the purpose of this chapter to secure the safety and health of low income Vermont households by providing needy Vermonters with assistance for the purchase of essential home heating fuel. To further this purpose, application acceptance, processing, and eligibility determination should as much as is practical be coordinated with other economic benefit programs administered by the agency of human services.

(b) This chapter establishes a home heating fuel assistance program in the agency of human services with both a seasonal fuel assistance component ~~for very low income households~~ and a crisis component ~~to supply fuel assistance to low income households in crisis situations.~~

Sec. 2. 33 V.S.A. § 2603 is amended to read:

§ 2603. HOME HEATING FUEL ASSISTANCE FUND

(a) There is created in the state treasury a fund to be known as the home heating fuel assistance fund.

(b) The fund shall consist of the receipts from any taxes dedicated to the fund and such other state funds as may be appropriated to it by the general assembly. ~~Funds from the home heating fuel assistance fund and the federal Low Income Home Energy Assistance Program (LIHEAP).~~ These funds shall be expended by the ~~director~~ secretary of human services or designee in accordance with this chapter, rules adopted pursuant to this chapter, and other relevant federal laws and rules adopted pursuant thereto law.

* * *

(d) The secretary or designee may spend, in anticipation of federal receipts

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

Sec. 3. 33 V.S.A. § 2604 is amended to read:

§ 2604. ELIGIBLE BENEFICIARIES; REQUIREMENTS

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

~~(1) The income eligibility requirements shall require that households have a net gross household income no greater than 125 185 percent of the federal poverty level in order to be potentially eligible for benefits. Net income shall be derived by making the following deductions from gross income: 20 percent of household members' gross earned income; 100 percent of federal or state earned income credits received by household members; dependent care expenses that are within an allowable maximum, paid by a household member, and necessary to support a household member's employment or training for employment, according to criteria established by the secretary by rule; child support or alimony payments made by a household member on behalf of a nonhousehold member that meet criteria established by the secretary by rule; \$250.00 for each household member who is 60 years of age or older or disabled according to criteria established by the secretary by rule; any deductions or exclusions required by federal law or regulations; and any other deduction or exclusion established by the secretary by rule. To the extent allowed by federal law, the secretary of human services or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.~~

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

(b) Fuel cost requirements. ~~The secretary shall adopt rules that specify the responsibility of the applicant households and their certified fuel supplier in providing the office of home heating fuel assistance with information that the~~

~~office will use to establish an applicant household's heating fuel consumption for the previous year. The secretary of human services or designee shall by rule procedure establish a table that contains amounts that will function as a proxy for applicant households' annual heating fuel cost for the previous year. The seasonal fuel expenditure estimates contained within such table shall closely approximate the actual home heating costs experienced by participants in the home heating fuel assistance program. Such table shall be revised no less frequently than every three years based on data supplied by certified fuel suppliers, the department of public service, and other industry sources to the office of home heating fuel assistance, as required by rule. The secretary shall also establish by rule minimum amounts of annual home heating fuel costs that vary based on the household's size and annual income.~~

(c) In determining heating fuel costs of households:

~~(1)(A) Households that make undesignated payments for energy for home heat in the form of rent and are not participating in a public, subsidized or Section 8 housing program shall be eligible for an annual home heating fuel assistance benefit in an amount equal to 30 percent of the benefit the household would have received if the household were purchasing energy for home heating fuel directly, or in the amount of \$50.00, whichever amount is greater.~~

~~(B) Households that make undesignated payments for energy for home heat in the form of rent and are participating in a public, subsidized or Section 8 housing program shall be eligible for a nominal annual home heating fuel assistance benefit of \$5.00. This benefit amount is effective beginning with the 1999-2000 program year.~~

~~(C) Residents of the dwelling unit who make reasonable compensation in the form of room rent and who are not members of the same household shall be eligible for an annual home heating fuel assistance benefit in the amount of \$50.00.~~

(2) Residents of housing units subsidized by the federal, state, or local government shall be deemed to have incurred no annual home heating fuel costs, except to the extent required by any federal law or regulation if federal funds are utilized for the home heating fuel assistance program, and with the following additional exception. Housing unit residents who participate in Reach Up under chapter 11 of this title, or who receive Supplemental Security Income/Aid to the Aged, Blind, or Disabled (SSI/AABD), emergency assistance, or general assistance benefits that are used in whole or in part to pay for their housing or utility costs and do not receive other federal, state, or local government assistance targeted specifically to their housing or utility needs shall, with the exception of households for which the cost of heat is supplied by the landlord, be assumed to incur annual home heating fuel costs

and their eligibility for annual heating fuel assistance shall not be limited by this subsection.

