

Journal of the House

Saturday, May 9, 2009

Rep. Jewett in Chair.

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

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Rules Suspended; Report of Committee of Conference Adopted; Rules Suspended and Bill Messaged to the Senate Forthwith

S. 125

On motion of **Rep. McDonald of Berlin**, the rules were suspended and House bill, entitled

An act relating to expanding the sex offender registry

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the House recede from its proposals of amendment, and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. COMPLIANCE WITH THE ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006

(a) The Act. The Adam Walsh Child Protection and Safety Act of 2006 was signed by President George W. Bush in 2006. While well-intended, it contains a broad span of provisions that would significantly change state practice related to the registration and management of sex offenders in Vermont in a manner that is inconsistent with widely accepted evidence-based best practices at a substantial financial cost to the state. In comments directed to the U.S. Department of Justice regarding proposed guidelines to interpret and implement the Act, the National Conference of State Legislatures called

the guidelines a “burdensome,” “preemptive,” “unfunded mandate” for the states, requiring every legislature to undertake an extensive review of its laws as compared to the Act and necessitating changes to state policy traditionally within the purview of the states.

(b) No state is in compliance. Due to the complexity and costs associated with the Act, as of February 1, 2009, no state has been certified to be in substantial compliance with the Act. States are required to comply with the Act by July 27, 2009 or lose 10 percent of the state’s federal Byrne/JAG funds, although Vermont has recently received a one-year extension from the Office of Justice Programs’ SMART office, which is responsible for regulations and compliance under the Act.

(c) Constitutional challenges. The Act is currently being challenged on a number of constitutional grounds in both federal and state courts at a substantial cost to many states. In addition, registry requirements and the consequences for failure to comply with them have expanded so significantly in recent years that imposition of such requirements on offenders may now violate the constitutional ban on retroactive punishment.

(d) Risk assessments. Vermont has adopted a practice of assigning offender risk levels through the use of actuarial risk assessment instruments. These instruments use a predetermined range of variables that have high correlation to sexual recidivism such as criminal history, victim profile, and age at time of offense to determine an offender’s potential risk of recidivism.

The Adam Walsh Act mandates an entirely different offense tier structure and demands that risk determination be based solely on an offender’s crime of conviction, not on an actuarial risk assessment score. According to the most recent research, using crime of conviction as the primary method of determining offender risk is a far less reliable predictor of reoffense than is the use of actuarial tools.

(e) Retroactive application and juveniles. Regulations issued by former U.S. Attorney General Alberto Gonzales require states to apply the requirements of the Act retroactively, requiring Vermont to retier all sexual offenders, some of whom are currently beyond their duty to register. The retroactive application also applies to juveniles adjudicated delinquent for certain sexual offenses, even though they are currently not required to be registered under state law. Even though such juveniles were afforded the protections of the juvenile system at the time of their plea, they would now be subject to a registration term as long as 25 years with no opportunity to petition for relief and be subject to inclusion on the Internet sex offender registry.

Sec. 2. 13 V.S.A. § 2635a is added to read:

§ 2635A. SEX TRAFFICKING OF CHILDREN; SEX TRAFFICKING OF
ANY PERSON BY FORCE, FRAUD, OR COERCION

(a) As used in this section:

(1) "Coercion" means:

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious bodily harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process.

(2) "Commercial sex act" means any sex act on account of which anything of value is promised to, given to, or received by any person.

(3) "Venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

(b) No person shall knowingly:

(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;

(2) compel a person through force, fraud, or coercion to engage in a commercial sex act; or

(3) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture.

(c) A person who violates subsection (b) of this section shall be imprisoned for a term up to and including life or fined not more than \$25,000.00 or both.

(d)(1) A person who is a victim of sex trafficking as defined in this section shall not be found in violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a direct result of the sex trafficking or which benefits a sex trafficker.

(2) If a person who is a victim of sex trafficking as defined in this section is prosecuted for any offense, other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title, which arises out of the sex trafficking or benefits a sex trafficker, the person may raise as an

affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

Sec. 3. 13 V.S.A. § 5301(7) is amended to read:

(7) For the purpose of this chapter, “listed crime” means any of the following offenses:

* * *

(AA) the attempt to commit any of the offenses listed in this section;
~~and~~

(BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title); and

(CC) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in section 2635a of this title.

* * * Minor Disseminating Indecent Material (“Sexting”) * * *

Sec. 4. 13 V.S.A. § 2802b is added to read:

§ 2802b. MINOR ELECTRONICALLY DISSEMINATING INDECENT
MATERIAL TO ANOTHER PERSON

(a)(1) No minor shall knowingly and voluntarily and without threat or coercion use a computer or electronic communication device to transmit an indecent visual depiction of himself or herself to another person.

(2) No person shall possess a visual depiction transmitted to the person in violation of subdivision (1) of this subsection. It shall not be a violation of this subdivision if the person took reasonable steps, whether successful or not, to destroy or eliminate the visual depiction.

(b) Penalties; minors.

(1) Except as provided in subdivision (3) of this subsection, a minor who violates subsection (a) of this section shall be adjudicated delinquent. An action brought under this subdivision (1) shall be filed in family court and treated as a juvenile proceeding pursuant to chapter 52 of Title 33, and may be referred to the juvenile diversion program of the district in which the action is filed.

(2) A minor who violates subsection (a) of this section and who has not previously been adjudicated in violation of that section shall not be prosecuted under chapter 64 of this title (sexual exploitation of children), and shall not be

subject to the requirements of subchapter 3 of chapter 167 of this title (sex offender registration).

(3) A minor who violates subsection (a) of this section who has previously been adjudicated in violation of that section may be adjudicated in family court as under subdivision (b)(1) of this section or prosecuted in district court under chapter 64 of this title (sexual exploitation of children), but shall not be subject to the requirements of subchapter 3 of chapter 167 of this title (sex offender registration).

(4) Notwithstanding any other provision of law, the records of a minor who is adjudicated delinquent under this section shall be expunged when the minor reaches 18 years of age.

(c) Penalties; adults. A person 18 years of age or older who violates subdivision (a)(2) of this section shall be fined not more than \$300.00 or imprisoned for not more than six months or both.

(d) This section shall not be construed to prohibit a prosecution under section 1027 (disturbing the peace by use of telephone or electronic communication), 2601 (lewd and lascivious conduct), 2605 (voyeurism), or 2632 (prohibited acts) of this title, or any other applicable provision of law.

Sec. 5. Sec. 4 of No. 192 of the Acts of the 2005 Adj. Sess. (2006) is amended to read:

Sec. 4. SEXUAL VIOLENCE PREVENTION TASK FORCE

(a) The general assembly acknowledges that many diverse organizations in Vermont currently provide sexual violence prevention education in Vermont schools with minimal financial support from the state. In order to further the goal of comprehensive, collaborative statewide sexual violence prevention efforts, the antiviolence partnership at the University of Vermont shall convene a task force to identify opportunities for sexual violence prevention education in Vermont schools. The task force shall conduct an inventory of sexual violence prevention activities currently offered by Vermont schools and by nonprofit and other nongovernmental organizations, and shall, as funding allows, provide information to them concerning the changes to law made by this act and concerning the consequences of sexual activity among minors, including the risks of using computers and electronic communication devices to transmit indecent and inappropriate images. As funding allows, the task force shall include the information collected under this subsection in education and outreach programs for minors, parents, teachers, court diversion programs, restorative justice programs, and the community.

* * *

* * * Sex Offender Registry * * *

Sec. 6. 13 V.S.A. § 5401(10) is amended to read;

(10) “Sex offender” means:

(A) A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:

- (i) sexual assault as defined in 13 V.S.A. § 3252~~;~~
- (ii) aggravated sexual assault as defined in 13 V.S.A. § 3253~~;~~
- (iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601~~;~~
- (iv) sexual abuse of a vulnerable adult as defined in 13 V.S.A. § 1379~~;~~
- (v) second or subsequent conviction for voyeurism as defined in 13 V.S.A. § 2605(b) or (c)~~;~~
- (vi) kidnapping with intent to commit sexual assault as defined in 13 V.S.A. § 2405(a)(1)(D)~~;~~ ~~and~~

(vii) a federal conviction in federal court for any of the following offenses:

- (I) Sex trafficking of children as defined in 18 U.S.C. § 1591.
- (II) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.
- (III) Sexual abuse as defined in 18 U.S.C. § 2242.
- (IV) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.
- (V) Abusive sexual contact as defined in 18 U.S.C. § 2244.
- (VI) Offenses resulting in death as defined in 18 U.S.C. § 2245.
- (VII) Sexual exploitation of children as defined in 18 U.S.C. § 2251.
- (VIII) Selling or buying of children as defined in 18 U.S.C. § 2251A.
- (IX) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.
- (X) Material containing child pornography as defined in 18 U.S.C. § 2252A.

(XI) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.

(XII) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.

(XIII) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.

(XIV) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.

(XV) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

~~(vii)~~(ix) an attempt to commit any offense listed in this subdivision (A).

(B) A person who is convicted of any of the following offenses against a victim who is a minor, except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old:

(i) any offense listed in subdivision (A) of this subdivision ~~(10)~~;

(ii) kidnapping as defined in 13 V.S.A. § 2405(a)(1)(D);

(iii) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602;

(iv) ~~white~~ slave traffic as defined in 13 V.S.A. § 2635;

(v) sexual exploitation of children as defined in 13 V.S.A. chapter 64;

(vi) ~~or~~ procurement or solicitation as defined in 13 V.S.A. § 2632(a)(6);

(vii) aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a.

(viii) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in 13 V.S.A. § 2635a.

(ix) sexual exploitation of a minor as defined in 13 V.S.A. § 3258(b).

(x) an attempt to commit any offense listed in this subdivision (B).

(C) A person who takes up residence within this state, other than within a correctional facility, and who has been convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court, for a sex crime the elements of which would constitute a crime under subdivision ~~(10)(A)~~ or (B) of this ~~section~~ subdivision (10) if committed in this state.

(D) A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state, was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision, conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old.

~~(D)~~(E) A nonresident sex offender who crosses into Vermont and who is employed, carries on a vocation, or is a student.

Sec. 7. 13 V.S.A. § 5407 is amended to read:

§ 5407. SEX OFFENDER'S RESPONSIBILITY TO REPORT

* * *

(g) The department shall adopt forms and procedures for the purpose of verifying the addresses of persons required to register under this subchapter in accordance with the requirements set forth in section (b)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. Every 90 days for sexually violent predators and annually for other registrants, the department shall verify addresses of registrants by sending a nonforwardable address verification form to each registrant at the address last reported by the registrant. The registrant shall be required to sign and return the form to the department within 10 days of receipt. If the registrant's name appears on the list of address verification forms automatically generated by the registry, it shall be deemed that the sex offender has received that form.

* * *

Sec. 8. 13 V.S.A. § 5409 is amended to read:

§ 5409. PENALTIES

(a) Except as provided in subsection (b) of this section, a sex offender who knowingly fails to comply with any provision of this subchapter shall:

(1) Be imprisoned for not more than two years or fined not more than \$1,000.00, or both. A sentence imposed under this subdivision shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(2) For the second or subsequent offense, be imprisoned not more than three years or fined not more than \$5,000.00, or both. A sentence imposed under this subdivision shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(b) A sex offender who knowingly fails to comply with any provision of this subchapter for a period of more than five consecutive days shall be imprisoned not more than five years or fined not more than \$5,000.00, or both. A sentence imposed under this subsection shall run consecutively to any sentence being served by the sex offender at the time of sentencing.

(c) It shall be presumed that every sex offender knows and understands his or her obligations under this subchapter.

(d)(1) An affidavit by the administrator of the sex offender registry which describes the failure to comply with the provisions of this subchapter shall be prima facie evidence of a violation of this subchapter.

(2) Certified records of the sex offender registry shall be admissible into evidence as business records.

* * * Internet Sex Offender Registry * * *

Sec. 9. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding sections 2056a-2056e of Title 20, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of ~~a violation of section 3253 of this title (aggravated sexual assault), section 2602 of this title (lewd or lascivious conduct with child)~~ if the offender has been designated as high risk by the department of corrections pursuant to ~~section 5411b of this title, or~~

~~subdivision 2405(a)(1)(D) of this title if a registrable offense (kidnapping and sexual assault of a child):~~

(A) Aggravated sexual assault of a child (13 V.S.A. § 3253a).

(B) Aggravated sexual assault (13 V.S.A. § 3253).

(C) Sexual assault (13 V.S.A. § 3252).

(D) Kidnapping with intent to commit sexual assault (13 V.S.A. § 2405(a)(1)(D)).

(E) Lewd or lascivious conduct with child (13 V.S.A. § 2602).

(F) A second or subsequent conviction for voyeurism (13 V.S.A. § 2605(b) or (c)).

(G) Slave traffic if a registrable offense under subdivision 5401 (10)(B)(iv) of this title (13 V.S.A. § 2635).

(H) Sex trafficking of children or sex trafficking by force, fraud, or coercion (13 V.S.A. § 2635a).

(I) Sexual exploitation of a minor (13 V.S.A. § 3258(b)).

(J) Any offense regarding the sexual exploitation of children (chapter 64 of this title).

(K) Sexual abuse of a vulnerable adult (13 V.S.A. § 1379).

(L) A federal conviction in federal court for any of the following offenses:

(i) Sex trafficking of children as defined in 18 U.S.C. § 1591.

(ii) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.

(iii) Sexual abuse as defined in 18 U.S.C. § 2242.

(iv) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.

(v) Abusive sexual contact as defined in 18 U.S.C. § 2244.

(vi) Offenses resulting in death as defined in 18 U.S.C. § 2245.

(vii) Sexual exploitation of children as defined in 18 U.S.C. § 2251.

(viii) Selling or buying of children as defined in 18 U.S.C. § 2251A.

(ix) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.

(x) Material containing child pornography as defined in 18 U.S.C. § 2252A.

(xi) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.

(xii) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.

(xiii) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.

(xiv) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.

(xv) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

(2) Sex offenders who have at least one prior conviction for an offense described in subdivision 5401(10) of this subchapter.

(3) Sex offenders who have failed to comply with sex offender registration requirements and for whose arrest there is an outstanding warrant for such noncompliance. Information on offenders shall remain on the Internet only while the warrant is outstanding.

(4) Sex offenders who have been designated as sexual predators pursuant to section 5405 of this title.

(5)(A) Sex offenders who have not complied with sex offender treatment recommended by the department of corrections or who are ineligible for sex offender treatment. The department of corrections shall establish rules for the administration of this subdivision and shall specify what circumstances constitute noncompliance with treatment and criteria for ineligibility to participate in treatment. Offenders subject to this provision shall have the right to appeal the department of corrections' determination in superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure. This subdivision shall apply prospectively and shall not apply to those sex offenders who did not comply with treatment or were ineligible for treatment prior to March 1, 2005.

(B) The department of corrections shall notify the department if a sex offender who is compliant with sex offender treatment completes his or her

sentence but has not completed sex offender treatment. As long as the offender complies with treatment, the offender shall not be considered noncompliant under this subdivision and shall not be placed on the Internet registry in accordance with this subdivision alone. However, the offender shall submit to the department proof of continuing treatment compliance every three months. Proof of compliance shall be a form provided by the department that the offender's treatment provider shall sign, attesting to the offender's continuing compliance with recommended treatment. Failure to submit such proof as required under this subdivision (B) shall result in the offender's placement on the Internet registry in accordance with subdivision (A) of this subdivision (5).

(6) Sex offenders who have been designated by the department of corrections, pursuant to section 5411b of this title, as high-risk.

(7) A person 18 years of age or older who resides in this state, other than in a correctional facility, and who is currently or, prior to taking up residence within this state was required to register as a sex offender in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court; except that, for purposes of this subdivision:

(A) conduct which is criminal only because of the age of the victim shall not be considered an offense for purposes of the registry if the perpetrator is under the age of 18 and the victim is at least 12 years old; and

(B) information shall only be posted electronically if the offense for which the person was required to register in the other jurisdiction was:

(i) a felony; or

(ii) a misdemeanor punishable by six months or more of imprisonment.

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

- (1) the offender's name and any known aliases;
- (2) the offender's date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender's town of residence;
- (6) the date and nature of the offender's conviction;

(7) if the offender is under the supervision of the department of corrections, the name and telephone number of the local department of corrections office in charge of monitoring the sex offender;

(8) whether the offender complied with treatment recommended by the department of corrections;

(9) a statement that there is an outstanding warrant for the offender's arrest, if applicable; ~~and~~

(10) the reason for which the offender information is accessible under this section;

(11) whether the offender has been designated high-risk by the department of corrections pursuant to section 5411b of this title; and

(12) if the offender has not been subject to a risk assessment, a statement that the offender has not been so assessed and that such a person is presumed to be high risk, provided that the department shall permit a person subject to this subdivision to obtain a risk assessment at the person's own expense.

(c) The department shall have the authority to take necessary steps to obtain digital photographs of offenders whose information is required to be posted on the Internet and to update photographs as necessary. An offender ~~who is requested by the department to~~ shall annually report to the department or a local law enforcement agency for the purpose of being photographed for the Internet ~~shall comply with the request within 30 days.~~

(d) An offender's street address shall not be posted electronically. The identity of a victim of an offense that requires registration shall not be released.

(e) Information regarding a sex offender shall not be posted electronically if the conduct that is the basis for the offense is criminal only because of the age of the victim and the perpetrator is within 38 months of age of the victim.

(f) Information regarding a sex offender shall not be posted electronically prior to the offender reaching the age of 18, but such information shall be otherwise available pursuant to section 5411 of this title.

(g) Information on sex offenders shall be posted on the Internet for the duration of time for which they are subject to notification requirements under section 5401 et seq. of this title.

(h) Posting of the information shall include the following language: "This information is made available for the purpose of complying with 13 V.S.A. § 5401 et seq., which requires the Department of Public Safety to establish and

maintain a registry of persons who are required to register as sex offenders and to post electronically information on sex offenders. The registry is based on the legislature's decision to facilitate access to publicly available information about persons convicted of sexual offenses. EXCEPT FOR OFFENDERS SPECIFICALLY DESIGNATED ON THIS SITE AS HIGH-RISK, THE DEPARTMENT OF PUBLIC SAFETY HAS NOT CONSIDERED OR ASSESSED THE SPECIFIC RISK OF REOFFENSE WITH REGARD TO ANY INDIVIDUAL PRIOR TO HIS OR HER INCLUSION WITHIN THIS REGISTRY AND HAS MADE NO DETERMINATION THAT ANY INDIVIDUAL INCLUDED IN THE REGISTRY IS CURRENTLY DANGEROUS. THE MAIN PURPOSE OF PROVIDING THIS DATA ON THE INTERNET IS TO MAKE INFORMATION MORE EASILY AVAILABLE AND ACCESSIBLE, NOT TO WARN ABOUT ANY SPECIFIC INDIVIDUAL. IF YOU HAVE QUESTIONS OR CONCERNS ABOUT A PERSON WHO IS NOT LISTED ON THIS SITE OR YOU HAVE QUESTIONS ABOUT SEX OFFENDER INFORMATION LISTED ON THIS SITE, PLEASE CONTACT THE DEPARTMENT OF PUBLIC SAFETY OR YOUR LOCAL LAW ENFORCEMENT AGENCY. PLEASE BE AWARE THAT MANY NONOFFENDERS SHARE A NAME WITH A REGISTERED SEX OFFENDER. Any person who uses information in this registry to injure, harass, or commit a criminal offense against any person included in the registry or any other person is subject to criminal prosecution."

