

Journal of the House

Wednesday, April 1, 2009

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Kevin Goldenbagen of the United Church of Underhill, VT.

Message from Governor

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

Madam Speaker:

I am directed by the Governor to inform the House that on the thirty-first day of March, 2009, he approved and signed a bill originating in the House of the following title:

H. 166 An act relating to the Vermont Student Assistance Corporation

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 5

Senate bill, entitled

An act relating to accidents involving an on-duty law enforcement officer, firefighter, or emergency medical personnel

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

S. 47

Senate bill, entitled

An act relating to salvage yards

Was taken up, read the first time and referred to the committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations

H. 313

House bill, entitled

An act relating to near-term and long-term economic development

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

House Resolution Placed on Calendar

H.R. 11

House resolution, entitled

House resolution requesting state government regulatory officials to work cooperatively with Vermont small businesses in the enforcement of rules and regulations

Offered by: Representatives Obuchowski of Rockingham, Botzow of Pownal, Branagan of Georgia, Clarkson of Woodstock, Clerkin of Hartford, Dickinson of St. Albans Town, Johnson of Canaan, Malcolm of Pawlet, Masland of Thetford, Mook of Bennington, Partridge of Windham, Peltz of Woodbury, Potter of Clarendon, Shand of Weathersfield, Smith of Mendon, Wilson of Manchester and Zuckerman of Burlington

Whereas, in this time of financial distress, small businesses in Vermont are experiencing severe economic challenges, and

Whereas, there are many state rules and regulations with which small businesses must comply, and

Whereas, although the general assembly enacts the statutes upon which these rules and regulations are based and reviews them in the legislative committee on administrative rules before they may be adopted, the legislature remains concerned that the enforcement process be fair and equitable, and

Whereas, statutes, rules, and regulations are intended to improve the lives of individuals through the promotion of public health and safety, the protection of Vermont's environmental heritage, and the prevention of the committing of fraudulent acts against persons and institutions, and

Whereas, enforcement of state rules and regulations during these difficult economic times may not lead to the implementation of regulatory directives but only to continuing challenges on the part of small business owners, and

Whereas, state regulatory authorities should make every possible effort to facilitate the enforcement of rules and regulations in an empathetic manner, seeking solutions that meet the underlying legal policy objectives of a specific rule or regulation and still engender goodwill among those subject to its jurisdiction, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests state government regulatory officials to take extra steps to work cooperatively with Vermont small businesses in the enforcement of state rules and regulations during these difficult economic times, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor James Douglas.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Joint Resolution Adopted in Concurrence

J.R.S. 27

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 3, 2009, it be to meet again no later than Tuesday, April 7, 2009.

Was taken up read and adopted in concurrence.

Bill Read Third Time and Passed

H. 213

House bill, entitled

An act to provide fairness to tenants in cases of contested housing security deposit withholding

Was taken up and pending third reading of the bill, **Rep. Kilmartin of Newport City** moved to amend the bill by striking Sec. 1 and inserting in lieu thereof the following:

Sec. 1. 9A V.S.A. § 3-311 is amended to read:

§ 3-311. ACCORD AND SATISFACTION BY USE OF INSTRUMENT

* * *

(e) This section shall not apply to 9 V.S.A. § 4461, relating to security deposits for residential rental units, provided that the tenant provides written notice of protest to the landlord by hand delivery or first class mail to the landlord's last know address within 14 days after the landlord complies with subsection (d) of 9 V.S.A. §4461, and the written notice sets forth the basis of the protest by responding to the itemization of deductions as provided by the landlord pursuant to subsection (c) of 9 V.S.A. §4461.

Pending the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? **Rep. Kilmartin of Newport City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

Pending the call of the roll, **Rep. Pugh of South Burlington** raised a Point of Order that the amendment was not germane to the bill, which Point of Order the Speaker ruled not well taken in that both the amendment and the bill deal with the same subject matter.

Thereupon, the Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 58. Nays, 82.