~~(3)~~(2) The annual heating fuel cost for a household unit shall be only for the cost of the primary heating fuel source of the unit, which may be for wood, electricity, or any other fuel source, but annual heating fuel costs shall be only for the cost of heat and not include the cost of the fuel for any other uses of the household.

Sec. 4. 33 V.S.A. § 2605 is amended to read:

§ 2605. BENEFIT AMOUNTS

~~(a) The secretary shall by rule establish a table that specifies for households for which the cost of heat is not supplied by the landlord, maximum annual home heating fuel assistance benefit amounts. The maximum benefit amounts contained within this table shall vary by household size and annual household income. The annual home heating fuel assistance benefit for households that make undesignated payments for energy for home heat in the form of rent, and for households that pay room rent and who are not members of the same household with other residents of the dwelling unit, shall be the amounts established in section 2604(c)(1) of this title.~~

~~(b)~~ The secretary of human services or designee shall by rule establish a table that specifies maximum percentages of applicant households' annual heating fuel costs, based on the proxy table established pursuant to section 2604(b) of this title, that can be authorized for payment as annual home heating fuel assistance benefits for the following year. The maximum percentages contained within this table shall vary by household size and annual household income. In no instance shall the percentage exceed 90 percent.

(b) The maximum percentages of annual heating fuel costs table established in subsection (a) of this section shall provide proportionally higher benefit percentages to households with a gross income of 154 percent of the federal poverty guidelines or less and proportionally lower benefit percentages to households with a gross income of 155 to 185 percent of the federal poverty guideline.

~~(c) Annually, based on the number of eligible households that have applied and for which the cost of heat is not supplied by the landlord, these households' individual incomes and individual annual heating fuel cost, based on the proxy table established pursuant to subsection 2604(b) of this title, the number of eligible households that have applied and for which the cost of heat is supplied by the landlord, the cost of benefits for these households, and the amount of funds available in the home heating fuel assistance fund for the purpose of providing annual home heating fuel assistance benefits or are~~

projected to apply, and on the eligibility of households in the benefit categories established in this section, the secretary of human services or designee shall, by procedure, set the payment rate that shall be used to determine the amount of annual home heating fuel assistance for which each eligible household for which the cost of heat is not supplied by the landlord qualifies. In no event shall the payment rate be greater than 100 percent of the maximum percentage established by rule as required by subsection (b)(a) of this section.

~~(d) In the case of a household for which the cost of heat is not supplied by the landlord, the household's annual home heating fuel assistance benefit is the household's annual heating fuel cost for the previous year as defined in section 2604(b) of this title, multiplied by the maximum percentage for that household found in the table established by subsection (b)(a) of this section, multiplied by the payment rate established in subsection (c) of this section. In no event, however, shall the benefit paid for these households exceed the maximum benefit for a household of its income and size as established by rule as required in subsection (a) of this section. The annual home heating fuel assistance benefit for households that make undesignated payments for energy for home heat in the form of rent, and for households that pay room rent and who are not members of the same household with other residents of the dwelling unit, shall be the amounts established in subdivision 2604(e)(1) of this title.~~

(e) ~~[Repealed.]~~ Households that make undesignated payments for energy for home heat in the form of rent and that are not participating in a public, subsidized, or Section 8 housing program shall be eligible for an annual home heating fuel assistance benefit in an amount equal to 30 percent of the benefit the household would have received if the household were purchasing energy for home heating fuel directly or in the amount of \$50.00, whichever amount is greater.

(f) Households that make undesignated payments for energy for home heat in the form of rent and are participating in a public, subsidized, or Section 8 housing program shall be eligible for a nominal annual home heating fuel assistance benefit of \$5.00.