(i) The department shall post electronically general information about the sex offender registry and how the public may access registry information. Electronically posted information regarding sex offenders listed in subsection (a) of this section shall be organized and available to search by the sex offender's name and the sex offender's county, city, or town of residence.

(j) The department shall adopt rules for the administration of this section and shall expedite the process for the adoption of such rules. The department shall not implement this section prior to the adoption of such rules.

(k) If a sex offender's information is required to be posted electronically pursuant to subdivision (a)(2) of this section, the department shall list the offender's convictions for any crime listed in subdivision 5401(10) of this title, regardless of the date of the conviction or whether the offender was required to register as a sex offender based upon that conviction.

Sec. 10. 13 V.S.A. § 5411b is amended to read:

§ 5411b. DESIGNATION OF HIGH-RISK SEX OFFENDER

(a) The department of corrections ~~may~~ shall evaluate a sex offender for the purpose of determining whether the offender is "high-risk" as defined in

section 5401 of this title. The designation of high-risk under this section is for the purpose of identifying an offender as one who should be subject to increased public access to his or her status as a sex offender and related information, including ~~internet~~ Internet access.

(b) After notice and an opportunity to be heard, a sex offender who is designated as high-risk shall have the right to appeal de novo to the superior court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(c) The department of corrections shall adopt rules for the administration of this section. The department of corrections shall not implement this section prior to the adoption of such rules.

(d) The department of corrections shall identify those sex offenders under the supervision of the department as of the date of passage of this act who are high-risk and shall designate them as such no later than ~~September 1, 2005~~ September 1, 2009.

Sec. 11. APPLICABILITY

Secs. 6, 9, and 14 of this act (sex offender registry and Internet sex offender registry) shall apply only to the following persons:

(1) A person convicted prior to the effective date of this act who is under the supervision of the department of corrections except as provided in subdivision (3)(A) of this section.

(2) A person convicted on or after the effective date of this act.

(3)(A) A person convicted prior to the effective date of this act of a crime committed in this state who is not under the supervision of the department of corrections and is subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13, or a person convicted prior to the effective date of this act of lewd or lascivious conduct with a child in violation of 13 V.S.A. § 2602 or a second or subsequent conviction for voyeurism in violation of 13 V.S.A. § 2605(b) or (c) who is under the supervision of the department of corrections, unless the sex offender review committee determines pursuant to the requirements of this subdivision (3), taking into account whether the person has been charged or convicted of a criminal offense or a probation or parole violation since being placed on the registry, that the person has successfully reintegrated into the community.

(B)(i) No person's name shall be posted electronically pursuant to subdivision (3)(A) of this section before October 1, 2009.

(ii) On or before July 1, 2009, the department of public safety shall provide notice of the right to petition under this subdivision (3)(B) to all

persons convicted prior to the effective date of this act who are not under the supervision of the department of corrections and are subject to sex offender registry requirements under subchapter 3 of chapter 167 of Title 13.

(iii) A person seeking a determination from the sex offender review committee that he or she is not subject to subdivision (3)(A) of this section shall file a petition with the committee before October 1, 2009. If a petition is filed before October 1, 2009, the petitioner's name shall not be posted electronically pursuant to subdivision (3)(A) of this section until after the sex offender review committee has ruled on the petition.

(C) All decisions made by the sex offender review committee under subdivision (3)(A) of this section shall be reviewed and approved by the commissioner of the department of corrections. The agency of human services shall adopt emergency rules which establish criteria for the commissioner's decision.

* * * Sex Offender Name Changes * * *

Sec. 12. 15 V.S.A. § 817 is added to read:

§ 817. CONSULTATION OF SEX OFFENDER REGISTRY WHEN FORM
FILED

Upon receipt of a change-of-name form submitted pursuant to section 811 of this title, the probate court shall request the department of public safety to determine whether the person's name appears on the sex offender registry established by section 5402 of Title 13. If the person's name appears on the registry, the probate court shall not permit the person to change his or her name unless it finds, after permitting the department of public safety to appear, that there is a compelling purpose for doing so.

Sec. 13. 13 V.S.A. § 5402 is amended to read:

§ 5402. SEX OFFENDER REGISTRY

(a) The department of public safety shall establish and maintain a sex offender registry, which shall consist of the information required to be filed under this subchapter.

(b) All information contained in the registry may be disclosed for any purpose permitted under the law of this state, including use by:

(1) local, state, and federal law enforcement agencies exclusively for lawful law enforcement activities;

(2) state and federal governmental agencies for the exclusive purpose of conducting confidential background checks;

(3) any employer, including a school district, who is authorized by law to request records and information from the Vermont criminal information center, where such disclosure is necessary to protect the public concerning persons required to register under this subchapter. The identity of a victim of an offense that requires registration shall not be released; ~~and~~

(4) a person identified as a sex offender in the registry for the purpose of reviewing the accuracy of any record relating to him or her. The identity of a victim of an offense that requires registration shall not be released; and

(5) probate courts for purposes of conducting checks on persons applying for changes of name under section 811 of Title 15.

(c) The departments of corrections and public safety shall adopt rules, forms and procedures under chapter 25 of Title 3 to implement the provisions of this subchapter.

* * * Sex Offender Addresses on Internet * * *

Sec. 14. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

* * *

(b) The department shall electronically post the following information on sex offenders designated in subsection (a) of this section:

- (1) the offender's name and any known aliases;
- (2) the offender's date of birth;
- (3) a general physical description of the offender;
- (4) a digital photograph of the offender;
- (5) the offender's town of residence;

(6) the offender's address or, if the offender does not have a fixed address, other information about where the offender habitually lives, if:

(A) the offender has been designated as high-risk by the department of corrections pursuant to section 5411b of this title;

(B) the offender has not complied with sex offender treatment;

(C) there is an outstanding warrant for the offender's arrest;

(D) the offender is subject to the registry for a conviction of a sex offense against a child under 13 years of age; or

(E) the offender's name has been electronically posted for an offense committed in another jurisdiction which required the person's address to be electronically posted in that jurisdiction;

~~(6)~~(7) the date and nature of the offender's conviction;

~~(7)~~(8) if the offender is under the supervision of the department of corrections, the name and telephone number of the local department of corrections office in charge of monitoring the sex offender;

~~(8)~~(9) whether the offender complied with treatment recommended by the department of corrections;

~~(9)~~(10) a statement that there is an outstanding warrant for the offender's arrest, if applicable; and

~~(10)~~(11) the reason for which the offender information is accessible under this section.

* * *

(d) ~~An offender's street address shall not be posted electronically.~~ The identity of a victim of an offense that requires registration shall not be released.

* * *

* * * Statutes of Limitations in Child Sex Abuse Cases * * *

Sec. 15. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN FELONIES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, sexual assault, lewd and lascivious conduct, sexual exploitation of children, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under subsection 141(d) of Title 33, and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for sexual assault, lewd and lascivious conduct, sexual exploitation of a minor as defined in subsection 3258(b) of this title, and lewd or lascivious conduct with a child, alleged to have been committed against a child ~~46~~ under 18 years of age or under, shall be commenced within the earlier of the date the victim attains the age of 24 or ~~six~~ ten years from the date the offense is reported, and not after. For purposes of this subsection, an offense is

reported when a report of the conduct constituting the offense is made to a law enforcement officer by the victim.

* * *

* * * Sentence Calculation * * *

Sec. 16. 13 V.S.A. § 7044 is amended to read:

§ 7044. SENTENCE CALCULATION; NOTICE TO DEFENDANT

(a) Within 30 days after sentencing in all cases where the court imposes a sentence which includes a period of incarceration to be served, the commissioner of corrections shall provide to the court and the office of the defender general a calculation of the potential shortest and longest lengths of time the defendant may be incarcerated taking into account the provisions for reductions of term pursuant to 28 V.S.A. § 811 based on the sentence or sentences the defendant is serving, and the effect of any credit for time served as ordered by the court pursuant to 13 V.S.A. § 7031. The commissioner's calculation shall be a public record.

(b) In all cases where the court imposes a sentence which includes a period of incarceration to be served, the department of corrections shall provide the defendant with a copy and explanation of the sentence calculation made pursuant to subsection (a) of this section.

Sec. 17. STUDY; CALCULATION OF SENTENCES

(a) The chief justice of the Vermont supreme court or designee, the commissioner of the department of corrections or designee, the defender general or designee, and the executive director of the department of the state's attorneys and sheriffs or designee shall collaborate to examine sentence computation issues, including alternative methods to address computation that would:

(1) reduce calculation and computation errors; and

(2) provide clarity to the offender at the time of sentencing regarding the offender's earliest and latest possible release dates.

(b) The study group shall report its findings and a proposal for addressing the issues identified in subsection (a) of this section to the house committees on judiciary and on corrections and institutions and the senate committee on judiciary no later than December 15, 2009. The proposal shall include a plan for implementation and any statutory changes necessary to implement the plan.

* * * Miscellaneous Provisions * * *

Sec. 18. 20 V.S.A. § 2061 is amended to read:

§ 2061. FINGERPRINTING

* * *

(m) The Vermont crime information center may electronically transmit fingerprints and photographs of accused persons to the Federal Bureau of Investigation (FBI) at any time after arrest, summons, or citation ~~for the sole purpose of identifying an individual. However, the Vermont crime information center shall not forward fingerprints and photographs to the FBI for the purpose of inclusion in the National Crime Information Center Database until after arraignment.~~ If the Vermont crime information center forwards fingerprints and photographs to the FBI ~~after arraignment~~ and the defendant is acquitted, the Vermont crime information center shall request the FBI to destroy the fingerprints and photographs. If the Vermont crime information center forwards fingerprints and photographs to the FBI ~~after arraignment~~ and all charges against the defendant are dismissed, the Vermont crime information center shall request the FBI to destroy the fingerprints and photographs, unless the attorney for the state can show good cause why the fingerprints and photographs should not be destroyed.

* * *

Sec. 19. 28 V.S.A. § 204 is amended to read:

§ 204. ~~SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS~~

* * *

(d) Any presentence report, pre-parole report, or supervision history prepared by any employee of the department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the department other than the judge or the parole board, except that the court or board may in its discretion permit the inspection of the report or parts thereof by the state's attorney, the defendant or inmate or his or her attorney, or other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

* * *

(f) Except as otherwise provided by law, reports and records subject to this section may be inspected, pursuant to a court order issued ex parte, by a state

or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 20. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to inmates at the facility. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a state or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 21. 28 V.S.A. § 856 is added to read:

§ 856. SPECIAL MANAGEMENT MEALS

(a) When an inmate misuses bodily waste or fluids, food, or eating utensils, the supervising officer of the facility or his or her designee may order that the inmate be served special management meals in lieu of regular inmate meals pursuant to this section.

(b)(1) When it appears to the supervising officer that an inmate may be subject to an order to receive special management meals, the officer shall notify the inmate in writing of the reason for the determination and the facility's evidence for it.

(2)(A) Before being served special management meals, the inmate shall be provided an opportunity to meet with a member of the facility's staff not involved in the incident. The purpose of the meeting shall be to serve as an

initial check against mistaken decisions and to determine whether there are reasonable grounds to believe that the inmate misused bodily waste or fluids, food, or eating utensils.

(B) At a meeting between an inmate and a staff member held pursuant to this subdivision (2), the inmate may identify any disagreement he or she has with the facility's version of the facts, identify witnesses who support his or her defense, identify any mitigating circumstances which should be considered, and offer any other arguments that may be appropriate. The inmate shall not have the right to cross-examine witnesses or to call witnesses to testify on his or her behalf.

(c) If the officer determines that there are reasonable grounds to believe that the inmate misused bodily waste or fluids, food, or eating utensils, the officer may order that the inmate be served special management meals in lieu of regular inmate meals for a maximum of seven consecutive days.

(d) When the supervising officer orders that an inmate be served special management meals, a hearing officer designated by the officer shall conduct a fact-finding hearing within 48 hours pursuant to the following procedure:

(1) Notice of the charge and of the hearing shall be given to the inmate.

(2) The inmate shall have an opportunity, subject to reasonable rules, to confront the person bringing the charge.

(3) The inmate shall have the right to be present and heard at the hearing subject to reasonable rules of conduct.

(4) The hearing officer shall summon to testify any available witness or other persons with relevant knowledge of the incident, subject to reasonable rules. The inmate charged may be permitted to question any person who testifies pursuant to this subdivision.

(5) If the inmate so requests, he or she may be assisted in the preparation and presentation of his or her case by an assigned employee of the facility if the supervising officer determines in his or her discretion that the requested employee is reasonably available.

(e) If the hearing officer determines that a preponderance of the evidence does not establish that the inmate misused bodily waste or fluids, food, or eating utensils, the supervising officer shall discontinue service of special management meals to the inmate.

(f) The service of special management meals shall not be construed as punishment and shall not be subject to the requirements of sections 851-853 of this title.

Sec. 22. Rule 804a of the Vermont Rules of Evidence is amended to read:

Rule 804a. HEARSAY EXCEPTION; PUTATIVE VICTIM AGE 12 OR UNDER; PERSON ~~IN NEED OF GUARDIANSHIP WITH~~ A MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY

(a) Statements by a person who is a child 12 years of age or under or who is a person in need of guardianship as defined in 14 V.S.A. § 3061 with a mental illness as defined in 18 V.S.A. § 7101(14) or developmental disability as defined in 18 V.S.A. § 8722(2) at the time the statements were made are not excluded by the hearsay rule if the court specifically finds at the time they are offered that:

(1) the statements are offered in a civil, criminal, or administrative proceeding in which the child or person ~~in need of guardianship with a mental illness or developmental disability~~ is a putative victim of sexual assault under 13 V.S.A. § 3252, aggravated sexual assault under 13 V.S.A. § 3253, aggravated sexual assault of a child under 13 V.S.A. § 3253a, lewd or lascivious conduct under 13 V.S.A. § 2601, lewd or lascivious conduct with a child under 13 V.S.A. § 2602, incest under 13 V.S.A. § 205, abuse, neglect, or exploitation under 33 V.S.A. § 6913, sexual abuse of a vulnerable adult under 13 V.S.A. § 1379, or wrongful sexual activity and the statements concern the alleged crime or the wrongful sexual activity; or the statements are offered in a juvenile proceeding under chapter 52 of Title 33 involving a delinquent act alleged to have been committed against a child 13 years of age or under or a person ~~in need of guardianship with a mental illness or developmental disability~~ if the delinquent act would be an offense listed herein if committed by an adult and the statements concern the alleged delinquent act; or the child is the subject of a petition alleging that the child is in need of care or supervision under chapter 53 of Title 33, and the statement relates to the sexual abuse of the child;

(2) the statements were not taken in preparation for a legal proceeding and, if a criminal or delinquency proceeding has been initiated, the statements were made prior to the defendant's initial appearance before a judicial officer under Rule 5 of the Vermont Rules of Criminal Procedure;

(3) the child or person ~~in need of guardianship with a mental illness or developmental disability~~ is available to testify in court or under Rule 807; and

(4) the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(b) Upon motion of either party in a criminal or delinquency proceeding, the court shall require the child or person ~~in need of guardianship~~ with a mental illness or developmental disability to testify for the state.

Sec. 23. REPORT

The department of public safety shall report to the senate and house committees on judiciary no later than December 15, 2009 regarding the management, staffing, funding, and operation of the sex offender registry. The report shall address actions taken by the department to communicate with other agencies and departments regarding information placed on the sex offender Internet registry and the department's readiness and plan for implementing Sec. 14 of this act in 2010.

Sec. 24. 24 V.S.A. § 363 is amended to read:

§ 363. DEPUTY STATE'S ATTORNEYS

A state's attorney may appoint as many deputy state's attorneys as necessary for the proper and efficient performance of his or her office, and with the approval of the governor, fix their pay not to exceed that of the state's attorney making the appointment, and may remove them at pleasure. Deputy state's attorneys shall be compensated only for periods of actual performance of the duties of such office. Deputy state's attorneys shall be reimbursed for their necessary expenses incurred in connection with their official duties when approved by the state's attorneys and the commissioner of finance. Deputy state's attorneys shall exercise all the powers and duties of the state's attorneys except the power to designate someone to act in the event of their own disqualification. Deputy state's attorneys may not enter upon the duties of the office until they have taken the oath or affirmation of allegiance to the state and the oath of office required by the constitution, and until such oath together with their appointment is filed for record with the county clerk. If appointed and under oath, a deputy state's attorney may prosecute cases in another county if the state's attorney in the other county files the deputy's appointment in the other county clerk's office. In case of a vacancy in the office of state's attorney, the appointment of the deputy shall expire upon the appointment of a new state's attorney.

Sec. 25. JOINT COMMITTEE ON CORRECTIONS OVERSIGHT

(a) The joint committee on corrections oversight shall consider:

(1) how to employ strategies that facilitate community reintegration that do not unduly burden the services and budgets of communities with a large number of supervisees; and

(2) issues related to the operation of the sex offender Internet registry, including the accuracy of the information it contains.

(b) The committee shall include recommendations on the issues described in subsection (a) of this section in its annual report to the general assembly.

Sec. 26. 13 V.S.A. § 7041(g) is amended to read:

(g) Upon discharge of the respondent from probation for a violation of ~~section 2602 (lewd and lascivious conduct with a child), 3252(e), (d), or (e) (sexual assault of a child), or 3253(a)(8) (aggravated sexual assault involving a child under 13) of this title~~ any felony sex offense which requires registration pursuant to subchapter 3 of chapter 167 of this title, the court shall issue an order to expunge any record of the adjudication of guilt related to the deferred sentence. An entity subject to the expungement order shall be permitted to retain its own records and files related to the arrest, citation, investigation, and charge which led to the deferred sentence, and may share such records and files with other investigating agencies in accordance with state and federal law. Copies of the order shall be sent to each agency, department, or official named therein. The court, law enforcement officers, agencies, and departments shall reply to any request for information that no record of conviction exists with respect to such person upon inquiry in the matter.

Sec. 27. AMENDMENT TO NO. 1 OF THE ACTS OF 2009

Subsection (g) of 13 V.S.A. § 7041 in Sec. 33b of No. 1 of the Acts of 2009 shall be stricken in its entirety and the following shall be inserted in lieu thereof:

(g) Upon discharge of the respondent from probation for a violation of any felony sex offense which requires registration pursuant to subchapter 3 of chapter 167 of this title, the court shall issue an order to expunge any record of the adjudication of guilt related to the deferred sentence. An entity subject to the expungement order shall be permitted to retain its own records and files related to the arrest, citation, investigation, and charge which led to the deferred sentence, and may share such records and files with other investigating agencies in accordance with state and federal law. Copies of the order shall be sent to each agency, department, or official named therein. The court, law enforcement officers, agencies, and departments shall reply to any request for information that no record of conviction exists with respect to such person upon inquiry in the matter.

Sec. 28. EFFECTIVE DATE

This act shall take effect on July 1, 2009, except as follows:

(1) Secs. 22 and 26 of this act shall take effect on July 2, 2009.

(2) Sec. 14 of this act shall take effect July 1, 2010, provided that Sec. 14 shall not take effect until the state auditor, in consultation with the department of public safety and the department of information and innovation technology, has provided a favorable performance audit regarding the Internet sex offender registry to the senate and house committees on judiciary, the house committee on corrections and institutions, and the joint committee on corrections oversight.