Those who voted in the affirmative are:

Acinapura of Brandon	Geier of South Burlington	Morrissey of Bennington
Ainsworth of Royalton	Greshin of Warren	Myers of Essex
Andrews of Rutland City	Helm of Castleton	O'Donnell of Vernon
Atkins of Winooski	Higley of Lowell	Pearce of Richford
Bissonnette of Winooski	Hube of Londonderry	Peaslee of Guildhall
Branagan of Georgia	Hubert of Milton	Peltz of Woodbury
Brennan of Colchester	Kilmartin of Newport City	Perley of Enosburg
Canfield of Fair Haven	Koch of Barre Town	Potter of Clarendon
Clark of Vergennes	Komline of Dorset	Reis of St. Johnsbury
Clerkin of Hartford	Krawczyk of Bennington	Scheuermann of Stowe
Consejo of Sheldon	Larocque of Barnet	Smith of Mendon
Corcoran of Bennington	Lawrence of Lyndon	Toll of Danville
Crawford of Burke	Lewis of Derby	Townsend of Randolph
Devereux of Mount Holly	Marcotte of Coventry	Turner of Milton
Dickinson of St. Albans Town	Martin of Wolcott	Westman of Cambridge
Donaghy of Poultney	McAllister of Highgate	Wheeler of Derby
Donahue of Northfield	McDonald of Berlin	Winters of Williamstown
Fagan of Rutland City	McFaun of Barre Town	Wright of Burlington
French of Shrewsbury	McNeil of Rutland Town	Zenie of Colchester
	Morley of Barton	

Those who voted in the negative are:

Ancel of Calais	Edwards of Brattleboro	Johnson of Canaan
Aswad of Burlington	Emmons of Springfield	Keenan of St. Albans City
Audette of South Burlington	Evans of Essex	Kitzmiller of Montpelier
Baker of West Rutland	Fisher of Lincoln	Lanpher of Vergennes
Bohi of Hartford	Frank of Underhill	Larson of Burlington
Botzow of Pownal	French of Randolph	Lenes of Shelburne
Bray of New Haven	Gilbert of Fairfax	Leriche of Hardwick
Browning of Arlington	Grad of Moretown	Lippert of Hinesburg
Burke of Brattleboro	Haas of Rochester	Lorber of Burlington
Cheney of Norwich	Head of South Burlington	Macaig of Williston
Clarkson of Woodstock	Heath of Westford	Maier of Middlebury
Conquest of Newbury *	Hooper of Montpelier	Malcolm of Pawlet
Copeland-Hanzas of Bradford	Howard of Rutland City	Marek of Newfane
Courcelle of Rutland City	Howrigan of Fairfield	Martin of Springfield
Deen of Westminster	Jerman of Essex	Masland of Thetford
Donovan of Burlington	Jewett of Ripton	McCullough of Williston
	Johnson of South Hero	Milkey of Brattleboro

Miller of Shaftsbury	Partridge of Windham	Sweaney of Windsor
Minter of Waterbury	Pellett of Chester	Taylor of Barre City
Mitchell of Barnard	Pugh of South Burlington	Till of Jericho
Mook of Bennington	Ram of Burlington	Waite-Simpson of Essex
Moran of Wardsboro	Rodgers of Glover	Webb of Shelburne
Mrowicki of Putney	Savage of Swanton	Weston of Burlington
Nease of Johnson	Shand of Weathersfield	Wilson of Manchester
Nuovo of Middlebury	Sharpe of Bristol	Wizowaty of Burlington
O'Brien of Richmond	South of St. Johnsbury	Young of St. Albans City
Obuchowski of Rockingham	Spengler of Colchester	Zuckerman of Burlington
Orr of Charlotte	Stevens of Waterbury	

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

Adams of Hartland	Flory of Pittsford	Poirier of Barre City
Condon of Colchester	Klein of East Montpelier	Stevens of Shoreham
Davis of Washington	Manwaring of Wilmington	Trombley of Grand Isle

Rep. Conquest of Newbury explained his vote as follows:

“Mr. Speaker:

I voted no, not because it sounded like an unreasonable proposal, but because it sounded like the wrong place to be amending the law.”

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

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 86

House bill, entitled

An act relating to the regulation of professions and occupations;

H. 249

House bill, entitled

An act relating to volunteer nonprofit service organizations and casino nights.

Bill Amended, Read Third Time and Passed

H. 438

House bill, entitled

An act relating to the state’s transportation program

Was taken up and pending third reading of the bill, **Rep. Minter of Waterbury** moved to amend the bill as follows:

First: In Sec. 30, subsection (e), by deleting “appropriated to” and inserting in lieu thereof “authorized for expenditure by”

Second: By adding a new Sec. 82 to read as follows:

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 State 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.

and by renumbering Sec. 82 and any subsequent sections to be numerically correct

Which was agreed to to.