(g) Residents of the dwelling unit who make reasonable compensation in the form of room rent and who are not members of the same household shall be eligible for an annual home heating fuel assistance benefit in the amount of \$50.00.

(h) Households receiving benefits from 3SquaresVT whose head of household is not otherwise eligible for a fuel benefit under this section shall be eligible for a nominal annual home heating fuel assistance benefit of \$3.00.

Sec. 5. 33 V.S.A. § 2606 is amended to read:

§ 2606. APPLICATION PERIOD; ASSISTANCE

~~(a) In order to make a timely determination of benefit levels, there shall be an application period during which all beneficiaries shall apply for home heating fuel assistance for the ensuing heating season. The application period shall be from July 15 through August 31. The secretary of human services or designee may accept applications on an ongoing basis beginning on April 1, 2010. The secretary or designee may establish by rule the procedure for accepting applications and determining eligibility under this subsection.~~

~~(b) The secretary shall accept applications after the application period has closed, but no later than the last day of February. No qualified applicant shall be penalized through a reduction of benefits for a late-filed application, except that such applicant shall not be entitled to receive benefits for any period prior to the month of application.~~

~~(c) The director of home energy assistance secretary of human services or designee shall supply or contract for staff to carry out application processing process applications and related tasks including assisting households in applying and providing required information, and locating and contacting fuel suppliers certified under section 2607 of this title.~~

~~(d) Notwithstanding subsections (a) and (b) of this section, the secretary may accept applications on an ongoing basis for the 2010-2011 heating season beginning on March 1, 2010 and may establish by rule the procedure for accepting applications and determining eligibility under this subsection. No later than January 15, 2010, the secretary shall provide draft legislation to modify the process for application, eligibility, and calculation and issuance of benefits under the seasonal fuel assistance program using a new eligibility system to the house committee on human services and the senate committee on health and welfare.~~

Sec. 6. 33 V.S.A. § 2607 is amended to read:

§ 2607. PAYMENTS TO FUEL SUPPLIERS

(a) ~~The director~~ secretary of human services or designee shall certify fuel suppliers, excluding firewood and wood pellet suppliers, to be eligible to participate in the home heating fuel assistance program, ~~and beneficiaries.~~ Beneficiaries may obtain assistance for fuel deliveries use their seasonal fuel assistance benefit to obtain home heating fuel or energy only from a fuel supplier certified by the director, except that beneficiaries who heat with firewood or wood pellets may obtain their firewood or wood pellets from any supplier they choose.

(b) Certified fuel suppliers shall agree to conduct reasonable efforts in order to inform and assist beneficiaries in their service areas, maintain records of amounts and costs of all fuel deliveries, send periodic statements to customers receiving home heating fuel assistance informing them of their account's credit or debit balance as of the last statement, deliveries or usage since that statement and the charges for such, payments made or applied, indicating their source, since that statement, and the ending credit or debit balance. Certified fuel suppliers shall also agree to provide the ~~director~~ secretary of human services or designee such information deemed necessary for the efficient administration of the program, including information required to pay beneficiary's benefits to the certified supplier after fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

(c) Certified fuel suppliers shall not disclose the beneficiary status of recipients of home heating fuel assistance benefits, the names of recipients, or other information pertaining to recipients to anyone, except for purposes directly connected with administration of the home heating fuel assistance program or when required by law.

~~(d) A supplier of wood fuel may be certified by the director only if the supplier is, in the normal course of business, a supplier of wood fuel; maintains a Social Security number or a federal tax identification number for such business; and provides that number to the director.~~

(e) Certified fuel suppliers shall also agree to enter into budget agreements with beneficiaries for annualized monthly payments for fuel supplies provided the beneficiary meets accepted industry credit standards, and shall grant program beneficiaries such cash discounts, preseason delivery savings, automatic fuel delivery agreements, and any other discounts granted to any other heating fuel customer or as the secretary of human services or designee may negotiate with certified fuel suppliers.