Committee on the part of the Senate Committee on the part of the House

Sen. John Campbell
Sen. Kevin Mullin
Sen. Richard Sears

Rep. William Lippert
Rep. Margaret Flory
Rep. Willem Jewett

Pending the question, Shall the House adopt the report of the Committee of Conference? **Rep. Donahue of Northfield** moved to postpone action until 1:30 p.m.

Pending the question, Shall the House postpone action on the bill until 1:30 p.m.? **Rep. Donahue of Northfield** demanded the Yeas and Nays, which demand was not sustained by the constitutional number.

Thereupon, the motion to postpone action until 1:30 today was disagreed to and the report of the Committee of Conference was adopted on the part of the House.

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Recess

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

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

Message from the Senate No. 65

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 12. An act relating to education property tax rates.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 145. An act relating to composting.

And has concurred therein.

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

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

And has accepted and adopted the same on its part.

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

J.R.H. 30. Joint resolution in support of the continued operation of the Shriners Hospital for Children in Springfield, Massachusetts.

J.R.H. 31. Joint resolution supporting the effort of women ski jumpers for athletic equity at the 2010 Winter Olympics in British Columbia.

And has adopted the same in concurrence.

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

H. 441

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

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

An act making appropriations for the support of government

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

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2010 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2010. It is the express intent of the general assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2009. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2010 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the general assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the general assembly that this act serve as the primary source and reference for appropriations for fiscal year 2010.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single year appropriations only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the commissioner of finance and management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2010.

Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The commissioner of finance and management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the state for services or supplies, and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities,

office and other supplies, equipment including motor vehicles, highway materials and construction, expenditures for the purchase of land, and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, and contracted third party services, and similar items.

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the state appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2010 the governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may accept federal funds available to the state of Vermont including block grants in lieu of or in addition to funds herein designated as federal. The governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2010, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2009 session of the Vermont general assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The governor may spend such funds for such purposes for no more than 45 days prior to legislative or joint fiscal committee approval. Notice shall be given to the joint fiscal committee without delay if the governor intends to use the authority granted by this section, and the joint fiscal committee shall meet in an expedited manner to review the governor's request for approval.

Sec. A.107 DEPARTMENTAL RECEIPTS

(a) All receipts shall be credited to the general fund except as otherwise provided and except the following receipts, for which this subsection shall constitute authority to credit to special funds:

- (1) Connecticut River flood control;
- (2) Public service department - sale of power;
- (3) Tax department - unorganized towns and gores.

(b) Notwithstanding any other provision of law, departmental indirect cost recoveries (32 V.S.A. § 6) receipts are authorized, subject to the approval of the secretary of administration, to be retained by the department. All recoveries not so authorized shall be covered into the general fund, or, for agency of transportation recoveries, the transportation fund.

Sec. A.108 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2010 except for new positions authorized by the 2009 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

Sec. A.109 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriations of funds. The sections between E.100 and E.9999 contain language that relates to specific appropriations and/or government functions. The function areas by section numbers are as follows:

B.100–B.199 and E.100–E.199	General Government
B.200–B.299 and E.200–E.299	Protection to Persons and Property
B.300–B.399 and E.300–E.399	Human Services
B.400–B.499 and E.400–E.499	Labor
B.500–B.599 and E.500–E.599	General Education
B.600–B.699 and E.600–E.699	Higher Education
B.700–B.799 and E.700–E.799	Natural Resources
B.800–B.899 and E.800–E.899	Commerce and Community Development
B.900–B.999 and E.900–E.999	Transportation
B.1000–B.1099 and E.1000–E.1099	Debt Service
B.1100–B.1199 and E.1100–E.1199	One-time and other appropriation actions

Sec. B.100 Secretary of administration - secretary's office

Personal services	795,758
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Operating expenses	<u>69,411</u>
Total	865,169
Source of funds	
General fund	676,776
Global Commitment fund	<u>188,393</u>
Total	865,169
Sec. B.101 Information and innovation - communications and information technology	
Personal services	6,816,269
Operating expenses	2,749,899
Grants	<u>750,000</u>
Total	10,316,168
Source of funds	
General fund	97,094
Internal service funds	9,698,448
Interdepartmental transfers	<u>520,626</u>
Total	10,316,168
Sec. B.102 Information and innovation - health care information technology	
Personal services	90,000
Grants	<u>2,865,674</u>
Total	2,955,674
Source of funds	
Special funds	2,616,174
Global Commitment fund	<u>339,500</u>
Total	2,955,674
Sec. B.103 Finance and management - budget and management	
Personal services	1,011,091
Operating expenses	<u>145,343</u>
Total	1,156,434
Source of funds	
General fund	841,780
Interdepartmental transfers	<u>314,654</u>
Total	1,156,434
Sec. B.104 Finance and management - financial operations	
Personal services	2,666,280
Operating expenses	<u>205,538</u>
Total	2,871,818
Source of funds	

Internal service funds	<u>2,871,818</u>
Total	2,871,818
Sec. B.105 Human resources - operations	
Personal services	2,460,443
Operating expenses	<u>625,941</u>
Total	3,086,384
Source of funds	
General fund	1,888,503
Special funds	280,835
Interdepartmental transfers	<u>917,046</u>
Total	3,086,384
Sec. B.107 Human resources - employee benefits & wellness	
Personal services	1,655,935
Operating expenses	<u>395,438</u>
Total	2,051,373
Source of funds	
Internal service funds	2,011,520
Interdepartmental transfers	<u>39,853</u>
Total	2,051,373
Sec. B.108 Libraries	
Personal services	2,078,222
Operating expenses	1,561,712
Grants	<u>62,500</u>
Total	3,702,434
Source of funds	
General fund	2,616,539
Special funds	132,500
Federal funds	855,215
Interdepartmental transfers	<u>98,180</u>
Total	3,702,434
Sec. B.109 Tax - administration/collection	
Personal services	12,714,125
Operating expenses	<u>2,992,665</u>
Total	15,706,790
Source of funds	
General fund	14,260,386
Special funds	1,191,404
Tobacco fund	58,000

Interdepartmental transfers	<u>197,000</u>
Total	15,706,790
Sec. B.110 Buildings and general services - administration	
Personal services	1,371,967
Operating expenses	<u>98,823</u>
Total	1,470,790
Source of funds	
Interdepartmental transfers	<u>1,470,790</u>
Total	1,470,790
Sec. B.111 Buildings and general services - engineering	
Personal services	1,989,475
Operating expenses	<u>418,865</u>
Total	2,408,340
Source of funds	
General fund	458,340
Interdepartmental transfers	<u>1,950,000</u>
Total	2,408,340
Sec. B.112 Buildings and general services - information centers	
Personal services	2,981,451
Operating expenses	1,183,949
Grants	<u>45,000</u>
Total	4,210,400
Source of funds	
General fund	4,160,400
Special funds	<u>50,000</u>
Total	4,210,400
Sec. B.113 Buildings and general services - purchasing	
Personal services	671,569
Operating expenses	<u>204,881</u>
Total	876,450
Source of funds	
General fund	<u>876,450</u>
Total	876,450
Sec. B.114 Buildings and general services - postal services	
Personal services	650,910
Operating expenses	<u>184,090</u>
Total	835,000

Source of funds	
General fund	36,116
Internal service funds	<u>798,884</u>
Total	835,000
Sec. B.115 Buildings and general services - copy center	
Personal services	725,873
Operating expenses	<u>194,127</u>
Total	920,000
Source of funds	
Internal service funds	<u>920,000</u>
Total	920,000
Sec. B.116 Buildings and general services - fleet management services	
Personal services	475,587
Operating expenses	<u>169,413</u>
Total	645,000
Source of funds	
Internal service funds	<u>645,000</u>
Total	645,000
Sec. B.117 Buildings and general services - federal surplus property	
Personal services	83,564
Operating expenses	<u>62,936</u>
Total	146,500
Source of funds	
Enterprise funds	<u>146,500</u>
Total	146,500
Sec. B.118 Buildings and general services - state surplus property	
Personal services	80,720
Operating expenses	<u>86,060</u>
Total	166,780
Source of funds	
Internal service funds	<u>166,780</u>
Total	166,780
Sec. B.119 Buildings and general services - property management	
Personal services	1,196,597
Operating expenses	<u>2,985,033</u>
Total	4,181,630
Source of funds	

Internal service funds	<u>4,181,630</u>
Total	4,181,630
Sec. B.120 Buildings and general services - workers' compensation insurance	
Personal services	1,329,914
Operating expenses	<u>309,324</u>
Total	1,639,238
Source of funds	
Internal service funds	<u>1,639,238</u>
Total	1,639,238
Sec. B.121 Buildings and general services - general liability insurance	
Personal services	295,114
Operating expenses	<u>125,386</u>
Total	420,500
Source of funds	
Internal service funds	<u>420,500</u>
Total	420,500
Sec. B.122 Buildings and general services - all other insurance	
Personal services	33,028
Operating expenses	<u>51,972</u>
Total	85,000
Source of funds	
Internal service funds	<u>85,000</u>
Total	85,000
Sec. B.123 Buildings and general services - fee for space	
Personal services	12,684,951
Operating expenses	<u>14,970,941</u>
Total	27,655,892
Source of funds	
Internal service funds	<u>27,655,892</u>
Total	27,655,892
Sec. B.124 Geographic information system	
Grants	<u>408,700</u>
Total	408,700
Source of funds	
Special funds	<u>408,700</u>
Total	408,700

Sec. B.125 Executive office - governor's office

Personal services	1,217,326
Operating expenses	<u>386,489</u>
Total	1,603,815
Source of funds	
General fund	1,410,315
Interdepartmental transfers	<u>193,500</u>
Total	1,603,815

Sec. B.126 Legislative council

Personal services	2,164,007
Operating expenses	<u>178,970</u>
Total	2,342,977
Source of funds	
General fund	<u>2,342,977</u>
Total	2,342,977

Sec. B.127 Legislature

Personal services	3,672,884
Operating expenses	<u>3,388,507</u>
Total	7,061,391
Source of funds	
General fund	<u>7,061,391</u>
Total	7,061,391

Sec. B.128 Legislative information technology

Personal services	393,601
Operating expenses	<u>492,357</u>
Total	885,958
Source of funds	
General fund	<u>885,958</u>
Total	885,958

Sec. B.129 Joint fiscal committee

Personal services	1,414,565
Operating expenses	<u>94,632</u>
Total	1,509,197
Source of funds	
General fund	<u>1,509,197</u>
Total	1,509,197

Sec. B.130 Sergeant at arms

Personal services	509,586
Operating expenses	<u>99,931</u>
Total	609,517
Source of funds	
General fund	<u>609,517</u>
Total	609,517
Sec. B.131 Lieutenant governor	
Personal services	146,651
Operating expenses	<u>16,983</u>
Total	163,634
Source of funds	
General fund	<u>163,634</u>
Total	163,634
Sec. B.132 Auditor of accounts	
Personal services	3,032,314
Operating expenses	<u>139,366</u>
Total	3,171,680
Source of funds	
General fund	437,938
Special funds	51,709
Internal service funds	<u>2,682,033</u>
Total	3,171,680
Sec. B.133 State treasurer	
Personal services	2,313,466
Operating expenses	357,079
Grants	<u>6,484</u>
Total	2,677,029
Source of funds	
General fund	1,086,815
Special funds	1,506,190
Interdepartmental transfer	<u>84,024</u>
Total	2,677,029
Sec. B.134 State treasurer - unclaimed property	
Personal services	687,596
Operating expenses	<u>237,795</u>
Total	925,391
Source of funds	
Private purpose trust funds	<u>925,391</u>

Total	925,391
Sec. B.135 Vermont state retirement system	
Personal services	27,115,165
Operating expenses	<u>773,415</u>
Total	27,888,580
Source of funds	
Pension trust funds	<u>27,888,580</u>
Total	27,888,580
Sec. B.136 Municipal employees' retirement system	
Personal services	1,841,374
Operating expenses	<u>346,814</u>
Total	2,188,188
Source of funds	
Pension trust funds	<u>2,188,188</u>
Total	2,188,188
Sec. B.137 State labor relations board	
Personal services	166,789
Operating expenses	<u>37,194</u>
Total	203,983
Source of funds	
General fund	198,260
Special funds	2,788
Interdepartmental transfers	<u>2,935</u>
Total	203,983
Sec. B.138 VOSHA review board	
Personal services	37,997
Operating expenses	<u>9,815</u>
Total	47,812
Source of funds	
General fund	23,905
Interdepartmental transfers	<u>23,907</u>
Total	47,812
Sec. B.139 Homeowner rebate	
Grants	<u>13,725,647</u>
Total	13,725,647
Source of funds	
General fund	<u>13,725,647</u>

Total	13,725,647
Sec. B.140 Renter rebate	
Grants	<u>8,476,695</u>
Total	8,476,695
Source of funds	
General fund	2,543,008
Education fund	<u>5,933,687</u>
Total	8,476,695
Sec. B.141 Tax department - reappraisal and listing payments	
Grants	<u>3,470,000</u>
Total	3,470,000
Source of funds	
Education fund	<u>3,470,000</u>
Total	3,470,000
Sec. B.142 Use tax reimbursement fund - municipal current use	
Grants	<u>10,807,403</u>
Total	10,807,403
Source of funds	
General fund	<u>10,807,403</u>
Total	10,807,403
Sec. B.143 Lottery commission	
Personal services	1,555,943
Operating expenses	<u>1,113,662</u>
Total	2,669,605
Source of funds	
Enterprise funds	<u>2,669,605</u>
Total	2,669,605
Sec. B.144 Payments in lieu of taxes	
Grants	<u>4,900,000</u>
Total	4,900,000
Source of funds	
Special funds	<u>4,900,000</u>
Total	4,900,000
Sec. B.145 Payments in lieu of taxes - Montpelier	
Grants	<u>184,000</u>
Total	184,000

Source of funds	
Special funds	<u>184,000</u>
Total	184,000
Sec. B.146 Payments in lieu of taxes - correctional facilities	
Grants	<u>40,000</u>
Total	40,000
Source of funds	
Special funds	<u>40,000</u>
Total	40,000
Sec. B.147 Total general government	184,334,966
Source of funds	
General fund	68,718,349
Education fund	9,403,687
Special funds	11,364,300
Tobacco fund	58,000
Global Commitment fund	527,893
Federal funds	855,215
Enterprise funds	2,816,105
Internal service funds	53,776,743
Pension trust funds	30,076,768
Private purpose trust funds	84,024
Interdepartmental transfers	<u>6,653,882</u>
Total	184,334,966
Sec. B.200 Attorney general	
Personal services	6,518,250
Operating expenses	<u>1,055,051</u>
Total	7,573,301
Source of funds	
General fund	3,894,689
Special funds	938,302
Tobacco fund	405,000
Federal funds	677,526
Interdepartmental transfers	<u>1,657,784</u>
Total	7,573,301
Sec. B.201 Vermont court diversion	
Grants	<u>1,724,784</u>
Total	1,724,784
Source of funds	

General fund	1,204,784
Special funds	<u>520,000</u>
Total	1,724,784
Sec. B.202 Defender general - public defense	
Personal services	7,273,704
Operating expenses	<u>919,387</u>
Total	8,193,091
Source of funds	
General fund	7,691,786
Special funds	<u>501,305</u>
Total	8,193,091
Sec. B.203 Defender general - assigned counsel	
Personal services	3,319,857
Operating expenses	<u>77,909</u>
Total	3,397,766
Source of funds	
General fund	3,272,502
Special funds	<u>125,264</u>
Total	3,397,766
Sec. B.204 Judiciary	
Personal services	27,238,182
Operating expenses	10,084,796
Grants	<u>70,000</u>
Total	37,392,978
Source of funds	
General fund	30,995,922
Special funds	3,891,636
Tobacco fund	39,112
Federal funds	546,919
Interdepartmental transfers	<u>1,919,389</u>
Total	37,392,978
Sec. B.205 State's attorneys	
Personal services	9,685,589
Operating expenses	<u>1,298,616</u>
Total	10,984,205
Source of funds	
General fund	8,754,382
Special funds	56,675

Federal funds	31,000
Interdepartmental transfers	<u>2,142,148</u>
Total	10,984,205
Sec. B.206 Special investigative unit	
Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>
Total	1
Sec. B.207 Sheriffs	
Personal services	3,306,718
Operating expenses	<u>356,269</u>
Total	3,662,987
Source of funds	
General fund	<u>3,662,987</u>
Total	3,662,987
Sec. B.208 Public safety - administration	
Personal services	1,696,711
Operating expenses	<u>194,781</u>
Total	1,891,492
Source of funds	
General fund	1,861,340
Federal funds	<u>30,152</u>
Total	1,891,492
Sec. B.209 Public safety - state police	
Personal services	42,024,804
Operating expenses	11,413,936
Grants	<u>582,087</u>
Total	54,020,827
Source of funds	
ARRA funds	7,461,782
General fund	16,465,183
Transportation fund	23,731,384
Special funds	1,910,795
Federal funds	2,159,888
Interdepartmental transfers	<u>2,291,795</u>
Total	54,020,827

Sec. B.210 Public safety - criminal justice services

Personal services	6,078,888
Operating expenses	2,976,224
Grants	<u>2,909,394</u>
Total	11,964,506
Source of funds	
General fund	756,092
Transportation fund	4,557,454
Special funds	1,860,980
Federal funds	4,689,372
Interdepartmental transfers	<u>100,608</u>
Total	11,964,506

Sec. B.211 Public safety - emergency management

Personal services	1,778,662
Operating expenses	1,246,992
Grants	<u>819,400</u>
Total	3,845,054
Source of funds	
Transportation fund	63,969
Special funds	168,831
Federal funds	<u>3,612,254</u>
Total	3,845,054

Sec. B.212 Public safety - fire safety

Personal services	4,396,900
Operating expenses	1,590,660
Grants	<u>55,000</u>
Total	6,042,560
Source of funds	
General fund	590,719
Special funds	4,866,202
Federal funds	411,992
Interdepartmental transfers	<u>173,647</u>
Total	6,042,560

Sec. B.213 Public safety - homeland security

Personal services	1,252,863
Operating expenses	4,999,729
Grants	<u>1,050,000</u>
Total	7,302,592

Source of funds	
General fund	395,271
Federal funds	<u>6,907,321</u>
Total	7,302,592
Sec. B.214 Public safety - emergency management - radiological emergency response plan	
Personal services	695,571
Operating expenses	273,382
Grants	<u>743,518</u>
Total	1,712,471
Source of funds	
Special funds	<u>1,712,471</u>
Total	1,712,471
Sec. B.215 Military - administration	
Personal services	595,055
Operating expenses	185,755
Grants	<u>100,000</u>
Total	880,810
Source of funds	
General fund	<u>880,810</u>
Total	880,810
Sec. B.216 Military - air service contract	
Personal services	4,682,496
Operating expenses	<u>1,576,241</u>
Total	6,258,737
Source of funds	
General fund	433,236
Federal funds	<u>5,825,501</u>
Total	6,258,737
Sec. B.217 Military - army service contract	
Personal services	3,645,443
Operating expenses	<u>9,174,120</u>
Total	12,819,563
Source of funds	
General fund	107,071
Federal funds	<u>12,712,492</u>
Total	12,819,563

Sec. B.218 Military - building maintenance

Personal services	1,024,137
Operating expenses	<u>386,580</u>
Total	1,410,717
Source of funds	
General fund	1,343,826
Federal funds	<u>66,891</u>
Total	1,410,717