Pending third reading of the bill, **Rep. Pugh of South Burlington** moved to amend the bill as follows:

First: By inserting a new Sec. 82 to read:

Sec. 82. 23 V.S.A. § 203 is amended to read:

§ 203. COUNTERFEITING OR MISUSING NUMBER PLATES,
REGISTRATION CERTIFICATES OR OPERATING LICENSE

(a) A person shall not:

(1) Counterfeit or cause to be counterfeited or have in his or her possession any counterfeit number plate, ~~validating sticker~~, marker, inspection sticker, registration certificate, learner’s permit, nondriver identification card, insurance identification card, or operator license, or alter or have in his or her possession any altered number plate or marker; or

* * *

(6) Obtain or attempt to obtain a registration plate, ~~validation sticker~~, registration certificate, operator’s license, learner’s permit, nondriver identification card, or duplicate copy of any of such documents by the use of fraudulently obtained, fictitious, or altered identity documents or by the use of identity documents not his or her own; or

(7) Obtain or attempt to obtain a registration plate, ~~validation sticker,~~ registration certificate, certificate of title, operator's license, learner's permit, nondriver identification card, duplicate copy of any of these documents, or obtain or attempt to obtain any other permit, license or special privilege from the department of motor vehicles through the submission of an application containing false or fictitious information; or

(8) Lend his or her identity documents to aid an applicant in his or her attempt to fraudulently obtain or actually obtain a registration plate, ~~validation sticker,~~ registration certificate, operator's license, learner's permit, nondriver identification card, or duplicate copy of such documents.

* * *

Second: By inserting Sec. 83 to read:

Sec. 83. 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 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 affixed to the plate in the manner prescribed by the commissioner.~~

Third: By inserting Sec. 84 to read:

Sec. 84. 23 V.S.A. § 326 is amended to read:

§ 326. REFUND UPON LOSS OF VEHICLE

The commissioner may cancel the registration of a motor vehicle when the owner thereof proves to his or her satisfaction that it has been totally destroyed by fire, or, through accident or wear, has become wholly unfit for use and has been dismantled. Upon the cancellation of such registration and the return to the commissioner of the number plates ~~and validation sticker (if issued for that year),~~ the commissioner shall certify to the commissioner of finance and management the fact of such cancellation, giving the name of the owner of such motor vehicle, his or her address, the amount of the registration fee paid, and the date of such cancellation. The commissioner of finance shall issue his or her warrant in favor of the owner for such percent of the registration fee paid as the unexpired term of the registration bears to the entire registration period, but in no case shall the commissioner retain less than \$5.00 of the fee paid.

Fourth: By inserting Sec. 85 to read:

Sec. 85. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the commissioner. Upon cancellation of the registration, the commissioner shall notify the commissioner of finance and management who shall issue a refund as follows:

(1) For registrations which are cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of \$5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations which are cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner must prove to the commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle, or that the current validation sticker has not been affixed to the ~~plate or to the~~ snowmobile or motorboat.

(3) For registrations which are cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00. ~~The validation stickers may be affixed to the plates.~~

Fifth: By inserting Sec. 86 to read:

Sec. 86. 23 V.S.A. § 453 is amended to read:

§ 453. FEES AND NUMBER PLATES

* * *

(f) In any year that number plates are reused ~~and validation stickers are issued,~~ the commissioner shall not be required to issue new number plates to persons renewing registrations under this section.

* * *

Sixth: By inserting Sec. 87 to read:

Sec. 87. 23 V.S.A. § 457 is amended to read:

§ 457. TEMPORARY PLATES

At the time of the issuance of a registration certificate to a dealer as provided in this chapter the commissioner shall furnish the dealer with a

sufficient number of number plates ~~and temporary validation stickers~~, temporary number plates₂, or decals for use during the 60-day period immediately following sale of a motor vehicle by the dealer, as hereafter provided in general design the same as the number plates or decals furnished individual owners, but the plates and decals may be of a material and color as the commissioner may determine. The commissioner shall collect a fee of \$3.00 for each temporary plate issued.