~~(f)~~(e) ~~The office of home heating fuel assistance~~ secretary of human services or designee shall provide each certified fuel supplier with a list of the households who are its customers and have been found eligible for annual home heating fuel assistance for the current year, the total amount of annual home heating fuel assistance that has been authorized for each household, and how the total amount has been allocated over the heating season. Each authorized amount shall function as a line of credit for each eligible household. ~~The office of home heating fuel assistance~~ secretary or designee shall disburse authorized home heating fuel assistance benefits to certified fuel suppliers on behalf of eligible households ~~in accordance with the allocation schedule~~ after

fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

~~(g) In the event that on April 30 of any year a credit balance exists in a certified fuel supplier's account for a household that has received annual home heating fuel assistance during the previous 12 months, that certified fuel supplier is required to pay the amount of this credit balance to the office of home heating fuel assistance no later than May 31 of the same year.~~

~~(h)~~(f) The ~~director~~ secretary of human services or designee shall negotiate with one or more certified fuel suppliers to obtain the most advantageous pricing and, payment terms, and delivery methods possible for eligible households.

Sec. 7. 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES

Annually, the secretary of human services or designee shall determine ~~by rule~~ an appropriate amount of funds in the home heating fuel assistance fund to be set aside for expenditure for the crisis ~~reserve~~ fuel assistance component of the home heating fuel program. The secretary ~~or designee~~ shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis ~~reserve~~ funds, and to establish the income and asset eligibility requirements of households for receipt of crisis ~~reserve~~ home heating fuel assistance, provided that no household shall be eligible whose gross household income is greater than ~~150~~ 200 percent of the federal poverty level based on the income of all persons residing in the household. To the extent allowed by federal law, the secretary or designee shall establish by rule a calculation of gross income based on the same rules used in 3SquaresVT, except that the secretary or designee shall include additional deductions or exclusions from income required by LIHEAP.

Sec. 8. EXPEDITED RULES

Notwithstanding the provisions of chapter 25 of Title 3, the agency of human services shall adopt rules to implement this act pursuant to the following:

(1) The secretary of human services or designee shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841, after publication in three daily newspapers with the highest average circulation in the state of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The secretary of human services or designee shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review, and may approve or object to, the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The secretary of human services or designee may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary or designee:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to chapter 25 of Title 3. Rules filed by the secretary of human services or designee with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the secretary of human services or designee that the rule is required to meet the purposes of this section.

Sec. 9. IMPLEMENTATION

No later than September 1, 2011, the secretary of human services or designee shall implement a payment system to pay fuel benefits to certified fuel suppliers after the fuel is delivered or, for metered fuel and regulated utilities, after the beneficiary's account has been billed.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

And the title shall be amended to read:

“An act relating to fuel assistance.”

(For text see House Journal May 5, 2009)

Senate Proposal of Amendment to House Proposal of Amendment

S. 117

An act relating to the date of the primary election

The Senate concurs in the House proposal of amendment with further amendment as follows:

By adding a new Sec. 11 to read:

Sec. 11. EFFECTIVE DATE

This act shall take effect upon passage.

(For text see House Journal 2/18/10)

Action Postponed Until May 28, 2010

Governors Veto

H. 436

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

Pending Question: Shall the House sustain the Governor's veto?

NOTICE CALENDAR

Committee Bill for Second Reading

H. 790

An act relating to capital construction and state bonding.

(Rep. Emmons of Springfield will speak for the Committee on **Corrections and Institutions.**)

Favorable

H. 773

An act relating to approval of amendments to the charter of the city of Burlington

Rep. Hubert of Milton, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 8-0-3)

Ordered to Lie

H.R. 19

House resolution urging the agency of natural resources to retain delegated authority to administer the federal Clean Water Act in Vermont.

Pending Question: Shall the House adopt the resolution?

Information Notice

House Appropriations Committee

Members' amendments to Fiscal Year 2011

Proposed Omnibus Appropriations Bill (H.789)

The House Appropriations Committee requests all members of the House, who intend to introduce amendments to the proposed FY 2011 omnibus appropriations bill, to meet with the committee on Thursday, March 25, at 8:30 a.m., OR for third reading, Friday, March 26, at 8:45 a.m., in Room 42. If possible, please talk to Theresa Utton-Jerman 828-5767 (Room: 40) or tutton@leg.state.vt.us to schedule a time.