Sec. B.219 Military - veterans' affairs

Personal services	430,316
Operating expenses	133,624
Grants	<u>163,815</u>
Total	727,755
Source of funds	
General fund	575,519
Special funds	83,529
Federal funds	<u>68,707</u>
Total	727,755

Sec. B.220 Center for crime victims' services

Personal services	1,275,841
Operating expenses	261,734
Grants	<u>9,433,056</u>
Total	10,970,631
Source of funds	
ARRA funds	797,067
General fund	1,119,233
Special funds	5,201,380
Federal funds	<u>3,852,951</u>
Total	10,970,631

Sec. B.221 Criminal justice training council

Personal services	1,225,444
Operating expenses	<u>1,135,975</u>
Total	2,361,419
Source of funds	
General fund	1,453,753
Special funds	534,343
Interdepartmental transfers	<u>373,323</u>
Total	2,361,419

Sec. B.222 Agriculture, food and markets - administration

Personal services	707,514
Operating expenses	390,128
Grants	<u>338,351</u>
Total	1,435,993
Source of funds	
General fund	886,626
Special funds	382,449
Federal funds	124,918
Interdepartmental transfers	<u>42,000</u>
Total	1,435,993

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	2,041,806
Operating expenses	<u>332,830</u>
Total	2,374,636
Source of funds	
General fund	1,278,611
Special funds	651,025
Federal funds	438,000
Interdepartmental transfers	<u>7,000</u>
Total	2,374,636

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	688,162
Operating expenses	504,063
Grants	<u>302,500</u>
Total	1,494,725
Source of funds	
General fund	673,775
Special funds	432,950
Federal funds	<u>388,000</u>
Total	1,494,725

Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship

Personal services	3,800,621
Operating expenses	639,708
Grants	<u>4,480,952</u>
Total	8,921,281

Source of funds	
General fund	2,420,363
Special funds	5,433,147
Federal funds	519,517
Interdepartmental transfers	<u>548,254</u>
Total	8,921,281
Sec. B.226 Agriculture, food and markets - state stipend	
Grants	<u>175,000</u>
Total	175,000
Source of funds	
General fund	<u>175,000</u>
Total	175,000
Sec. B.227 Agriculture, food and markets - mosquito control	
Personal services	20,000
Operating expenses	<u>60,000</u>
Total	80,000
Source of funds	
Special funds	<u>80,000</u>
Total	80,000
Sec. B.228 Banking, insurance, securities, and health care administration - administration	
Personal services	1,982,977
Operating expenses	<u>88,470</u>
Total	2,071,447
Source of funds	
Special funds	<u>2,071,447</u>
Total	2,071,447
Sec. B.229 Banking, insurance, securities, and health care administration - banking	
Personal services	1,240,658
Operating expenses	<u>248,960</u>
Total	1,489,618
Source of funds	
Special funds	<u>1,489,618</u>
Total	1,489,618
Sec. B.230 Banking, insurance, securities, and health care administration - insurance	

Personal services	2,765,146
Operating expenses	<u>450,750</u>
Total	3,215,896
Source of funds	
Special funds	<u>3,215,896</u>
Total	3,215,896
Sec. B.231 Banking, insurance, securities, and health care administration - captive	
Personal services	2,998,995
Operating expenses	<u>452,000</u>
Total	3,450,995
Source of funds	
Special funds	<u>3,450,995</u>
Total	3,450,995
Sec. B.232 Banking, insurance, securities, and health care administration - securities	
Personal services	418,217
Operating expenses	<u>144,733</u>
Total	562,950
Source of funds	
Special funds	<u>562,950</u>
Total	562,950
Sec. B.233 Banking, insurance, securities, and health care administration - health care administration	
Personal services	4,338,993
Operating expenses	<u>326,905</u>
Total	4,665,898
Source of funds	
Special funds	2,767,074
Global Commitment fund	<u>1,898,824</u>
Total	4,665,898
Sec. B.234 Secretary of state	
Personal services	5,440,700
Operating expenses	2,086,742
Grants	<u>1,000,000</u>
Total	8,527,442
Source of funds	
General fund	1,710,918

Special funds	4,741,524
Federal funds	2,000,000
Interdepartmental transfers	<u>75,000</u>
Total	8,527,442
Sec. B.235 Public service - regulation and energy	
Personal services	9,060,185
Operating expenses	709,206
Grants	<u>68,219,007</u>
Total	77,988,398
Source of funds	
ARRA funds	31,592,500
Special funds	45,238,098
Federal funds	<u>1,157,800</u>
Total	77,988,398
Sec. B.236 Public service - purchase and sale of power	
Personal services	18,484
Operating expenses	<u>1,516</u>
Total	20,000
Source of funds	
Special funds	<u>20,000</u>
Total	20,000
Sec. B.237 Public service board	
Personal services	2,555,286
Operating expenses	<u>320,000</u>
Total	2,875,286
Source of funds	
Special funds	<u>2,875,286</u>
Total	2,875,286
Sec. B.238 Enhanced 9-1-1 Board	
Personal services	2,098,342
Operating expenses	1,565,260
Grants	<u>1,823,443</u>
Total	5,487,045
Source of funds	
Special funds	<u>5,487,045</u>
Total	5,487,045
Sec. B.239 Human rights commission	

Personal services	375,041
Operating expenses	<u>68,917</u>
Total	443,958
Source of funds	
General fund	273,219
Federal funds	<u>170,739</u>
Total	443,958
Sec. B.240 Liquor control - administration	
Personal services	1,495,953
Operating expenses	<u>543,031</u>
Total	2,038,984
Source of funds	
Tobacco fund	6,661
Enterprise funds	1,789,323
Interdepartmental transfers	<u>243,000</u>
Total	2,038,984
Sec. B.241 Liquor control - enforcement and licensing	
Personal services	1,963,476
Operating expenses	<u>344,075</u>
Total	2,307,551
Source of funds	
Tobacco fund	289,645
Enterprise funds	<u>2,017,906</u>
Total	2,307,551
Sec. B.242 Liquor control - warehousing and distribution	
Personal services	750,352
Operating expenses	<u>367,561</u>
Total	1,117,913
Source of funds	
Enterprise funds	<u>1,117,913</u>
Total	1,117,913
Sec. B 243 Total Protection to persons and property	
	325,883,263
Source of funds	
ARRA funds	39,851,349
General fund	92,877,618
Transportation fund	28,352,807
Special funds	101,271,217

Tobacco fund	740,418
Global Commitment fund	1,898,824
Federal funds	46,391,940
Enterprise funds	4,925,142
Interdepartmental transfers	<u>9,573,948</u>
Total	325,883,263

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	10,016,218
Operating expenses	2,998,915
Grants	<u>5,099,439</u>
Total	18,114,572
Source of funds	
General fund	5,333,921
Special funds	7,517
Tobacco fund	609,730
Global Commitment fund	398,400
Federal funds	8,068,443
Interdepartmental transfers	<u>3,696,561</u>
Total	18,114,572

Sec. B.301 Secretary's office - global commitment

Grants	<u>1,009,425,249</u>
Total	1,009,425,249
Source of funds	
ARRA funds	111,206,921
General fund	56,946,630
Special funds	11,548,420
Tobacco fund	35,651,873
State health care resources fund	156,955,519
Catamount fund	18,903,594
Federal funds	617,849,638
Interdepartmental transfers	<u>362,654</u>
Total	1,009,425,249

Sec. B.302 Rate setting

Personal services	853,246
Operating expenses	<u>81,982</u>
Total	935,228
Source of funds	
Global Commitment fund	<u>935,228</u>
Total	935,228

Sec. B.303 Developmental disabilities council

Personal services	240,797
Operating expenses	48,251
Grants	<u>220,000</u>
Total	509,048
Source of funds	
Federal funds	<u>509,048</u>
Total	509,048

Sec. B.304 Human services board

Personal services	299,820
Operating expenses	<u>66,441</u>
Total	366,261
Source of funds	
General fund	51,912
Federal funds	157,174
Interdepartmental transfers	<u>157,175</u>
Total	366,261

Sec. B.305 AHS - administrative fund

Personal services	500,000
Operating expenses	<u>4,500,000</u>
Total	5,000,000
Source of funds	
Interdepartmental transfers	<u>5,000,000</u>
Total	5,000,000

Sec. B.306 Office of Vermont health access - administration

Personal services	32,311,860
Operating expenses	2,330,388
Grants	<u>1,018,000</u>
Total	35,660,248
Source of funds	
General fund	429,107
Special funds	400,000
Global Commitment fund	31,887,944
Catamount fund	94,739
Federal funds	<u>2,848,458</u>
Total	35,660,248

Sec. B.307 Office of Vermont health access - Medicaid program - global commitment

Grants	<u>522,020,786</u>
Total	522,020,786
Source of funds	
Global Commitment fund	<u>522,020,786</u>
Total	522,020,786

Sec. B.308 Office of Vermont health access - Medicaid program - long term care waiver

Grants	<u>203,305,257</u>
Total	203,305,257
Source of funds	
ARRA funds	22,465,253
General fund	61,072,899
Federal funds	<u>119,767,105</u>
Total	203,305,257

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

Grants	<u>33,024,951</u>
Total	33,024,951
Source of funds	
General fund	28,195,859
Global Commitment fund	1,510,264
Catamount fund	<u>3,318,828</u>
Total	33,024,951

Sec. B.310 Office of Vermont health access - Medicaid non-waiver matched

Grants	<u>46,551,748</u>
Total	46,551,748
Source of funds	
ARRA funds	1,060,380
General fund	16,976,310
Federal funds	<u>28,515,058</u>
Total	46,551,748

Sec. B.311 Health - administration and support

Personal services	6,222,550
Operating expenses	2,812,966
Grants	<u>2,892,000</u>
Total	11,927,516

Source of funds	
General fund	1,083,788
Special funds	324,678
Global Commitment fund	4,419,832
Federal funds	6,027,218
Interdepartmental transfers	<u>72,000</u>
Total	11,927,516
Sec. B.312 Health - public health	
Personal services	35,134,321
Operating expenses	7,080,700
Grants	<u>32,906,545</u>
Total	75,121,566
Source of funds	
General fund	6,951,822
Special funds	4,611,472
Tobacco fund	1,166,803
Global Commitment fund	25,630,654
Catamount fund	4,349,418
Federal funds	31,809,266
Permanent trust funds	10,000
Interdepartmental transfers	<u>592,131</u>
Total	75,121,566
Sec. B.313 Health - alcohol and drug abuse programs	
Personal services	3,195,089
Operating expenses	1,299,901
Grants	<u>26,950,849</u>
Total	31,445,839
Source of funds	
General fund	3,063,665
Special funds	236,210
Tobacco fund	2,382,834
Global Commitment fund	17,177,920
Federal funds	8,435,210
Interdepartmental transfers	<u>150,000</u>
Total	31,445,839
Sec. B.314 Mental health - mental health	
Personal services	4,492,095
Operating expenses	562,604
Grants	<u>129,023,870</u>

Total	134,078,569
Source of funds	
General fund	698,915
Special funds	6,836
Global Commitment fund	127,475,501
Federal funds	5,877,317
Interdepartmental transfers	<u>20,000</u>
Total	134,078,569
Sec. B.315 Mental health - Vermont state hospital	
Personal services	20,480,654
Operating expenses	2,752,971
Grants	<u>82,335</u>
Total	23,315,960
Source of funds	
General fund	22,132,396
Special funds	170,000
Global Commitment fund	450,000
Federal funds	263,564
Interdepartmental transfers	<u>300,000</u>
Total	23,315,960
Sec. B.316 Department for children and families - administration & support services	
Personal services	37,028,517
Operating expenses	7,305,795
Grants	<u>954,425</u>
Total	45,288,737
Source of funds	
ARRA funds	300,000
General fund	15,015,703
Global Commitment fund	15,855,197
Catamount fund	147,950
Federal funds	<u>13,969,887</u>
Total	45,288,737
Sec. B.317 Department for children and families - family services	
Personal services	22,307,550
Operating expenses	3,312,909
Grants	<u>66,040,538</u>
Total	91,660,997
Source of funds	

ARRA funds	1,411,224
General fund	18,452,530
Special funds	1,691,637
Tobacco fund	275,000
Global Commitment fund	41,892,793
Federal funds	27,837,813
Interdepartmental transfers	<u>100,000</u>
Total	91,660,997

Sec. B.318 Department for children and families - child development

Personal services	3,473,066
Operating expenses	545,908
Grants	<u>56,106,468</u>
Total	60,125,442
Source of funds	
ARRA funds	2,452,636
General fund	23,481,012
Special funds	1,820,000
Global Commitment fund	5,221,053
Federal funds	27,011,234
Interdepartmental transfers	<u>139,507</u>
Total	60,125,442

Sec. B.319 Department for children and families - office of child support

Personal services	8,905,003
Operating expenses	<u>4,400,851</u>
Total	13,305,854
Source of funds	
ARRA funds	660,000
General fund	2,671,384
Special funds	455,718
Federal funds	9,131,152
Interdepartmental transfers	<u>387,600</u>
Total	13,305,854

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	1,801,009
Grants	<u>9,705,780</u>
Total	11,506,789
Source of funds	
General fund	7,756,789

Global Commitment fund	<u>3,750,000</u>
Total	11,506,789
Sec. B.321 Department for children and families - general assistance	
Grants	<u>6,000,928</u>
Total	6,000,928
Source of funds	
ARRA funds	1,699,412
General fund	2,850,196
Global Commitment fund	340,000
Federal funds	<u>1,111,320</u>
Total	6,000,928
Sec. B.322 Department for children and families - food stamp cash out	
Grants	<u>19,031,133</u>
Total	19,031,133
Source of funds	
ARRA funds	2,300,000
Federal funds	<u>16,731,133</u>
Total	19,031,133
Sec. B.323 Department for children and families - reach up	
Grants	<u>47,929,876</u>
Total	47,929,876
Source of funds	
ARRA funds	5,485,423
General fund	15,462,246
Special funds	18,025,000
Global Commitment fund	374,400
Federal funds	<u>8,582,807</u>
Total	47,929,876
Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP	
Personal services	20,000
Operating expenses	90,000
Grants	<u>11,502,664</u>
Total	11,612,664
Source of funds	
Federal funds	<u>11,612,664</u>
Total	11,612,664

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

Personal services	250,236
Operating expenses	78,644
Grants	<u>8,610,062</u>
Total	8,938,942
Source of funds	
ARRA funds	3,775,000
General fund	1,313,017
Special funds	57,810
Federal funds	<u>3,793,115</u>
Total	8,938,942

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

Personal services	174,293
Operating expenses	130,499
Grants	<u>14,959,936</u>
Total	15,264,728
Source of funds	
ARRA funds	8,421,288
Special funds	4,593,774
Federal funds	<u>2,249,666</u>
Total	15,264,728

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	3,482,661
Operating expenses	<u>630,581</u>
Total	4,113,242
Source of funds	
General fund	4,058,350
Interdepartmental transfers	<u>54,892</u>
Total	4,113,242

Sec. B.328 Department for children and families - disability determination services

Personal services	3,508,357
Operating expenses	<u>624,291</u>
Total	4,132,648
Source of funds	

Global Commitment fund	246,517
Federal funds	<u>3,886,131</u>
Total	4,132,648

Sec. B.329 Disabilities, aging and independent living - administration & support

Personal services	24,693,635
Operating expenses	<u>3,762,989</u>
Total	28,456,624
Source of funds	
General fund	6,952,640
Special funds	1,068,022
Global Commitment fund	6,329,926
Federal funds	11,666,254
Interdepartmental transfers	<u>2,439,782</u>
Total	28,456,624

Sec. B.330 Disabilities, aging and independent living - advocacy and independent living grants

Grants	<u>22,371,437</u>
Total	22,371,437
Source of funds	
ARRA funds	404,000
General fund	10,229,301
Global Commitment fund	3,455,319
Federal funds	7,645,317
Interdepartmental transfers	<u>637,500</u>
Total	22,371,437

Sec. B.331 Disabilities, aging and independent living - blind and visually impaired

Grants	<u>1,486,457</u>
Total	1,486,457
Source of funds	
General fund	364,064
Special funds	223,450
Global Commitment fund	250,000
Federal funds	<u>648,943</u>
Total	1,486,457

Sec. B.332 Disabilities, aging and independent living - vocational rehabilitation

Grants	<u>7,302,971</u>
Total	7,302,971
Source of funds	
ARRA funds	1,334,000
General fund	1,535,695
Global Commitment fund	7,500
Federal funds	4,132,389
Interdepartmental transfers	<u>293,387</u>
Total	7,302,971
Sec. B.333 Disabilities, aging and independent living - developmental services	
Grants	<u>140,669,369</u>
Total	140,669,369
Source of funds	
General fund	172,625
Special funds	15,463
Global Commitment fund	140,121,424
Federal funds	<u>359,857</u>
Total	140,669,369
Sec. B.334 Disabilities, aging and independent living -TBI home and community based waiver	
Grants	<u>4,127,448</u>
Total	4,127,448
Source of funds	
Global Commitment fund	<u>4,127,448</u>
Total	4,127,448
Sec. B.335 Corrections - administration	
Personal services	2,348,301
Operating expenses	<u>302,104</u>
Total	2,650,405
Source of funds	
General fund	<u>2,650,405</u>
Total	2,650,405
Sec. B.336 Corrections - parole board	
Personal services	320,374
Operating expenses	<u>58,121</u>
Total	378,495
Source of funds	
General fund	<u>378,495</u>

Total	378,495
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Sec. B.337 Corrections - correctional education

Personal services	4,016,553
Operating expenses	<u>306,274</u>
Total	4,322,827
Source of funds	
General fund	413,648
Special funds	500,000
Interdepartmental transfers	<u>3,409,179</u>
Total	4,322,827

Sec. B.338 Corrections - correctional services

Personal services	79,298,255
Operating expenses	34,200,620
Grants	<u>1,695,800</u>
Total	115,194,675
Source of funds	
General fund	110,863,161
Special funds	483,963
Tobacco fund	87,500
Global Commitment fund	3,094,144
Federal funds	584,861
Interdepartmental transfers	<u>81,046</u>
Total	115,194,675

Sec. B.339 Correctional services-out of state beds

Personal services	<u>12,609,534</u>
Total	12,609,534
Source of funds	
General fund	<u>12,609,534</u>
Total	12,609,534

Sec. B.340 Corrections - correctional facilities - recreation

Personal services	436,744
Operating expenses	<u>349,076</u>
Total	785,820
Source of funds	
General fund	125,000
Special funds	<u>660,820</u>
Total	785,820

 Sec. B.341 Corrections - Vermont offender work program

Personal services	1,154,973
Operating expenses	<u>554,103</u>
Total	1,709,076
Source of funds	
Internal service funds	<u>1,709,076</u>
Total	1,709,076

Sec. B.342 Vermont veterans' home - care and support services

Personal services	14,896,756
Operating expenses	<u>3,362,067</u>
Total	18,258,823
Source of funds	
Special funds	10,931,473
Global Commitment fund	837,225
Federal funds	<u>6,490,125</u>
Total	18,258,823

Sec. B.343 Commission on women

Personal services	224,632
Operating expenses	<u>67,273</u>
Total	291,905
Source of funds	
General fund	286,905
Special funds	<u>5,000</u>
Total	291,905