Seventh: By inserting Sec. 88 to read:

Sec. 88. 23 V.S.A. § 458 is amended to read:

§ 458. TEMPORARY PLATE ON SOLD OR EXCHANGED VEHICLE

On the day of the sale or exchange of a motor vehicle, motorboat, snowmobile, or all-terrain vehicle which is to be registered in this state, a dealer may issue to the purchaser, for attachment to the motor vehicle, snowmobile, or all-terrain vehicle or to be carried in or on the motorboat, a number plate ~~with temporary validation stickers~~, temporary number plate₂, or decal, provided, that the purchaser deposits with such dealer, for transmission to the commissioner, a properly executed application for the registration of such motor vehicle, motorboat, snowmobile, or all-terrain vehicle and the required fee. The purchaser, if properly licensed, on attaching the number plate ~~with temporary validation stickers~~, temporary plate₂ or decal to the motor vehicle, motorboat, snowmobile, or all-terrain vehicle, may operate the same for a period not to exceed 60 consecutive days immediately following the purchase. A person shall not operate a motor vehicle, motorboat, snowmobile, or all-terrain vehicle with a number plate, ~~with temporary validation stickers~~, temporary number plate₂ or decal attached thereto or carried except as provided in this section.

Eighth: By inserting Sec. 89 to read:

Sec. 89. 23 V.S.A. § 459 is amended to read:

§ 459. NOTICE TO COMMISSIONER

(a) Upon issuing a number plate ~~with temporary validation stickers~~, temporary number plate, or decal to a purchaser for attachment to a motor vehicle, a dealer shall, within three business days, forward to the commissioner the application and fee, deposited with him or her by the purchaser, together with notice of such issue and such other information as the commissioner may require.

(b) If a number plate ~~with temporary validation stickers~~, temporary registration plate, or decal is not issued by a dealer in connection with the sale or exchange of a motor vehicle, the dealer may accept₇ from the purchaser₇ a

properly executed registration, tax and title application, and the required fees for transmission to the commissioner. The dealer shall, within three business days, forward to the commissioner the application and fee together with such other information as the commissioner may require.

Ninth: By inserting Sec. 90 to read:

Sec. 90. 23 V.S.A. § 465 is amended to read:

§ 465. LOANING OF PLATES OR VEHICLES PROHIBITED

A dealer shall not loan or lease registration certificates, ~~validation stickers,~~ numbers, or decals or number plates which have been assigned to him or her under the provisions of this chapter, nor shall he or she loan or lease a motor vehicle to which his or her dealer's decals, numbers, or number plates have been attached, nor loan or lease his or her dealer's decals, numbers, or number plates to a subagent.

Tenth: By inserting Sec. 91 to read:

Sec. 91. 23 V.S.A. § 494 is amended to read:

§ 494. FEES

The annual fee for a transporter's registration certificate, ~~or number plate, or validation sticker~~ is \$90.00.

and by renumbering the remaining section to be numerically correct

Thereupon, **Rep. Potter of Clarendon** moved to substitute an amendment for the amendment offered by Rep. Pugh of South Burlington, as follows:

By inserting a new Sec. 82 as follows:

Sec. 82. 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.

and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, the recommendation of amendment offered by Rep. Potter of Clarendon was agreed to.

Pending third reading of the bill, **Rep. Aswad of Burlington** moved to amend the bill as follows:

In Sec. 11, at the end of the section, by inserting the words: “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.”

Which was agreed to.

Pending third reading of the bill, **Reps. Kilmartin of Newport City and Marcotte of Coventry** moved to amend the bill as follows:

By striking Secs. 34, 35, 36, 37, and 38 in their entirety and in Sec. 39, as amended by the Committee on Ways and Means, 32 V.S.A. chapter 13, subchapter 4, by deleting section 980.

Pending the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? **Rep. McDonald of Berlin** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 34. Nays, 109.