Sec. B.344 Retired senior volunteer program

Grants	<u>131,096</u>
Total	131,096
Source of funds	
General fund	<u>131,096</u>
Total	131,096

Sec. B.345 Total human services 2,850,461,740

Source of funds	
ARRA funds	162,975,537
General fund	440,711,020
Special funds	57,837,263
Tobacco fund	40,173,740
Global Commitment fund	957,809,475

State health care resources fund	156,955,519
Catamount fund	26,814,529
Federal funds	987,572,167
Permanent trust funds	10,000
Internal service funds	1,709,076
Interdepartmental transfers	<u>17,893,414</u>
Total	2,850,461,740

Sec. B.400 Labor - administration

Personal services	4,900,419
Operating expenses	<u>577,547</u>
Total	5,477,966
Source of funds	
ARRA funds	1,875,000
General fund	531,937
Special funds	266,110
Catamount fund	25,424
Federal funds	2,412,145
Interdepartmental transfers	<u>367,350</u>
Total	5,477,966

Sec. B.401 Labor - programs

Personal services	21,048,615
Operating expenses	4,726,026
Grants	<u>7,216,529</u>
Total	32,991,170
Source of funds	
ARRA funds	6,793,753
General fund	2,058,632
Special funds	2,947,118
Catamount fund	368,648
Federal funds	18,786,531
Interdepartmental transfers	<u>2,036,488</u>
Total	32,991,170

Sec. B.402 Labor - domestic and sexual violence survivors' transitional employment program

Grants	<u>30,000</u>
Total	30,000
Source of funds	
Special funds	<u>30,000</u>
Total	30,000

 Sec. B 403 Total Labor 38,499,136

Source of funds

ARRA funds	8,668,753
General fund	2,590,569
Special funds	3,243,228
Catamount fund	394,072
Federal funds	21,198,676
Interdepartmental transfers	<u>2,403,838</u>
Total	38,499,136

Sec. B.500 Education - finance and administration

Personal services	5,498,188
Operating expenses	1,651,304
Grants	<u>12,084,730</u>
Total	19,234,222

Source of funds

General fund	3,409,206
Special funds	12,951,342
Global Commitment fund	858,212
Federal funds	2,010,732
Interdepartmental transfers	<u>4,730</u>
Total	19,234,222

Sec. B.501 Education - education services

Personal services	13,136,696
Operating expenses	1,873,037
Grants	<u>113,036,906</u>
Total	128,046,639

Source of funds

General fund	5,410,358
Education fund	1,131,751
Special funds	2,189,254
Federal funds	119,289,540
Interdepartmental transfers	<u>25,736</u>
Total	128,046,639

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
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Global Commitment fund	<u>230,000</u>
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Total	142,687,975
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Sec. B.503 Education - state-placed students

Grants	<u>18,900,000</u>
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Total	18,900,000
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Source of funds

Education fund	<u>18,900,000</u>
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Total	18,900,000
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Sec. B.504 Education - adult education and literacy

Grants	<u>6,463,656</u>
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Total	6,463,656
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Source of funds

General fund	2,587,995
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Education fund	3,000,000
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Federal funds	<u>875,661</u>
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Total	6,463,656
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Sec. B.505 Education - adjusted education payment

Grants	<u>1,136,100,000</u>
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Total	1,136,100,000
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Source of funds

ARRA funds	38,575,036
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Education fund	<u>1,097,524,964</u>
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Total	1,136,100,000
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Sec. B.506 Education - transportation

Grants	<u>15,542,809</u>
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Total	15,542,809
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Source of funds

Education fund	<u>15,542,809</u>
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Total	15,542,809
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Sec. B.507 Education - small school grants

Grants	<u>6,977,336</u>
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Total	6,977,336
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Source of funds

Education fund	<u>6,977,336</u>
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Total	6,977,336
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Sec. B.508 Education - capital debt service aid

Grants	<u>188,000</u>
Total	188,000
Source of funds	
Education fund	<u>188,000</u>
Total	188,000
Sec. B.509 Education - tobacco litigation	
Personal services	131,153
Operating expenses	57,584
Grants	<u>800,180</u>
Total	988,917
Source of funds	
Tobacco fund	<u>988,917</u>
Total	988,917
Sec. B.510 Education - essential early education grant	
Grants	<u>5,700,000</u>
Total	5,700,000
Source of funds	
Education fund	<u>5,700,000</u>
Total	5,700,000
Sec. B.511 Education - technical education	
Grants	<u>12,800,000</u>
Total	12,800,000
Source of funds	
Education fund	<u>12,800,000</u>
Total	12,800,000
Sec. B.512 Education - Act 117 cost containment	
Personal services	1,070,398
Operating expenses	121,307
Grants	<u>91,000</u>
Total	1,282,705
Source of funds	
Special funds	<u>1,282,705</u>
Total	1,282,705
Sec. B.513 Appropriation and transfer to education fund	
Grants	<u>239,303,944</u>
Total	239,303,944
Source of funds	

General fund	<u>239,303,944</u>
Total	239,303,944
Sec. B.514 State teachers' retirement system	
Personal services	26,629,115
Operating expenses	942,527
Grants	<u>40,228,002</u>
Total	67,799,644
Source of funds	
General fund	40,228,002
Pension trust funds	<u>27,571,642</u>
Total	67,799,644
Sec. B 515 Total general education	1,802,015,847
Source of funds	
ARRA funds	38,575,036
General fund	290,939,505
Education fund	1,304,222,835
Special funds	16,423,301
Tobacco fund	988,917
Global Commitment fund	1,088,212
Federal funds	122,175,933
Pension trust funds	27,571,642
Interdepartmental transfers	<u>30,466</u>
Total	1,802,015,847
Sec. B.600 University of Vermont	
Grants	<u>40,746,629</u>
Total	40,746,629
Source of funds	
General fund	36,740,473
Global Commitment fund	<u>4,006,156</u>
Total	40,746,629
Sec. B.601 Vermont Public Television	
Grants	<u>564,620</u>
Total	564,620
Source of funds	
General fund	<u>564,620</u>
Total	564,620

Sec. B.602 Vermont state colleges

Grants	<u>23,155,213</u>
Total	23,155,213
Source of funds	
General fund	<u>23,155,213</u>
Total	23,155,213

Sec. B.603 Vermont state colleges - allied health

Grants	<u>1,068,537</u>
Total	1,068,537
Source of funds	
General fund	663,130
Global Commitment fund	<u>405,407</u>
Total	1,068,537

Sec. B.604 Vermont interactive television

Grants	<u>785,679</u>
Total	785,679
Source of funds	
General fund	<u>785,679</u>
Total	785,679

Sec. B.605 Vermont student assistance corporation

Grants	<u>18,363,607</u>
Total	18,363,607
Source of funds	
General fund	<u>18,363,607</u>
Total	18,363,607

Sec. B.606 New England higher education compact

Grants	<u>84,000</u>
Total	84,000
Source of funds	
General fund	<u>84,000</u>
Total	84,000

Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	<u>1</u>
Total	1
Source of funds	
General fund	<u>1</u>

Total	1
Sec. B 608 Total higher education	84,768,286
Source of funds	
General fund	80,356,723
Global Commitment fund	<u>4,411,563</u>
Total	84,768,286
Sec. B.700 Natural resources - agency of natural resources - administration	
Personal services	3,830,378
Operating expenses	1,506,066
Grants	<u>25,000</u>
Total	5,361,444
Source of funds	
General fund	4,794,914
Federal funds	278,120
Interdepartmental transfers	<u>288,410</u>
Total	5,361,444
Sec. B.701 Connecticut river watershed advisory commission	
Grants	<u>38,000</u>
Total	38,000
Source of funds	
General fund	<u>38,000</u>
Total	38,000
Sec. B.702 Citizens' advisory committee on Lake Champlain's future	
Personal services	3,600
Operating expenses	<u>3,900</u>
Total	7,500
Source of funds	
General fund	<u>7,500</u>
Total	7,500
Sec. B.703 Natural resources - state land local property tax assessment	
Operating expenses	<u>2,128,733</u>
Total	2,128,733
Source of funds	
General fund	1,707,233
Interdepartmental transfers	<u>421,500</u>
Total	2,128,733

Sec. B.704 Green up

Operating expenses	7,594
Grants	<u>10,550</u>
Total	18,144
Source of funds	
Special funds	<u>18,144</u>
Total	18,144

Sec. B.705 Fish and wildlife - support and field services

Personal services	12,437,985
Operating expenses	4,482,575
Grants	<u>774,333</u>
Total	17,694,893
Source of funds	
General fund	1,227,419
Fish and wildlife fund	16,230,474
Interdepartmental transfers	<u>237,000</u>
Total	17,694,893

Sec. B.706 Fish and wildlife - watershed improvement

Grants	<u>125,000</u>
Total	125,000
Source of funds	
Fish and wildlife fund	<u>125,000</u>
Total	125,000

Sec. B.707 Forests, parks and recreation - administration

Personal services	1,020,309
Operating expenses	555,710
Grants	<u>1,858,450</u>
Total	3,434,469
Source of funds	
General fund	1,223,859
Special funds	1,305,610
Federal funds	<u>905,000</u>
Total	3,434,469

Sec. B.708 Forests, parks and recreation - forestry

Personal services	4,482,990
Operating expenses	579,205
Grants	<u>343,000</u>

Total	5,405,195
Source of funds	
General fund	3,633,694
Special funds	474,501
Federal funds	1,140,000
Interdepartmental transfers	<u>157,000</u>
Total	5,405,195

Sec. B.709 Forests, parks and recreation - state parks

Personal services	5,381,818
Operating expenses	<u>1,989,011</u>
Total	7,370,829
Source of funds	
General fund	767,889
Special funds	<u>6,602,940</u>
Total	7,370,829

Sec. B.710 Forests, parks and recreation - lands administration

Personal services	443,601
Operating expenses	<u>1,209,081</u>
Total	1,652,682
Source of funds	
General fund	368,477
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	<u>55,000</u>
Total	1,652,682

Sec. B.711 Forests, parks and recreation - youth conservation corps

Grants	<u>751,666</u>
Total	751,666
Source of funds	
General fund	46,000
Special funds	361,666
Federal funds	94,000
Interdepartmental transfers	<u>250,000</u>
Total	751,666

Sec. B.712 Forests, parks and recreation - forest highway maintenance

Personal services	20,000
Operating expenses	<u>159,266</u>
Total	179,266

Source of funds	
General fund	<u>179,266</u>
Total	179,266
Sec. B.713 Environmental conservation - management and support services	
Personal services	4,043,142
Operating expenses	806,015
Grants	<u>103,913</u>
Total	4,953,070
Source of funds	
General fund	1,065,644
Special funds	2,425,301
Federal funds	1,407,125
Interdepartmental transfers	<u>55,000</u>
Total	4,953,070
Sec. B.714 Environmental conservation - air and waste management	
Personal services	7,183,059
Operating expenses	6,483,565
Grants	<u>1,386,000</u>
Total	15,052,624
Source of funds	
General fund	619,928
Special funds	10,783,016
Federal funds	3,439,680
Interdepartmental transfers	<u>210,000</u>
Total	15,052,624
Sec. B.715 Environmental conservation - office of water programs	
Personal services	13,507,863
Operating expenses	1,964,999
Grants	<u>2,165,402</u>
Total	17,638,264
Source of funds	
General fund	6,336,970
Special funds	4,419,321
Federal funds	6,401,973
Interdepartmental transfers	<u>480,000</u>
Total	17,638,264
Sec. B.716 Environmental conservation - tax-loss-Connecticut river flood control	

Operating expenses	<u>40,000</u>
Total	40,000
Source of funds	
Special funds	<u>40,000</u>
Total	40,000
Sec. B.717 Natural resources board	
Personal services	2,259,294
Operating expenses	<u>347,320</u>
Total	2,606,614
Source of funds	
General fund	816,942
Special funds	<u>1,789,672</u>
Total	2,606,614
Sec. B.718 Total natural resources	84,458,393
Source of funds	
General fund	22,833,735
Fish and wildlife fund	16,355,474
Special funds	28,399,376
Federal funds	14,715,898
Interdepartmental transfers	<u>2,153,910</u>
Total	84,458,393
Sec. B.800 Commerce and community development - agency of commerce and community development - administration	
Personal services	1,914,002
Operating expenses	642,659
Grants	<u>1,136,390</u>
Total	3,693,051
Source of funds	
General fund	2,793,051
Federal funds	800,000
Interdepartmental transfers	<u>100,000</u>
Total	3,693,051
Sec. B.801 Housing and community affairs	
Personal services	2,333,275
Operating expenses	420,760
Grants	<u>16,529,461</u>
Total	19,283,496

Source of funds	
General fund	1,153,070
Special funds	3,210,948
Federal funds	14,881,478
Interdepartmental transfers	<u>38,000</u>
Total	19,283,496
Sec. B.802 Historic sites - operations	
Personal services	593,585
Operating expenses	338,745
Grants	<u>2,850</u>
Total	935,180
Source of funds	
General fund	545,528
Special funds	<u>389,652</u>
Total	935,180
Sec. B.803 Historic sites - special improvements	
Personal services	108,200
Operating expenses	<u>76,247</u>
Total	184,447
Source of funds	
Special funds	50,000
Federal funds	113,449
Interdepartmental transfers	<u>20,998</u>
Total	184,447
Sec. B.804 Community development block grants	
Grants	<u>9,428,530</u>
Total	9,428,530
Source of funds	
ARRA funds	1,982,000
Federal funds	<u>7,446,530</u>
Total	9,428,530
Sec. B.805 Downtown transportation and capital improvement fund	
Personal services	72,978
Grants	<u>327,022</u>
Total	400,000
Source of funds	
Special funds	<u>400,000</u>
Total	400,000

Sec. B.806 Economic development

Personal services	1,530,824
Operating expenses	619,677
Grants	<u>1,741,434</u>
Total	3,891,935
Source of funds	
General fund	2,926,585
Special funds	465,350
Federal funds	<u>500,000</u>
Total	3,891,935

Sec. B.807 Vermont training program

Personal services	197,200
Operating expenses	22,334
Grants	<u>1,483,621</u>
Total	1,703,155
Source of funds	
General fund	1,668,155
Special funds	<u>35,000</u>
Total	1,703,155

Sec. B.808 Tourism and marketing

Personal services	1,448,276
Operating expenses	2,008,976
Grants	<u>171,000</u>
Total	3,628,252
Source of funds	
General fund	3,622,252
Special funds	<u>6,000</u>
Total	3,628,252

Sec. B.809 Vermont life

Personal services	740,669
Operating expenses	<u>110,309</u>
Total	850,978
Source of funds	
Enterprise funds	<u>850,978</u>
Total	850,978

Sec. B.810 Vermont council on the arts

Grants	<u>507,607</u>
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Total	507,607
Source of funds	
General fund	<u>507,607</u>
Total	507,607
Sec. B.811 Vermont symphony orchestra	
Grants	<u>113,821</u>
Total	113,821
Source of funds	
General fund	<u>113,821</u>
Total	113,821
Sec. B.812 Vermont historical society	
Grants	<u>795,669</u>
Total	795,669
Source of funds	
General fund	<u>795,669</u>
Total	795,669
Sec. B.813 Vermont housing and conservation board	
Grants	<u>19,933,436</u>
Total	19,933,436
Source of funds	
Special funds	8,326,662
Federal funds	<u>11,606,774</u>
Total	19,933,436
Sec. B.814 Vermont humanities council	
Grants	<u>172,670</u>
Total	172,670
Source of funds	
General fund	<u>172,670</u>
Total	172,670
Sec. B 815 Total commerce and community development	
	65,522,227
Source of funds	
ARRA funds	1,982,000
General fund	14,298,408
Special funds	12,883,612
Federal funds	35,348,231
Enterprise funds	850,978

Interdepartmental transfers	<u>158,998</u>
Total	65,522,227
Sec. B.900 Transportation - finance and administration	
Personal services	10,071,137
Operating expenses	<u>2,438,262</u>
Total	12,509,399
Source of funds	
Transportation fund	12,009,399
Federal funds	<u>500,000</u>
Total	12,509,399
Sec. B.901 Transportation - aviation	
Personal services	1,448,274
Operating expenses	20,033,801
Grants	<u>160,000</u>
Total	21,642,075
Source of funds	
ARRA funds	4,000,000
Transportation fund	2,226,575
Federal funds	<u>15,415,500</u>
Total	21,642,075
Sec. B.902 Transportation - buildings	
Operating expenses	<u>1,311,500</u>
Total	1,311,500
Source of funds	
Transportation fund	<u>1,311,500</u>
Total	1,311,500
Sec. B.903 Transportation - program development	
Personal services	36,275,422
Operating expenses	203,632,747
Grants	<u>25,834,622</u>
Total	265,742,791
Source of funds	
ARRA funds	93,584,644
TIB fund	10,455,822
Transportation fund	20,940,808
Local match	1,600,430
Federal funds	132,384,837
Interdepartmental transfers	<u>6,776,250</u>

Total	265,742,791
Sec. B.904 Transportation - rest areas	
Personal services	100,000
Operating expenses	<u>2,850,000</u>
Total	2,950,000
Source of funds	
Transportation fund	379,740
Federal funds	<u>2,570,260</u>
Total	2,950,000
Sec. B.905 Transportation - maintenance state system	
Personal services	34,028,928
Operating expenses	32,011,361
Grants	<u>278,020</u>
Total	66,318,309
Source of funds	
Transportation fund	63,335,237
Federal funds	2,883,072
Interdepartmental transfers	<u>100,000</u>
Total	66,318,309
Sec. B.906 Transportation - policy and planning	
Personal services	4,099,519
Operating expenses	1,169,550
Grants	<u>5,024,772</u>
Total	10,293,841
Source of funds	
Transportation fund	2,295,512
Federal funds	7,623,486
Interdepartmental transfers	<u>374,843</u>
Total	10,293,841
Sec. B.907 Transportation - rail	
Personal services	3,625,048
Operating expenses	<u>16,770,876</u>
Total	20,395,924
Source of funds	
Transportation fund	10,042,149
Federal funds	<u>10,353,775</u>
Total	20,395,924

Sec. B.908 Transportation - bridge maintenance

Operating expenses	<u>34,051,340</u>
Total	34,051,340
Source of funds	
ARRA funds	6,244,047
TIB fund	234,020
Transportation fund	4,011,751
Federal funds	<u>23,561,522</u>
Total	34,051,340

Sec. B.909 Transportation - public transit

Personal services	717,809
Operating expenses	51,301
Grants	<u>25,490,729</u>
Total	26,259,839
Source of funds	
ARRA funds	3,926,923
Transportation fund	6,328,234
Federal funds	<u>16,004,682</u>
Total	26,259,839

Sec. B.910 Transportation - central garage

Personal services	3,454,724
Operating expenses	<u>13,393,351</u>
Total	16,848,075
Source of funds	
Internal service funds	<u>16,848,075</u>
Total	16,848,075

Sec. B.911 Department of motor vehicles

Personal services	16,913,642
Operating expenses	8,116,673
Grants	<u>50,000</u>
Total	25,080,315
Source of funds	
Transportation fund	23,597,821
Federal funds	<u>1,482,494</u>
Total	25,080,315

Sec. B.912 Transportation - town highway structures

Grants	<u>3,833,500</u>
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Total	3,833,500
Source of funds	
Transportation fund	<u>3,833,500</u>
Total	3,833,500
Sec. B.913 Transportation - town highway Vermont local roads	
Grants	<u>375,000</u>
Total	375,000
Source of funds	
Transportation fund	235,000
Federal funds	<u>140,000</u>
Total	375,000
Sec. B.914 Transportation - town highway class 2 roadway	
Grants	<u>5,748,750</u>
Total	5,748,750
Source of funds	
Transportation fund	<u>5,748,750</u>
Total	5,748,750
Sec. B.915 Transportation - town highway bridges	
Personal services	3,570,000
Operating expenses	<u>22,499,416</u>
Total	26,069,416
Source of funds	
ARRA funds	9,442,034
TIB fund	1,875,976
Transportation fund	500,000
Local match	1,393,370
Federal funds	<u>12,858,036</u>
Total	26,069,416
Sec. B.916 Transportation - town highway aid program	
Grants	<u>24,982,744</u>
Total	24,982,744
Source of funds	
Transportation fund	<u>24,982,744</u>
Total	24,982,744
Sec. B.917 Transportation - town highway class 1 supplemental grants	
Grants	<u>128,750</u>
Total	128,750

Source of funds	
Transportation fund	<u>128,750</u>
Total	128,750
Sec. B.918 Transportation - town highway emergency fund	
Grants	<u>750,000</u>
Total	750,000
Source of funds	
Transportation fund	<u>750,000</u>
Total	750,000
Sec. B.919 Transportation - municipal mitigation grant program	
Grants	<u>2,112,998</u>
Total	2,112,998
Source of funds	
Transportation fund	247,998
Federal funds	<u>1,865,000</u>
Total	2,112,998
Sec. B.920 Transportation - public assistance grant program	
Grants	<u>200,000</u>
Total	200,000
Source of funds	
Federal funds	<u>200,000</u>
Total	200,000
Sec. B.921 Transportation board	
Personal services	73,502
Operating expenses	<u>13,389</u>
Total	86,891
Source of funds	
Transportation fund	<u>86,891</u>
Total	86,891
Sec. B.922 Total transportation	567,691,457
Source of funds	
ARRA funds	117,197,648
TIB fund	12,565,818
Transportation fund	182,992,359
Local match	2,993,800
Federal funds	227,842,664
Internal service funds	16,848,075

Interdepartmental transfers	<u>7,251,093</u>
Total	567,691,457
Sec. B.1000 Debt service	
Debt service	<u>70,804,150</u>
Total	70,804,150
Source of funds	
General fund	64,743,920
Transportation fund	3,560,515
Special funds	<u>2,499,715</u>
Total	70,804,150
Sec. B.1000.1 Short term borrowing	
Debt service	<u>1,176,792</u>
Total	1,176,792
Source of funds	
General fund	<u>1,176,792</u>
Total	1,176,792
Sec. B 1001 Total debt service	71,980,942
Source of funds	
General fund	65,920,712
Transportation fund	3,560,515
Special funds	<u>2,499,715</u>
Total	71,980,942
Sec. B.1100 FISCAL YEAR 2010 NEXT GENERATION APPROPRIATION	
<u>(a) In fiscal year 2010, the following amount is appropriated from the next generation initiative fund, created in 16 V.S.A. § 2887 as prescribed by Sec. E.1100:</u>	
	\$3,293,000
Sec. B.1101 FISCAL YEAR 2010 ONE TIME APPROPRIATIONS	
<u>(a) In fiscal year 2010, the following amounts are appropriated from the general fund:</u>	
(1) <u>To the University of Vermont.</u>	\$5,175,298
(2) <u>To the Vermont state colleges.</u>	\$3,445,674
(3) <u>To the Vermont student assistance corporation.</u>	\$2,489,990
(4) <u>To the Vermont housing and conservation board for a grant to the Vermont center for independent living to fund the home access program in fiscal year 2010.</u>	\$1,000,000

(5) To the Vermont state colleges to grow the endowment and to be used in a manner consistent with that specified in Sec. 381a (a)(13) of Act 65 of 2007.

\$100,000

(6) To the department of tourism and marketing of which \$100,000 shall be for a grant to the Vermont convention bureau overseen by the Lake Champlain Regional Chamber of Commerce and \$20,000 shall be for a grant to the Shires of Vermont.

\$120,000

(7) To the legislature, for planning and preparation for the 2009 council of state governments northeast regional meeting in Vermont.

\$50,000

(8) To the department of economic development for a grant to Sterling College for student residency and program center costs. The department shall determine if the ARRA State Fiscal Stabilization Funds Government Services Funds could be utilized to make this grant. To the extent that ARRA funds are available, this general fund appropriation shall be transferred to the department of public safety-state police in place of ARRA funds appropriated to that department.

\$350,000

(9) To the state treasurer for costs of the study in Sec. E.135.1 of this act.

\$150,000

(10) To the legislature for the purposes of Sec. H.47b(b) of this act.

\$100,000

(11) To the department of economic development for the commissioner to grant to regional planning commission and regional development commissions.

\$300,000

(b) In fiscal year 2010 the following amounts are appropriated from the American Recovery and Reinvestment: State Fiscal Stabilization Fund Government Services Fund.

(1) Appropriated for economic development activities as specified on Sec. D.109 of this act and H.313 of 2009 to further job creation in Vermont.

\$3,400,000

(2) To the department of economic development for the program operations of the Vermont Training Program.

\$200,000

(3) To the department of tourism and marketing.

\$500,000

Sec. B.1102 REPEAL

(a) Sec. 3(a)(2)(B) of No. 206 of the Acts of 2008 (fiscal year 2010 transportation fund pay act) is repealed.

Sec. B.1103 APPROPRIATION REDUCTION; EXPENDITURE
REDUCTION

(a) The secretary of administration shall reduce fiscal year 2010 general and transportation fund appropriations consistent with expenditure reductions, including reductions in positions, and is authorized to substitute appropriation adjustments in other funds and to effect fund transfers to the general and transportation funds to achieve these amounts. The general fund appropriation reduction shall be \$14,700,000 and the transportation fund reduction shall be \$1,400,000 and shall be made in accordance with the provision of Sec. E.1103 of this act.

(b) The secretary of administration is directed to reduce operating expense appropriations throughout the executive branch of state government by \$16,560 in general funds.

Sec. B.1104 AGENCY OF HUMAN SERVICES; GRANT REDUCTIONS

(a) The secretary of human services shall reduce grants and contracts appropriated from general funds in the amount of \$740,000, of which no more than \$425,000 shall be reduced from the grants and contracts associated with the department for children and families. The secretary may adjust spending of federal funds or special funds when necessary, because the general funds are providing a funding match. To accomplish this reduction in general funds, the secretary shall use the following criteria to determine which grants and contracts are impacted and by how much. The criteria are:

(1) the preservation of direct services to Vermonters;

(2) the preservation of direct services to vulnerable populations most at risk for negative outcomes, including prioritizing twenty-four hour residential programs and emergency direct services;

(3) the minimization of reductions in services currently provided that would result in an increase in the severity of need and a shift in utilization to more invasive, intensive, or expensive services; and

(4) the minimization of negative impacts on the stability of community organizations receiving grants and contracts in order to promote a range of services to individuals and families.

(b) The agency of human services shall report to the joint fiscal committee at its July 2009 meeting with the grant reduction plan and an explanation for how the plan fits the priorities required in this section. No later than January 15, 2010, the agency shall report to the house committees on appropriations and on human services and the senate committees on

appropriations and on health and welfare with an updated grant reduction plan and an explanation for how the plan fits the priorities required in this section.

* * * Fiscal Year 2009 Budget Adjustment * * *

Sec. C.100 Sec. 2.121 of No. 192 of the Acts of 2008, as amended by Sec. 11 of No. 4 of the Acts of 2009 is further amended to read:

Sec. 2.121. Center for crime victims services

Personal services	1,404,168	1,404,168
Operating expenses	318,275	318,275
Grants	<u>9,091,834</u>	<u>9,474,834</u>
Total	10,814,277	11,197,277
Source of funds		
General fund	49,809	49,809
Special funds	6,899,390	7,282,390
Federal funds	<u>3,865,078</u>	<u>3,865,078</u>
Total	10,814,277	11,197,277

Sec. C.101 Sec. 2.136 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.136. Public service - regulation and energy

Personal services	4,981,246	5,165,246
Operating expenses	690,524	690,524
Grants	<u>5,770,007</u>	<u>5,770,007</u>
Total	11,441,777	11,625,777
Source of funds		
Special funds	10,248,977	10,432,977
Federal funds	1,157,800	1,157,800
Interdepartmental transfer	<u>35,000</u>	<u>35,000</u>
Total	11,441,777	11,625,777

Sec. C.102 Sec. 2.145 of No. 192 of the Acts of 2008 as amended by Sec. 13 of No. 4 of the Acts of 2009 is further amended to read:

Sec. 2.145. Total protection to persons and property

259,245,579	259,812,579
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Source of funds

General fund	93,104,352	93,104,352
Transportation fund	32,725,324	32,725,324
Special funds	66,924,640	67,491,640
Tobacco fund	696,306	696,306
Global Commitment fund	1,898,824	1,898,824
Federal funds	49,775,682	49,775,682
Enterprise funds	4,735,317	4,735,317
Interdepartmental transfer	<u>9,385,134</u>	<u>9,385,134</u>
Total	259,245,579	259,812,579

Sec. C. 103 Sec. 2.223 of No. 192 of the Acts of 2008 as amended by Sec. 29 of No. 4 of the Acts of 2009 is further amended to read:

Sec. 2.223. Department for children and families - child development

Personal services	3,338,891	3,338,891
Operating expenses	843,660	520,557
Grants	<u>51,064,583</u>	<u>54,940,903</u>
Total	55,247,134	58,800,351

Source of funds

General fund	23,228,747	25,195,964
Special funds	865,000	865,000
Global Commitment fund	4,289,469	5,365,469
<u>Federal ARRA funds</u>		426,000
Federal funds	26,724,411	26,808,411
Interdepartmental transfer	<u>139,507</u>	<u>139,507</u>
Total	55,247,134	58,800,351

Sec. C 104 Sec. 2.251 of No. 192 of the Acts of 2008 as amended by Sec. 46 of No. 4 of the Acts of 2009 is further amended to read:

Sec. 2.251. Total human services ~~2,649,379,658~~ 2,693,603,326

Source of funds

General fund	521,931,597	474,056,196
Special funds	66,707,178	64,844,465
Tobacco fund	45,410,381	45,410,381
Global Commitment fund	906,593,258	914,305,775
State health care resources fund	147,623,246	148,261,016
Catamount fund	31,073,806	23,769,031
Federal funds	916,671,195	933,916,880
<u>Federal ARRA funds</u>		75,886,880
Permanent trust funds	10,000	10,000
Internal service funds	3,282,548	3,282,548
Interdepartmental transfer	10,076,449	<u>9,757,097</u>
Total	2,649,379,658	2,693,603,326

Sec. C.105 FISCAL YEAR 2009 – ARRA APPROPRIATIONS

(a) In addition to funds appropriated elsewhere, the following appropriation of American Recovery and Reinvestment Act funds is authorized in fiscal year 2009.

(1) \$60,049 to the agency of human services for the Vermont commission on national and community service.

(2) \$1,225,000 to the department for children and families - office of economic opportunity for Community Services Block Grant funding.

(3) \$131,911 to the department for children and families - child development as a result of IV-E enhanced match. This is anticipated to allow a like amount of funding to carry forward and be available to offset fiscal year 2010 funding need.

(4) \$1,048,199 to the department for children and families - family services as a result of IV-E enhanced match. This is anticipated to allow a like amount of funding to carry forward and be available to offset fiscal year 2010 funding need.

(5) \$540,660 to the department for children and families - food stamp cash out for supplemental nutrition assistance program funding.

(6) \$280,364 to the department of disabilities, aging, and independent living - vocational rehabilitation for rehabilitation services.

(7) \$81,000 to the department of disabilities, aging, and independent living - advocacy and independent living grants for senior nutrition funds.

(8) \$3,000 to the department of disabilities, aging, and independent living - advocacy and independent living grants for senior community service employment.

(9) \$44,649 to the department of disabilities, aging, and independent living - blind and visually impaired.

(10) \$50,000 to the department of labor for state unemployment and employment service operations including job counseling and other assistance to workers.

(11) \$350,000 to the department of labor for employment and training assistance to economically disadvantaged youth with employment barriers.

Sec. C.106 FISCAL YEAR 2009 CONTINGENT GENERAL FUND TRANSFERS AND RESERVES

(a) To the extent that after meeting the requirements of 32 V.S.A. § 308, the general fund budget stabilization reserve has not attained its statutory maximum, additional amounts shall be transferred from the human services caseload management reserve established under 32 V.S.A. § 308b as necessary to attain said statutory maximum.

(b) After the general fund budget stabilization reserve attains its statutory maximum, any additional unreserved and undesignated general fund balance shall be reserved in the revenue shortfall reserve established in 32 V.S.A. § 308(d).

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of \$314,503 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$314,503 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$6,101,662 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above \$6,101,662 from the

property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,449,427 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,449,427 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The sum of \$3,449,427 shall be allocated as follows:

(A) \$2,632,027 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) \$408,700 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) \$408,700 to the Vermont center for geographic information.

(4) It is the intent of the general assembly that in fiscal year 2011, the appropriations in this subsection shall be in accordance with the formulas set forth in 32 V.S.A. § 9610(c), 10 V.S.A. § 312, and 24 V.S.A. § 4306(a) and (b).

Sec. D.101 FUND TRANSFERS

(a) The following amounts are transferred from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. § 902a: \$250,000.

(B) next generation initiative fund established by 16 V.S.A. § 2887: \$3,293,000.

(2) from the transportation fund to the downtown transportation and related capital improvement fund established by 24 V.S.A. § 2796 to be used by the Vermont downtown development board for the purposes of the fund: \$400,000.

(3) from the public service department regulation special fund to the general fund: \$300,000.

(4) an assessment from special funds of no greater than two percent of any fund appropriation to the general fund, of no greater than \$3,321,444 in total. Notwithstanding any other provisions of law, the secretary of administration is authorized to reduce special fund appropriations and transfer special funds to the general fund in fiscal year 2010 to achieve this amount and shall report these actions to the joint fiscal committee at its November 2009 meeting.

(5) from the liquor control fund to the general fund: \$200,000.

(b) In fiscal year 2010, to the extent general fund budget stabilization reserve has not attained its statutory maximum, an amount necessary to attain said reserve up to \$3,300,000 shall be transferred from the human services caseload management reserve established under 32 V.S.A. § 308b.

Sec. D.102 FUND RESERVE AUTHORIZATION

(a) In fiscal year 2010, the secretary of administration may authorize the secretary of human services to include any available balance in the human services caseload reserve as established in 32 V.S.A. § 308b as an available state match when setting the per-member per-month actuarial rates for Medicaid eligibility groups in the global commitment program for federal fiscal year 2010 and submitting these rates for approval by the Centers for Medicare and Medicaid Services.

Sec. D.103 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2009 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2010.

Sec. D.104 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2010 shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2010.

Sec. D.105 EXEMPTIONS FROM BUDGET STABILIZATION RESERVES

(a) Transportation fund amounts totaling \$3,144,146, reverted under the secretary of administration's carry-forward authority in Sec. 82(a) of No. 90 of the Acts of 2008, are exempt from the fiscal year 2008 transportation fund appropriation total used to calculate the five percent budget stabilization requirement for fiscal year 2009 in 32 V.S.A. § 308a.

Sec. D.106 EDUCATION MEDICAID RECEIPTS IN FISCAL YEARS 2009 AND 2010

(a) Notwithstanding 16 V.S.A. § 2959a(g), during fiscal year 2009 and fiscal year 2010, after the application of subsections (a) through (f), any remaining Medicaid reimbursement funds shall be deposited in the general fund.

Sec. D.107 GROSS RECEIPTS TAX IN FISCAL YEAR 2010

(a) In fiscal year 2010, the first \$2,300,000 of gross receipts tax revenue collected under 33 V.S.A. § 2503 shall be deposited in the general fund.

Sec. D.108 AMERICAN RECOVERY AND REINVESTMENT ACT:
STATE FISCAL STABILIZATION FUND PROGRAM FOR THE
SUPPORT OF PUBLIC ELEMENTARY, SECONDARY, AND HIGHER
EDUCATION

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the act and this section. \$38,575,036, which is one-half of Vermont's SFSF, funds is appropriated to school districts as part of the funding of the state's adjusted education payment under Sec. B.505 of this act.

(b) The commissioner of education shall ensure that federal reporting is carried out as to:

- (1) the use of funds provided under the SFSF program;
- (2) the estimated number of jobs created or saved with program funds;
- (3) estimated tax increases that were averted as a result of program funds;
- (4) the state's progress in the areas covered by the application assurances; and
- (5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the state fiscal stabilization fund.

Sec. D.109 AMERICAN RECOVERY AND REINVESTMENT ACT:
STATE FISCAL STABILIZATION FUND GOVERNMENT SERVICES
FUND

(a) The governor is authorized to submit an application as soon as practicable for Vermont's share of the American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund Program (SFSF) consistent with the intent of the act and as indicated below:

(1) For Vermont's SFSF government services fund designated for education, public safety, and other government services, estimated at \$17,165,683, \$8,500,000 is appropriated for fiscal year 2010 in Sec. B.1101 of this act which specifies:

(A) \$3,400,000 is appropriated to fund the activities specified in H.313 of 2009 (An Act Relating to the Vermont Recovery and Reinvestment Act of 2009) to further job creation in Vermont as follows:

(i) \$2,150,000 to the Vermont Economic Development Authority to provide venture capital to Vermont businesses.

(ii) \$1,000,000 to the Vermont Economic Development Authority for interest rate subsidies through the Vermont Jobs Fund.

(iii) \$100,000 to the secretary of administration for a grant to the Vermont Sustainable Jobs Funds for the Farm-to-Plate Investment program.

(iv) \$150,000 to the secretary of administration for a grant to the Vermont Sustainable Jobs Funds for operations of the fund.

(B) \$200,000 to the department of economic development for the program operations of the Vermont Training Program.

(C) \$500,000 shall be appropriated to the department of tourism and marketing.

(D) \$4,400,000 shall be appropriated to the department of public safety-state police.

(b) The secretary of administration shall ensure that federal reporting is carried out as to:

(1) the use of funds provided under the SFSF program;

(2) the estimated number of jobs created or saved with program funds;

(3) estimated tax increases that were averted as a result of program funds;

(4) the state's progress in the areas covered by the application assurances; and

(5) maintaining records to ensure the ability to effectively monitor, evaluate, and audit the SFSF monies.

Sec. D.110 FEDERAL ECONOMIC RECOVERY FUNDS

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

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

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

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

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

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

(e) The secretary of the agency of transportation shall transfer portions of the \$66,369,500 of ARRA funds appropriated to program development in Sec. B.903 of this act to other appropriations as required to effect the spending approved by the joint transportation oversight committee. The agency shall report on the expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular and specially scheduled 2009 meetings.

(f) All reports from the agency to the joint transportation oversight committee (JTOC) required under this section when the legislature is not in session shall take place at meetings of the committee called by the chair.