Those who voted in the affirmative are:

Ainsworth of Royalton	Hubert of Milton	Morrissey of Bennington
Baker of West Rutland	Johnson of Canaan	O'Donnell of Vernon
Canfield of Fair Haven	Kilmartin of Newport City	Pearce of Richford
Clark of Vergennes	Komline of Dorset	Peaslee of Guildhall
Devereux of Mount Holly	Krawczyk of Bennington	Perley of Enosburg
Dickinson of St. Albans Town	Lawrence of Lyndon	Pugh of South Burlington
Donahue of Northfield *	Lewis of Derby	Savage of Swanton
Flory of Pittsford	Marcotte of Coventry	Scheuermann of Stowe
Helm of Castleton	McAllister of Highgate	Turner of Milton
Higley of Lowell	McDonald of Berlin	Wheeler of Derby
Hube of Londonderry	McNeil of Rutland Town	Winters of Williamstown
	Morley of Barton	

Those who voted in the negative are:

Acinapura of Brandon	Atkins of Winooski	Bray of New Haven
Adams of Hartland	Audette of South Burlington	Brennan of Colchester
Ancel of Calais	Bissonnette of Winooski	Browning of Arlington
Andrews of Rutland City	Bohi of Hartford	Burke of Brattleboro
Aswad of Burlington	Branagan of Georgia	Cheney of Norwich

Clarkson of Woodstock	Johnson of South Hero	O'Brien of Richmond
Clerkin of Hartford	Keenan of St. Albans City	Obuchowski of Rockingham
Conquest of Newbury	Kitzmiller of Montpelier	Orr of Charlotte
Consejo of Sheldon	Klein of East Montpelier	Partridge of Windham
Copeland-Hanzas of Bradford	Koch of Barre Town	Pellett of Chester
Corcoran of Bennington	Lanpher of Vergennes	Peltz of Woodbury
Corcelle of Rutland City	Larocque of Barnet	Potter of Clarendon
Crawford of Burke	Larson of Burlington	Ram of Burlington
Deen of Westminster	Lenes of Shelburne	Reis of St. Johnsbury
Donaghy of Poultney	Leriche of Hardwick	Rodgers of Glover *
Donovan of Burlington	Lippert of Hinesburg	Shand of Weathersfield
Edwards of Brattleboro	Lorber of Burlington	Sharpe of Bristol
Emmons of Springfield	Macaig of Williston	Smith of Mendon
Evans of Essex	Maier of Middlebury	South of St. Johnsbury
Fagan of Rutland City	Malcolm of Pawlet	Spengler of Colchester
Fisher of Lincoln	Manwaring of Wilmington	Stevens of Waterbury
Frank of Underhill	Marek of Newfane	Stevens of Shoreham
French of Shrewsbury	Martin of Springfield	Sweaney of Windsor
French of Randolph	Martin of Wolcott	Taylor of Barre City
Geier of South Burlington	Masland of Thetford	Till of Jericho
Gilbert of Fairfax	McCullough of Williston	Toll of Danville
Grad of Moretown	McFaun of Barre Town	Townsend of Randolph
Greshin of Warren	Milkey of Brattleboro	Waite-Simpson of Essex
Haas of Rochester	Miller of Shaftsbury	Webb of Shelburne
Head of South Burlington	Minter of Waterbury	Westman of Cambridge
Heath of Westford	Mitchell of Barnard	Weston of Burlington
Hooper of Montpelier	Mook of Bennington	Wilson of Manchester
Howard of Rutland City	Moran of Wardsboro	Wizowaty of Burlington
Howrigan of Fairfield	Mrowicki of Putney	Young of St. Albans City
Jerman of Essex	Myers of Essex	Zenie of Colchester
Jewett of Ripton	Nease of Johnson	Zuckerman of Burlington
	Nuovo of Middlebury	

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

Botzow of Pownal	Davis of Washington	Trombley of Grand Isle
Condon of Colchester	Poirier of Barre City	Wright of Burlington

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

If our economic situation this year demands tax increases, we cannot add them one bite at a time without being able to see the overall impact. Even pennies grow into dollars.”

Rep. Rodgers of Glover explained his vote as follows:

“Mr. Speaker:

To do nothing is irresponsible. Poor roads cost Vermonters much more in

auto repairs than a motor fuel assessment will cost them.”

Pending third reading of the bill, **Reps. Marcotte of Coventry and Kilmartin of Newport City** moved to amend the bill as follows:

By striking out Sec. 59 in its entirety and inserting in lieu thereof the following:

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~~ (a) 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 \$10,850,000.00;

(2) in fiscal year 2011 not exceed \$8,350,000.00; and

(3) in fiscal year 2012 not exceed \$5,250,000.00.