Sec. D.111 STIMULUS OVERSIGHT

(a) The Vermont office of economic stimulus and recovery shall prepare status reports to be posted on the web and electronically mailed or emailed to the legislative joint fiscal office and other interested parties. The reports shall be posted once every two weeks and shall include:

(1) Notification and summaries of American Recovery and Reinvestment Act (ARRA) state grant proposals under development and any related timelines, discussion meetings, or other opportunities for input;

(2) A list of grants submitted by state agencies, amounts solicited, description of purpose and activities to be carried out, and their status;

(3) Grants received by budget function or policy area.

(b) The president pro tempore of the senate and the speaker of the house shall each designate a legislative representative to the office of economic stimulus and recovery. The legislative representatives shall carry out the following:

(1) Serve as a communication link between the legislature and office of economic stimulus and recovery;

(2) Provide a legislative role in insuring oversight, public information, and quality use of available ARRA funding;

(3) Provide support to the joint fiscal committee in consideration of accepted grants.

(c) Legislative representatives shall be entitled to compensation under 2 V.S.A. § 406(a) for attendance at meetings. This designation shall continue until December 31, 2010.

* * * General Government * * *

Sec. E.100 Secretary of administration – secretary's office (Sec. B.100, #1100010000)

(a) The secretary of administration shall use the Global Commitment funds appropriated in this section for the Vermont Blueprint for Health chronic care initiative director.

(b) The secretary shall reduce operating expenses in the executive branch to achieve the targeted savings in Sec. B.1103(b).

Sec. E.100.1 3 V.S.A. § 2283 is amended to read:

§ 2283. DEPARTMENT OF HUMAN RESOURCES

The department of human resources is created in the agency of administration. In addition to other responsibilities assigned to it by law, the department is responsible for the provision of centralized human resources management services for state government, including the administration of a classification and compensation system for state employees under chapter 13 of this title and the performance of duties assigned to the commissioner of

human resources under chapter 27 of this title. The department shall administer the human resources functions of the agency of administration in consultation with the agency of administration commissioners and the state librarian. A department of the agency of administration which receives services of the consolidated agency human resources unit shall be charged for those services through an interdepartmental transfer on a basis established by the commissioner of finance and management in consultation with the commissioner of human resources and with the approval of the secretary of administration.

Sec. E.100.2 22 V.S.A. § 901 is amended to read:

§ 901. CREATION OF DEPARTMENT

There is created the department of information and innovation within the agency of administration. The department shall have all the responsibilities assigned to it by law, including the following:

* * *

(12) to provide technical support and services to the departments of human resources and of finance and management for the statewide central accounting and encumbrance system, the statewide budget development system, the statewide human resources management system, and other agency of administration systems as may be assigned by the secretary.

Sec. E.100.3 32 V.S.A. § 183 is amended to read:

§ 183. FINANCIAL AND HUMAN RESOURCE INFORMATION
INTERNAL SERVICE FUND

(a) There is established in the department of finance and management a financial and human resource information internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the division of financial operations in the department of finance and management, and the technical support ~~for the~~ and services provided by the department of information and innovation for the statewide central accounting and encumbrance, budget development, and human resource management system ~~in the department of human resources systems~~. Expenditures shall be managed in accordance with subsection 462(b) of this title.

* * *

Sec. E.100.4 GOVERNOR'S PRODUCTIVITY TASK FORCE; JOINT
LEGISLATIVE GOVERNMENT ACCOUNTABILITY COMMITTEE

(a) The governor's productivity task force, as recommended in the September 8, 2005 report of the Vermont institute on government effectiveness, shall collaborate with the joint legislative government accountability committee on achieving the goals of the strategic enterprise initiative. Specifically, the task force and the committee shall develop initiatives to increase efficiencies in and promote innovation across state government.

Sec. E.101 Information and innovation - communications and information technology (Sec. B.101, #1105500000)

(a) Of this appropriation, \$250,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061.

Sec. E.102 Information and innovation – health care information technology (Sec. B.102, #1105503000)

(a) The department of information and innovation (DII) will use the Global Commitment funds appropriated in this section for grants to coordinate with the Vermont Blueprint for Health chronic care initiative and other health care-related statewide information technology programs and projects. These programs and projects will provide public health approaches to improve the health outcomes and the quality of life for all Vermonters, including those who are Medicaid-eligible, and encourage the formation and maintenance of public-private partnerships in statewide health information exchange.

Sec. E.102.1 HEALTH INFORMATION TECHNOLOGY FOR PAYMENT REFORM WORK GROUP

(a) The commissioner of information and innovation shall convene a work group to explore ways to use and fund health information technology to achieve health care payment reform in this state. The work group shall consist of:

(1) The commissioner of information and innovation.

(2) Two members of the Vermont general assembly, one appointed by the speaker of the house of representatives and one appointed by the president pro tempore of the senate who shall jointly chair the work group.

(3) The secretary of administration or designee.

(4) The director of the office of economic stimulus and recovery.

(5) The director of the office of Vermont health access or designee.

(6) A representative from the Vermont Information Technology Leaders, Inc.

(7) A representative from First Data.

(8) A representative from IBM.

(9) A representative from each of the three largest health insurers licensed to do business in Vermont.

(10) Other interested stakeholders, which may include health care professionals, hospitals, and academic institutions.

(b) The work group shall:

(1) Explore opportunities for using health information technology to achieve health care payment reform in Vermont, including consideration of the use of smart card technology and mechanisms to enable real-time eligibility determinations and claims preparation, submission, and adjudication at a health care professional's office or a hospital.

(2) Identify potential sources of funding, including grants and other federal funds.

(3) Develop one or more proposals for appropriate grant funds, including those available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

(4) Create a working plan for implementation of the health information technology payment reform initiatives identified for further action by the work group.

(c) No later than 90 days following the effective date of this act, the work group shall submit to the joint fiscal committee its recommendations for using health information technology to achieve payment reform, as well as the grant proposals and working plan required in subsection (b) of this section.

Sec. E.103 Finance and management – budget and management (Sec. B.103, #1110003000)

(a) The department of finance and management will use the Global Commitment funds appropriated in this section to support the staff effort needed to manage the Global Commitment fund.

Sec. E.103.1 32 V.S.A. § 311 is amended to read:

§ 311. RETIREMENT FUNDS INTEGRITY REPORT

(a) The governor shall include as a part of the annual budget report required by section 306 of this title, a statement of the extent by which the recommended appropriations to the teachers' retirement funds and to the Vermont employees' retirement funds differ from the amounts as

recommended by the Vermont employees' retirement system retirement board as provided by subsection 471(n) of Title 3, and by the teachers' retirement system board of trustees as provided by subsection 1942(r) of Title 16 and board estimates for current obligations for retiree health care costs. If the governor's recommended appropriations are less than the amounts recommended by one or both of the boards of the two retirement systems for retirement obligations and retiree health care, the governor shall set forth the long-term financial implications to the state of such shortfall and present a plan to achieve and preserve the fiscal integrity of the retirement funds of the retirement system or systems.

(b) At the request of the house or senate committees on government operations or appropriations, the state treasurer and the commissioner of finance and management shall present to the requesting committees the recommendations submitted under subsections 471(n) of Title 3 and 1942(r) of Title 16.

Sec. E.104 Finance and management – financial operations (Sec. B.104, #1115001000)

(a) Pursuant to 32 V.S.A. § 307(e), financial management fund charges not to exceed \$6,111,582 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement are hereby approved. Of this amount, \$1,343,908 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement shall be used to support the HCM system that is operated by the department of information and innovation.

Sec. E.107 HEALTH CARE AND WORKERS' COMPENSATION INSURANCE FOR STATE FUNDED ENTITIES

(a) The secretary of administration shall review the fiscal implications of inclusion of quasi-public organizations such as the Vermont center for crime victim services and nonprofit organizations that receive 65 percent or more of their funding from Vermont state sources in the state health care program, the state workers' compensation program and other state benefit programs. Such analysis shall assume that these organizations pay 100 percent of the costs of any program inclusion. This study shall be submitted to the house and senate committees on government operations and appropriations on or before December 1, 2009. If the commissioner of human resources and the secretary of administration determine there would be no negative fiscal implications for the state, they are authorized to implement the process of including these entities as soon as practicable.

Sec. E.109 LIMITATION ON FISCAL YEAR 2010 USE VALUE
PROPERTY TAX REDUCTION

(a) In fiscal year 2010, notwithstanding any other provision of law, for parcels enrolled in the use value appraisal program under chapter 124 of Title 32, other than parcels owned or leased by a “farmer” as defined in that chapter and parcels enrolled by a qualifying organization under chapter 155 of Title 10, if the listed value, divided by the most recent common level of appraisal, of the total enrolled acres in any one parcel exceeds \$5,000 per acre, then the owner shall, in addition to the tax otherwise paid on the use value of the parcel, pay municipal and education property taxes on the amount per acre in excess of \$5,000; and the fiscal year 2011 payment to any municipality under section 3760 of this chapter shall be adjusted to account for the effect of this section on the municipal tax revenue.

Sec. E.109.1 CURRENT USE TAX COALITION STUDY

(a) The current use tax coalition is requested to study options for savings of \$1,600,000 from the use value appraisal program in fiscal year 2011 and to report its recommendations by December 1, 2009, to the house committee on ways and means and the senate committee on finance.

Sec. E.111 Buildings and general services - engineering (Sec. B.111, #1150300000)

(a) The \$1,950,000 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in 2009 H.445 Sec. 1(8).

Sec. E.112 Buildings and general services – information centers (Sec. B.112, #1150400000)

(a) Of this appropriation, \$8,000 will be used to update the Sharon Vietnam honor roll.

Sec. E.120 Buildings and general services – workers’ compensation insurance (Sec. B.120, #1160450000)

(a) Pursuant to 32 V.S.A. § 307(e), workers’ compensation fund charges not to exceed \$9,336,126 are hereby approved.

Sec. E.123 Buildings and general services – fee-for-space (Sec. B.123, #1160550000)

(a) Pursuant to 29 V.S.A. § 160a(b)(3), facilities operations fund charges not to exceed \$27,655,892 plus the costs of fiscal year 2010 salary increases bargained as part of the state/VSEA agreement are hereby approved.

(b) The commissioner shall seek alternative locations to house the state offices currently located in the National Life Building in Montpelier. Efforts shall be made to identify locations within or around Montpelier that would result in a cost savings over the current lease agreement with National Life Insurance Company of Vermont.

Sec. E.127 Legislature (Sec. 127, #1210002000)

(a) It is the intent of the general assembly that funding for the legislature in fiscal year 2011 and beyond be included at a level sufficient to support an 18 week legislative session.

Sec. E.128 VIRTUALIZED INFORMATION TECHNOLOGY INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall study the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure. In conducting the study they shall consider the following:

- (1) Current service level and scalability to future service needs;
- (2) Physical and virtual data security and recovery;
- (3) Potential for technology-related savings;
- (4) Opportunities for improved systems performance and capacity;
- (5) Specific vendors and relevant vendor policies; and
- (6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the results of this study to the general assembly on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

Sec. E.129 ACCEPTANCE OF ARRA GRANTS

(a) During fiscal years 2009, 2010, and 2011, the joint fiscal committee shall consider grants under 32 V.S.A. § 5 that are received from the American Recovery and Reinvestment Act (ARRA) with the following procedural changes:

(1) Where a grant is received from ARRA funding, the chairs of the house and senate legislative committees of most relevant jurisdiction, as

determined by the chair of the joint fiscal committee, shall be informed of the grant receipt and request for acceptance.

(2) Said chairs may request that a joint fiscal committee member place a grant on the agenda of the joint fiscal committee in a manner consistent with committee policy under 32 V.S.A. § 5(a)(2)

(3) Where a grant is held for the joint fiscal committee agenda, the chairs of the legislative committees of jurisdiction shall be invited to the meeting and may participate in any related discussion.

(b) At joint fiscal committee regular meetings the administration shall report on ARRA grant applications submitted and on the current status of such grant submissions.

Sec. E.133 State treasurer (Sec. B.133, #1260010000)

(a) Of this general fund appropriation, \$6,484 shall be deposited into the armed services scholarship fund established in 16 V.S.A. § 2541.

Sec. E.135 Vermont state retirement system (Sec. B.135, #1265020000)

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2010, investment fees shall be paid from the corpus of the fund.

Sec. E.135.1 COMMISSION ON THE DESIGN AND FUNDING OF RETIREMENT AND RETIREE HEALTH BENEFITS PLANS FOR STATE EMPLOYEES AND TEACHERS

(a) A commission is created to review and report on the design and funding of retirement and retiree health benefit plans for the state employees' and teachers' retirement systems. The commission is charged with making recommendations about plan design, benefit provisions, and appropriate funding sources, along with other recommendations it deems appropriate for consideration, consistent with actuarial and governmental accounting standards, as well as demographic and workforce trends and the long-term sustainability of the benefit programs. The joint fiscal committee may provide benchmark targets reducing the rate of expenditure growth for retirement and retiree health benefits to the commission to guide the development of recommendations.

(b) The commission shall comprise the following members:

(1) one member of the house of representatives, appointed by the speaker of the house;

(2) one member of the senate, appointed by the president pro tempore of the senate;

-
- (3) the state treasurer, who shall chair the commission;
 - (4) the secretary of administration or designee;
 - (5) the commissioner of education or designee;
 - (6) one member of the public with pension and benefit experience appointed by the governor;
 - (7) one member of the public with pension and benefit experience appointed jointly by the speaker of the house and the president pro tempore of the senate.
- (c) The report shall include, but not be limited to, the following:
- (1) an evaluation of current benefits structures and contribution characteristics in comparison to other comparable public and private systems;
 - (2) an estimate of the cost of current and proposed benefits structures on a budgetary, pay-as-you-go basis and full actuarial accrual basis;
 - (3) a five-year review of benefit expenditure levels as well as employer and employee contribution levels and growth rates and a three-, five- and ten-year projection of these levels and rates;
 - (4) based on benefit and funding benchmarks, options for providing new benefit structures with the objective of adequate benefits within the established cost containment benchmarks;
 - (5) funding methods, including contributions from state, municipalities, and employees, to achieve these objectives; and
 - (6) an evaluation of whether current governance, oversight, and lines of authority are appropriate and consistent with funding objectives.
- (d) During the course of its deliberations and prior to any final recommendations being made, the commission should solicit input from the affected parties, such as employees, taxpayers, and organizations representing those parties, including the Vermont state employees association, Vermont–NEA, and the Vermont league of cities and towns.
- (e) The commission may select and oversee outside expert benefit and legal expert advisory services as it deems appropriate. An amount of \$150,000 is appropriated for this purpose in Sec. B.1101(a) of this act.
- (f) On or before December 18, 2009 the commission shall file a report and recommendations with the governor and the general assembly.

(g) The commission shall also provide the report to the board of trustees of the state employees' and teachers' retirement systems for their consideration, deliberation, and comment to the general assembly.

(h) Administrative support shall be provided by the office of the state treasurer.

(i) Legislative and public members shall be entitled to per diem compensation and expenses as provided for in § 406 of Title 2 and § 1010 of Title 32 respectively.

Sec. E.135.2. STATE EMPLOYEE RETIREMENT INCENTIVE

(a) An individual who is employed by the state on June 1, 2009, has attained eligibility for normal retirement as of July 1, 2009, does not purchase service credit to become so, and is one of the first 300 individuals to apply, shall be eligible for the following retirement incentive:

(1) If the employee applies for retirement by June 30, 2009 for a retirement effective July 1, 2009, the employee shall be entitled to:

(A) Payment by the state of at least 80 percent of the cost of the premium for primary or secondary health insurance coverage for the employee and his or her dependents for at least 10 years following retirement, unless the employee elects the premium reduction option under 3 V.S.A. § 479(e);

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

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

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

(2) If the employee applies for retirement between July 1, 2009 and August 31, 2009 for a retirement effective date of August 1, 2009 or September 1, 2009, the employee shall be entitled to:

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

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

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

(b) An employer may stagger the retirement dates of multiple retiring employees if necessary to continue the normal of operation of business. However, no retirement date shall be later than six months from the retirement date for which the employee applied.

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

(d) No employee who receives the incentive set forth in subsection (a) of this section may return to state employment for at least one fiscal year unless: the secretary of administration otherwise approves for an executive branch employee; the chief justice of the supreme court otherwise approves for a judicial branch employee; or the speaker of the house and the president pro tempore of the senate otherwise approve for a legislative branch employee. The joint fiscal committee shall be notified of any employees who have received the incentive set forth in subsection (a) of this section and who return to state employment within one fiscal year.

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

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

(g) The state treasurer shall report the number of individuals applying for the retirement incentive set forth in this section by agency to the joint fiscal committee by July 1, 2009 and by September 1, 2009.

Sec. E.135.3. NORMAL RETIREMENT; LAID OFF STATE EMPLOYEES

A permanent state employee who is laid off between May 1, 2009 and January 1, 2011 and who is within one year of eligibility for normal retirement may retire without penalty as if the employee met the retirement eligibility criteria for the group plan of which he or she is a member.

Sec. E.141 Tax department-reappraisal and listing payments (B.141, #1140060000)

(a) The amount of \$3,470,000 in education funds appropriated in Sec. B.141 of this act in fiscal year 2010 shall be used to implement the provisions

of 32 V.S.A. §§ 4041(a), relating to payments to municipalities for reappraisal costs, and 5405(f), relating to payments of \$1.00 per grand list parcel.

(b) Of this appropriation, \$200,000 shall be transferred to the department of taxes, division of property valuation and review and reserved for payment of expenses associated with a reappraisal as of April 1, 2010 of the hydroelectric plants and other property owned by TransCanada Hydro Northeast, Inc. in the state of Vermont. Expenditures for this purpose shall be considered qualified expenditures under 16 V.S.A. § 4025(c).

Sec. E.143 Lottery commission (Sec. B.143, #2310010000)

(a) Of this appropriation, the lottery commission shall transfer \$150,000 to the department of health, office of alcohol and drug abuse programs to support the gambling addiction program.

(b) The Vermont state lottery shall provide assistance and work with the Vermont council on problem gambling on systems and program development.

Sec. E.144 Payments in lieu of taxes (Sec. B.144, #1140020000)

(a) This appropriation is for state payments in lieu of property taxes under subchapter 4 of chapter 123 of Title 32, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act.

Sec. E.145 Payments in lieu of taxes - Montpelier (Sec. B.145, #1150800000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

Sec. E.146 Payments in lieu of taxes – correctional facilities (Sec. B.146, #1140030000)

(a) Payments in lieu of taxes under this section shall be paid from the PILOT special fund under 32 V.S.A. § 3709.

* * * Protection to Persons and Property * * *

Sec. E.200 Attorney general (Sec. B.200, #2100001000)

(a) Of the special fund appropriation, \$150,000 shall be from the evidence-based education and advertising fund in section 2004a of Title 33 for analysis of prescription drug data needed by the attorney general's office for enforcement activities.

(b) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud control unit, is authorized to retain one-half of any civil monetary penalty proceeds from global Medicaid fraud settlements. All

penalty funds retained shall be used to finance Medicaid fraud and residential abuse unit activities.

Sec. E.204 Judiciary (Sec. B.204, #2120000000)

(a) For compensation paid from July 1, 2009 to June 30, 2010, the supreme court is authorized to reduce by up to five percent salaries established by statute that are paid by the judicial department appropriation and to reduce by up to five percent the hourly rates of nonbargaining-unit employees earning in excess of \$15.00 per hour.