(b) In fiscal year 2013 no transportation funds shall be appropriated to the department of public safety.

Thereupon, **Rep. Marcotte of Coventry** asked and was granted leave of the House to withdraw his amendment.

Pending third reading of the bill, **Reps. Kilmartin of Newport City and Marcotte of Coventry** moved to moved to amend the bill by striking Secs. 31, 23 V.S.A. § 3032, and 32, 23 V.S.A. § 3175, in their entirety and by deleting Secs. 31 and 32.

Pending the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? **Rep. Kilmartin of Newport City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 49. Nays, 96.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton

Baker of West Rutland
Branagan of Georgia
Browning of Arlington

Canfield of Fair Haven
Clark of Vergennes
Clerkin of Hartford

Crawford of Burke	Kilmartin of Newport City	O'Donnell of Vernon
Devereux of Mount Holly	Koch of Barre Town	Pearce of Richford
Dickinson of St. Albans Town	Komline of Dorset	Peaslee of Guildhall
Donaghy of Poultney	Krawczyk of Bennington	Perley of Enosburg
Donahue of Northfield	Lawrence of Lyndon	Pugh of South Burlington
Fagan of Rutland City	Lewis of Derby	Reis of St. Johnsbury
Flory of Pittsford	Marcotte of Coventry	Savage of Swanton
Greshin of Warren	McAllister of Highgate	Scheuermann of Stowe
Higley of Lowell	McDonald of Berlin	Stevens of Shoreham
Hube of Londonderry	McFaun of Barre Town	Turner of Milton
Hubert of Milton	McNeil of Rutland Town	Wheeler of Derby
Johnson of South Hero	Morley of Barton	Winters of Williamstown
Johnson of Canaan	Morrissey of Bennington	Wright of Burlington
	Myers of Essex	

Those who voted in the negative are:

Ancel of Calais	Heath of Westford	Nease of Johnson
Andrews of Rutland City	Helm of Castleton	Nuovo of Middlebury
Aswad of Burlington	Hooper of Montpelier	O'Brien of Richmond
Atkins of Winooski	Howard of Rutland City	Obuchowski of Rockingham
Audette of South Burlington	Howrigan of Fairfield	Orr of Charlotte
Bissonnette of Winooski	Jerman of Essex	Partridge of Windham
Bohi of Hartford	Jewett of Ripton	Pellett of Chester
Botzow of Pownal	Keenan of St. Albans City	Peltz of Woodbury
Bray of New Haven	Kitzmillier of Montpelier	Potter of Clarendon
Brennan of Colchester	Klein of East Montpelier	Ram of Burlington
Burke of Brattleboro	Lanpher of Vergennes	Rodgers of Glover
Cheney of Norwich	Larocque of Barnet	Shand of Weathersfield
Clarkson of Woodstock	Larson of Burlington	Sharpe of Bristol
Conquest of Newbury	Lenes of Shelburne	Smith of Mendon
Consejo of Sheldon	Leriche of Hardwick	South of St. Johnsbury
Copeland-Hanzas of Bradford *	Lippert of Hinesburg	Spengler of Colchester
Corcoran of Bennington	Lorber of Burlington	Stevens of Waterbury
Courcelle of Rutland City	Macaig of Williston	Sweaney of Windsor
Deen of Westminster	Maier of Middlebury	Taylor of Barre City
Donovan of Burlington	Malcolm of Pawlet	Till of Jericho
Edwards of Brattleboro	Manwaring of Wilmington	Toll of Danville
Emmons of Springfield	Marek of Newfane	Townsend of Randolph
Evans of Essex	Martin of Springfield	Waite-Simpson of Essex
Fisher of Lincoln	Martin of Wolcott	Webb of Shelburne
Frank of Underhill	Masland of Thetford	Westman of Cambridge
French of Shrewsbury	McCullough of Williston	Weston of Burlington
French of Randolph	Milkey of Brattleboro	Wilson of Manchester
Geier of South Burlington	Miller of Shaftsbury	Wizowaty of Burlington
Gilbert of Fairfax	Minter of Waterbury	Young of St. Albans City
Grad of Moretown	Mitchell of Barnard	Zenie of Colchester
Haas of Rochester	Mook of Bennington	Zuckerman of Burlington
Head of South Burlington	Moran of Wardsboro	
	Mrowicki of Putney	

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

Condon of Colchester
Davis of Washington

Poirier of Barre City
Trombley of Grand Isle

Rep. Copeland-Hanzas of Bradford explained her vote as follows:

“Mr. Speaker:

Even with a CPI adjustment, the fuel assessment will be far cheaper than the suspension work my car requires every other month.”

Pending third reading of the bill, **Rep. Brennan of Colchester** moved to amend the bill as follows:

By adding a Sec. 34a to read as follows:

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:

* * *

Which was agreed to.

Pending third reading of the bill, **Rep. Turner of Milton** moved to amend the bill as follows:

By inserting a new Sec. 82 to read:

Sec. 82. 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.

and by renumbering the existing Sec. 82 (Effective date) to be Sec. 83

Which was agreed to.

Pending third reading of the bill, **Rep. Sharp of Bristol** moved to amend the bill as follows:

By adding Secs. 81a and 81b to read as follows:

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.

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. McDonald of Berlin** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 108. Nays, 35.

Those who voted in the affirmative are:

Acinapura of Brandon
Adams of Hartland
Ainsworth of Royalton
Ancel of Calais *
Andrews of Rutland City
Aswad of Burlington

Atkins of Winooski
Audette of South Burlington
Bissonnette of Winooski
Bohi of Hartford
Botzow of Pownal
Branagan of Georgia

Bray of New Haven
Brennan of Colchester
Browning of Arlington
Burke of Brattleboro
Cheney of Norwich
Clarkson of Woodstock

Clerkin of Hartford	Keenan of St. Albans City	Partridge of Windham
Conquest of Newbury	Kitzmiller of Montpelier	Pellett of Chester
Consejo of Sheldon	Klein of East Montpelier	Peltz of Woodbury
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Potter of Clarendon
Corcoran of Bennington	Larocque of Barnet	Ram of Burlington
Courcelle of Rutland City	Larson of Burlington	Reis of St. Johnsbury
Crawford of Burke	Lenes of Shelburne	Rodgers of Glover
Donaghy of Poultney	Leriche of Hardwick	Shand of Weathersfield
Donovan of Burlington	Lippert of Hinesburg	Sharpe of Bristol
Edwards of Brattleboro	Lorber of Burlington	Smith of Mendon
Emmons of Springfield	Macaig of Williston	South of St. Johnsbury
Evans of Essex	Maier of Middlebury	Spengler of Colchester
Fagan of Rutland City	Malcolm of Pawlet	Stevens of Waterbury
Fisher of Lincoln	Manwaring of Wilmington	Stevens of Shoreham
Frank of Underhill	Marek of Newfane *	Sweaney of Windsor
French of Shrewsbury	Martin of Springfield	Taylor of Barre City
French of Randolph	Martin of Wolcott	Till of Jericho
Geier of South Burlington	Masland of Thetford	Toll of Danville
Gilbert of Fairfax	McCullough of Williston	Townsend of Randolph
Grad of Moretown	Milkey of Brattleboro	Turner of Milton
Greshin of Warren	Miller of Shaftsbury	Waite-Simpson of Essex
Haas of Rochester	Minter of Waterbury *	Webb of Shelburne
Head of South Burlington	Mitchell of Barnard	Westman of Cambridge
Heath of Westford	Mook of Bennington	Weston of Burlington
Hooper of Montpelier	Moran of Wardsboro	Wilson of Manchester
Howard of Rutland City	Mrowicki of Putney *	Wizowaty of Burlington
Howrigan of Fairfield	Nease of Johnson	Young of St. Albans City
Jerman of Essex	Nuovo of Middlebury	Zenie of Colchester
Jewett of Ripton	O'Brien of Richmond	Zuckerman of Burlington *
Johnson of South Hero	Obuchowski of Rockingham	
	Orr of Charlotte	

Those who voted in the negative are:

Baker of West Rutland	Johnson of Canaan	Morley of Barton
Canfield of Fair Haven	Kilmartin of Newport City *	Morrissey of Bennington *
Clark of Vergennes *	Koch of Barre Town	Myers of Essex
Devereux of Mount Holly	Komline of Dorset	O'Donnell of Vernon
Dickinson of St. Albans Town	Krawczyk of Bennington	Pearce of Richford
Donahue of Northfield	Lawrence of Lyndon	Peaslee of Guildhall
Flory of Pittsford *	Lewis of Derby	Perley of Enosburg
Helm of Castleton	Marcotte of Coventry	Savage of Swanton *
Higley of Lowell	McAllister of Highgate	Scheuermann of Stowe
Hube of Londonderry	McDonald of Berlin *	Wheeler of Derby
Hubert of Milton	McFaun of Barre Town	Winters of Williamstown
	McNeil of Rutland Town	Wright of Burlington

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

Condon of Colchester	Deen of Westminster	Pugh of South Burlington
Davis of Washington	Poirier of Barre City	Trombley of Grand Isle

Rep. Ancel of Calais explained her vote as follows:

“Mr. Speaker:

This bill is a critical step toward maintaining our roads and bridges. This is simply a smart investment.”

Rep. Clark of Vergennes explained his vote as follows:

“Mr. Speaker:

I cannot support raising any taxes or indexing of the proposed gas tax while the appropriations bill, which also promotes raising taxes, has not been resolved.”

Rep. Flory of Pittsford explained her vote as follows:

“Mr. Speaker:

This is a difficult vote for me because a project in my District that I have fought hard for 10 years is in this bill. However, I cannot support increasing a gas tax until we have stopped raiding the transportation fund

This year, with over 160 million coming in from the stimulus funds, was the ideal time to stop this decades old raid.”

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

“Mr. Speaker:

I vote no. I cannot support a highly regressive fuel tax increase, automatic increases for existing furl taxes, and a continuation of robbing the transportation fund to pay for other fundamental government services. I cannot be party to increasing taxes citizens of the Northeast Kingdom, while we give future tax monies to those who have created our current economic tsunami which threatens our continued existence as individuals and a body politic.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

Every Vermonter knows the sorry state of our roads and bridges. They will not improve without more money no matter how much we wish they would. This bill begins the long task of doing so.”

Rep. McDonald of Berlin explained her vote as follows:

“Mr. Speaker:

I have a great deal of respect for the Chair of the House Transportation committee and the hard work done by committee members under his

leadership

This bill is a good bill – one I would like to support. I have been a supporter of bonding for roads, bridges and culverts while serving as Secretary of Transportation and I certainly support the funding to municipalities contained in this bill.

But these are troubling economic times for all Vermonters. Without knowing the impact of the total tax package that will undoubtedly be presented to this body, along with the gas and diesel tax and indexing provisions contained in this bill, I felt I needed to vote no.”

Rep. Minter of Waterbury explained her vote as follows:

“Mr. Speaker:

I voted yes because the time has come to stop the downward spiral of our crumbling bridges and roads. 36 percent of the roads in very poor condition, 16 percent of bridges structurally deficient and a \$23 million dollar decline in the transportation fund this year. Enough is enough. Let’s take responsibility for fixing these serious problems now rather than leaving a bigger bill to others in the future.”

Rep. Morrissey of Bennington explained her vote as follows:

“Mr. Speaker:

I truly appreciate the hard work of the transportation committee, however, I cannot support a five cent gas tax at this time when we don’t have a complete tax revenue policy plan before us.

Our tax payers deserve, especially in these difficult times, a clear understanding of what the raid will be on their wallet.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

Even though this bill probably won’t help the mud road that I live on, I voted to address the long-defeated and sorry conditions of our roads and bridges.

As has been said earlier in the session, we can’t cut our way out of this problem. It’s time to pay the piper and repair our roads and bridges.”

Rep. Savage of Swanton explained his vote as follows:

“Mr. Speaker:

Although I know as we all know that our roads and bridges need much needed attention, I cannot support legislation that includes automatic tax increase based upon an index.”

Rep. Zuckerman of Burlington explained his vote as follows:

“Mr. Speaker:

My mom and dad always told me you can’t get something for nothing. I would rather have tourists pay for their share of the maintenance, rather than put 100% of the burden on Vermonters through the alternative, increased fees.”

Message from the Senate No. 28

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 38. An act relating to requiring the Department of Finance and Management to annually publish on its website a report on grants issued by executive branch agencies.

S. 125. An act relating to expanding the sex offender registry.

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

Adjournment

At four o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.