Sec. E.204.1 Judiciary (Sec. B.204, #2120000000)

4 V. S. A. § 25 is amended to read:

§ 25. JUDICIAL BRANCH; FURLOUGH DAYS; ADMINISTRATIVE LEAVE

(a) The supreme court is authorized to declare up to 12 unpaid judicial branch furlough days in a fiscal year and on those days may close ~~all~~ courts in the state. For purposes of implementing a furlough day, the supreme court is authorized to reduce on a daily or hourly basis all salaries established by 32 V.S.A. §§ 1003(c), 1141, 1142, and 1181, ~~4 V.S.A. § 461(e)~~, and all other salaries paid by the judicial branch. Furlough days declared under this section shall have the same effect as holidays under 1 V.S.A. § 371 for the purpose of counting time under the rules of court procedure and the Vermont Statutes Annotated.

* * *

Sec. E.204.2 COMMISSION ON JUDICIAL OPERATION; RECOMMENDATIONS

(a) The general assembly acknowledges that the commission on judicial operation was established by the Vermont supreme court in response to Act 192 of 2008, in which the general assembly asked the court to convene a commission to examine the efficient and effective delivery of judicial services and to address the allocation of resources within the judiciary. The commission is now engaged in this work and intends to report its recommendations for resource reallocation and improvement of service-delivery to the general assembly prior to January 1, 2010. The general assembly finds that it would be disruptive of the commission's ongoing processes to make substantial structural changes to the judiciary in fiscal year 2010 and that the interests of justice would be best served by deferring any such changes until after the commission's report is received and considered.

(b) The general assembly expects the work of the commission on judicial operations to make recommendations which will both preserve the ability of the judiciary to meet its constitutional responsibilities as a separate branch of government and to find savings of \$1,000,000 in the fiscal year 2011 budget.

(c) Notwithstanding any other provision of law, the judiciary budget shall not be subject to any rescissions during fiscal year 2010.

Sec. E.204.3 JUDICIARY; REGIONAL ARRAIGNMENTS;
INCARCERATED DEFENDANT APPEARING BY VIDEO OR
TELEPHONE

(a) The court administrator, in consultation with the executive director of the department of state's attorneys and sheriffs, the defender general, and the commissioner of the department of corrections, shall develop procedures for regional arraignments and for an incarcerated defendant's appearance by video or telephone as permitted under rules 5 and 43 of the Vermont rules of criminal procedure and Vermont Supreme Court administrative order 38. The procedures shall be designed to reduce prisoner transportation costs to the greatest extent possible while preserving the defendant's right to a meaningful court appearance.

Sec. E.207 Sheriffs (Sec. B.207, #2130200000)

(a) Of this appropriation, \$15,000 shall be transferred to the state's attorneys' office as reimbursement for the cost of the executive director's salary.

Sec. E.209 Public safety - state police (Sec. B.209, #2140010000)

(a) Of this appropriation, \$32,000 shall be used to make a grant to the Essex County sheriff's department for law enforcement purposes.

(b) Of this appropriation, \$35,000 in special funds shall be available for snowmobile law enforcement activities and \$35,000 in general funds shall be available to the southern Vermont wilderness search and rescue team, which comprises state police, the department of fish and wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(c) Of the \$255,000 allocated for local heroin interdiction grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund three town task force officers. These town task force officers will be dedicated to heroin and heroin-related drug (e.g., methadone, oxycontin, crack cocaine, and methamphetamine) enforcement efforts. Any additional available funds shall remain as a "pool" available to local and county law enforcement to fund

overtime costs associated with heroin investigations. Any unexpended funds from prior fiscal years' allocations for local heroin interdiction shall be carried forward.

Sec. E.211 REPORT OF DEPARTMENT OF PUBLIC SAFETY AND ENHANCED 911 SERVICES AND DISPATCH SYSTEM

(a) The department of public safety, the department of information and innovation, and the Vermont enhanced 911 board shall analyze the current state of the department of public safety's dispatch and enhanced 911 answering services in order to recommend the most efficient and cost-effective means of integrating these systems and technologies. The report shall also include a recommendation for a process to assess the dispatching services across the state in fiscal year 2011.

(b) On or before January 15, 2010, the department of information and innovation shall report its findings and recommendations to the house and senate committees on appropriations and on government operations.

(c) Pending the completion of the report and implementation of its recommendations, or upon the close of fiscal year 2010, whichever is sooner, any agreement or understanding between the commissioner of public safety and a municipality or any entity that provides services to a municipality or state agency to provide services under 20 V.S.A. § 1875 shall remain unchanged unless otherwise provided in the agreement until a statewide understanding is established.

Sec. E.212 Public safety - fire safety (Sec. B.212, #2140040000)

(a) Of this general fund appropriation, \$55,000 shall be granted to the Vermont rural fire protection task force for the purpose of designing dry hydrants.

Sec. E.214 Public safety - emergency management - radiological emergency response plan (Sec. B.214, #2140080000)

(a) Of this special fund appropriation, up to \$30,000 shall be available to contract with any radio station serving the emergency planning zone for the emergency alert system.

Sec. E.214.1 LAW ENFORCEMENT SERVICES; COORDINATION BETWEEN AGENCIES; UNFILLED POSITIONS

(a) The departments of fish and wildlife, motor vehicles, and liquor control shall establish memorandums of understanding with the department of public safety to continue the improvement in communication, cooperation, and

coordination between the departments with respect to the provision of law enforcement services.

(b) The commissioners of the departments of public safety, fish and wildlife, motor vehicles, and liquor control shall report to the senate and house committees on appropriations on or before January 15, 2010 on progress the departments have made implementing the recommendations made in the Independent Evaluation of Law Enforcement Services report submitted to the general assembly by the Public Safety Strategies Group on February 20, 2009.

(c) The departments of fish and wildlife, motor vehicles, and liquor control shall report to the senate and house committees on appropriations, on judiciary, on government operations, and the joint legislative government accountability committee by September 15, 2009 on the advisability of not filling positions that are not funded by the general fund or the transportation fund.

Sec. E.215 Military - administration (Sec. B.215, #2150010000)

(a) Of this appropriation, \$100,000 shall be disbursed to the Vermont student assistance corporation for the national guard educational assistance program established in 16 V.S.A. § 2856.

Sec. E.219 Military - veterans' affairs (Sec. B.219, #2150050000)

(a) Of this appropriation, \$5,000 shall be used for continuation of the Vermont medal program, \$4,800 shall be used for the expenses of the governor's veterans' advisory council, \$7,500 shall be used for the Veterans' Day parade, and \$10,000 shall be used for the military, family, and community network.

Sec. E.220 Center for crime victim services (Sec. B.220, #2160010000)

(a) Of this appropriation, the amount of \$883,000 from the victims' compensation fund created by 13 V.S.A. § 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of 2008 applied to the assessment in 13 V.S.A. § 7282(a)(8)(B), and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of 2008 applied to the fee in 32 V.S.A. Sec. 1712(1).

Sec. E.233 Banking, insurance, securities, and health care administration (Sec. B.233, #2210040000)

(a) The department of banking, insurance, securities, and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of

funding certain health care-related BISHCA programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(b) In fiscal year 2010, the commissioner of banking, insurance, securities, and health care administration shall collect the same amount under § 9416(c) of Title 18 as was collected in state fiscal year 2009 for the expenses incurred under that section.

Sec. E.234 Secretary of state (Sec. B.234, #2230010000)

(a) Of this special fund appropriation, \$492,991 represents the corporation division of the secretary of state's office, and these funds shall be from the securities regulation and supervision fund in accordance with 9 V.S.A. § 5613.

Sec. E.235 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, in addition to revenues from the sale of credits under the RGGI cap and trade program ~~established~~ as provided for under section 255 of this title.

* * *

Sec. E.235.1 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, such revenues from the sale of carbon credits under the cap and trade program as provided for under section 255 of this title shall be deposited into the electric efficiency fund established by this section.

Sec. E.235.2 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial

resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. ~~Proceeds~~ Fifty percent of the net proceeds above costs from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a of this title. These funds shall be used to provide expanded fossil fuel energy efficiency services to residential consumers who have incomes up to and including 80 percent of the median income in the state. The remaining 50 percent of the net proceeds above costs shall be deposited into the electric efficiency fund established under subdivision 209(d)(3) of this title. These funds shall be used by the entity or entities appointed under subdivision 209(d)(2) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering fossil fuel energy efficiency services to Vermont heating and process-fuel consumers who are businesses or are residential consumers whose incomes exceed 80 percent of the median income in the state.

Sec. E.235.3 10 V.S.A. § 6523(e) is amended to read:

(e) Management of fund.

(1)(A) There is created the clean energy development fund advisory committee, which shall consist of the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees.

(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.

(2) The commissioner of public service shall:

(A) by no later than October 30, 2006:

(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;

(ii) develop an annual operating budget;

(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies); and

(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;

(B) adopt rules ~~by no later than January 1, 2007~~ to carry out the program approved under this subdivision;

(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;

(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. ~~This subdivision (D) shall be repealed upon the effective date of rules adopted under subdivision (2)(B) of this subsection.~~

(3) During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund and after FY 2007, another five percent of amounts appropriated to the public service department from the fund not to exceed \$300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for agricultural and farm-based energy project development activities.

Sec. E.235.4 STATE ENERGY PROGRAM

(a) The ARRA funds appropriated to the department of public service in Sec. B.235 of this act, consisting of \$21,999,000 state energy program funds and \$9,593,500 energy efficiency and conservation block grant (EECBG) program funds, shall be transferred and deposited into the clean energy development fund created under 10 V.S.A. § 6523. These funds shall be maintained in a separate account specifically restricted to ARRA funds within the clean energy development fund.

(b) The funds appropriated and transferred under subsection (a) of this section shall be disbursed from the clean energy development fund in a manner that ensures rapid deployment of the funds, is consistent with the requirements of ARRA for administration of funds received, and meets the transparency and accountability requirements of ARRA. These funds shall be for the following:

(1) The Vermont small-scale renewable energy incentive program currently administered by the renewable energy resource center for use in residential and business installations. These funds may be used by the program for all forms of renewable energy as defined by 30 V.S.A. § 8002(2), including biomass and geothermal heating. The disbursement to this program shall seek to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) \$2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. On or before January 15, 2011, the department of public service shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.

(5) \$2 million to the Vermont housing and conservation board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) \$2 million to the Vermont telecommunications authority (VTA) to make grants for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) \$880,000 to the 11 regional planning commissions (\$80,000 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Of the funds authorized for use in subdivisions (5), (6), and (7) of this subsection, to the extent permissible under ARRA, up to 5 percent may be spent for administration of the funds received.

Sec. E.238 Enhanced 9-1-1 board (Sec. B.238, #2260001000)

(a) Of this appropriation, \$1,823,443 shall be transferred to the department of public safety for 911 call-takers at public safety answering points operated by the department of public safety.

* * * Human Services * * *

Sec. E.300 Human services - agency of human services - secretary's office
(Sec. B.300, #3400001000)

(a) Notwithstanding 32 V.S.A. § 706, the secretary may transfer funds allocated for the “high risk pool” and costs related to juvenile justice to the departments in the agency of human services designated to provide these services.

(b) Of this appropriation, \$54,000 in tobacco settlement funds shall be used to provide a grant to the project against violent encounters for a statewide program for substance abuse prevention and mentoring for youth.

(c) Of this appropriation, \$143,000 in tobacco funds shall be used for a grant to Lamoille County people in partnership for wrap-around services for at-risk youth.

(d) Of this appropriation, \$85,000 in tobacco funds with any corresponding federal matching funds shall be for comprehensive treatment services and \$15,000 shall be for housing provisions for at-risk youth.

(e) Of the funds appropriated to the secretary, \$100,000 shall be available for the pathways to housing program.

(f) The secretary of human services shall identify \$250,000 of funds appropriated to the agency in fiscal year 2010 that shall be allocated and granted for start up expenses to establish a Chittenden County pilot program to unify existing substance abuse treatment. The secretary shall report to the joint fiscal committee at its regularly scheduled July, September, and November 2009 meetings on the funds identified and the status of the implementation of the pilot program.

Sec. E.301 Secretary’s office – Global Commitment (Sec. B.301, #3400004000)

(a) The agency of human services shall use the funds appropriated in this section for payment of the actuarially certified premium required under the intergovernmental agreement between the agency of human services and the managed care organization in the office of Vermont health access as provided for in the Global Commitment for Health Waiver (“Global Commitment”) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$29,674,577 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$12,279,600 certified state match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with \$28,220,400 of federal

funds appropriated in Sec. B.301 equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$8,956,247 certified state match available from local education agencies' school-based health services, including school nurse services, that increases the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$3,418,532 certified state match available from local education and social service agencies for eligible services provided to eligible persons through children's collaborative services programs.

(4) \$5,020,198 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under the Global Commitment.

Sec. E.301.1 RETAINING ENHANCED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP)

(a) Notwithstanding 16 V.S.A. § 2959a, to the extent possible, any additional federal funds received as a result of an enhanced FMAP (Federal Medical Assistance Percentage) that are associated with the certified expenditures specified in subdivisions (b)(1) through (4) of Sec. E.301 of this act shall be retained in the Global Commitment fund and shall not be transferred to the certifying entity.

(b) For the period of the enhanced FMAP, the funding allocated from the Catamount fund for Catamount Health program expenses within the Global Commitment waiver shall be calculated on the base underlying FMAP rate. This allocation may be prorated as necessary to ensure that the fund is in balance at the close of the fiscal year.

Sec. E.306 Office of Vermont health access-administration (Sec. B.306, #341001000)

(a) Generic drug sample pilot project: Of the special fund appropriation, \$400,000 shall be from the evidence-based education and advertising fund in section 2004a of Title 33 for the evidence-based education program's generic drug sample pilot project as described in Sec. 15 of No. 80 of the Acts of 2007.

(b) Out-of-state dispensing fees reduction: The office of Vermont health access shall reduce the dispensing fees paid to pharmacies located out of state

who participate in Medicaid, VHAP, Dr. Dynasaur, VPharm, or VermontRx to \$2.50 per script.

Sec. E.306.1 CHIROPRACTIC; MEDICAID

(a) The agency of human services is directed to reinstate chiropractic coverage only for manipulation of the spine billed under current procedural terminology (CPT) codes 98940, 98941, and 98942 for adults in the Medicaid and VHAP programs effective July 1, 2009.

Sec. E.307 Office of Vermont health access – Medicaid Program - Global Commitment (Sec. B.307, #3410015000)

(a) The office of Vermont health access shall limit payment for select drugs used as maintenance treatment to increments of 90-day supplies in Medicaid, the Vermont Health Access Plan, and VermontRx. This limit shall not apply to drugs generally used to treat acute conditions. The drug utilization review board shall make recommendations to the director on the drugs to be selected. This limit shall not apply when the patient initially fills the prescription in order to provide an opportunity for the patient to try the medication and for the prescriber to determine that it is appropriate for the patient's medical needs.

Sec. E.307.1 EMERGENCY RULES

(a) In order to administer the provisions of this act relating to establishing co-payments in VPharm, VermontRx, and VHAP provided for in sections E.309.6, E.309.7, E.309.8, and E.309.12; modifying prescriptions for maintenance drugs to 90-day increments provided for in Sec. E.307; establishing a therapeutic equivalency generic drug program in a timely fashion provided for in Sec. E.309.9; and reinstating chiropractic coverage as provided for Sec. E.306.1, the agency of human services shall adopt rules pursuant to emergency rulemaking as provided for in 3 V.S.A. § 844.

Sec. E.307.2 33 V.S.A. § 1973 is amended to read:

§ 1973. VERMONT HEALTH ACCESS PLAN

* * *

(e) An individual who is or becomes eligible for Medicare shall not be eligible for the Vermont health access plan.

(f) For purposes of this section, “uninsured” means:

* * *

Sec. E.307.3 32 V.S.A. § 7823 is amended to read:

§ 7823. DEPOSIT OF REVENUE

The revenue generated by the taxes imposed under this chapter shall be credited to the state health care resources fund established by section 1901d of Title 33 and the Catamount fund established by section 1986 of Title 33.

Sec. E.308 FISCAL YEAR 2010 NURSING HOME INFLATION

(a) Notwithstanding any other provision of law, for state fiscal year 2010, the division of rate setting shall modify its methodology for calculating Medicaid rates for nursing homes by calculating the inflation factors for cost categories as follows. The division shall use the same inflation percentages to calculate the state fiscal year 2010 rates as were used in state fiscal year 2009 for the following cost categories: the director of nursing, resident care, and indirect costs. The state fiscal year inflation percentages limited the incremental state fiscal year 2009 inflation to one-half of the percentage change in the inflation factors between 2008 and 2009. The division will not apply any additional inflation to the following cost categories for state fiscal year 2010: director of nursing, resident care, and indirect costs.

(b) For the nursing care cost category, the division shall first calculate the inflation percentage from calendar year 2007 to state fiscal year 2008. The division shall next calculate the inflation percentage from calendar year 2007 to state fiscal year 2009. The difference in inflation between the state fiscal year 2008 and state fiscal year 2009 inflation calculations will be halved and this one-half difference will be added to the 2008 inflation to arrive at the inflation percentage to be used for the 2010 rate period. The division will not apply any additional inflation for state fiscal year 2010.

Sec. E.308.1 FISCAL YEAR 2010 NURSING HOMES; HIT INCENTIVES

(a) The division of rate setting shall provide an incentive or rate adjustment by rule to nursing homes to install electronic medical records in order to improve quality of care by avoiding medical errors and to achieve savings in health care costs through streamlined administration. The incentive or rate adjustment shall be in addition to any current adjustment for capital costs. The incentive or rate adjustment shall be available to nursing homes that have installed electronic medical records prior to the adoption of the rule.

Sec. E.309 33 V.S.A. § 2072(c) is added to read:

(c) If an individual becomes ineligible for assistance under this subchapter, the secretary shall terminate assistance to the individual.

Sec. E.309.1 33 V.S.A. § 2077(a) is amended to read:

(a) The programs established under this subchapter shall be designed to provide maximum access to program participants, to incorporate mechanisms

that are easily understood and require minimum effort for applicants and health care providers, and to promote quality, efficiency, and effectiveness through cost controls and utilization review. Applications may be filed at any time and shall be reviewed annually. OVHA may contract with a fiscal agent for the purpose of processing claims and performing related functions required in the administration of the pharmaceutical programs established under this subchapter.

Sec. E.309.2 33 V.S.A. § 1998(f)(1) and (2) are amended to read:

(f)(1) The drug utilization review board shall make recommendations to the director for the adoption of the preferred drug list. The board's recommendations shall be based upon evidence-based considerations of clinical efficacy, adverse side effects, safety, appropriate clinical trials, and cost-effectiveness. "Evidence-based" shall have the same meaning as in section 4622 of Title 18. The director shall provide the board with evidence-based information about clinical efficacy, adverse side effects, safety, appropriate clinical trials, and shall provide information about cost-effectiveness of available drugs in the same therapeutic class.

(2) The board shall meet at least quarterly. The board shall comply with the requirements of subchapter 2 of chapter 5 of Title 1 (open meetings) and subchapter 3 of chapter 5 of Title 1 (open records), except that the board may go into executive session to discuss drug alternatives and receive information on the relative price, net of any rebates, of a drug under discussion and the drug price in comparison to the prices, net of any rebates, of alternative drugs available in the same class to determine cost-effectiveness, and in order to comply with subsection 2002(c) of this title to consider information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program.

Sec. E.309.3 DUR BOARD EXECUTIVE SESSION

(a) If necessary in order to comply with 33 V.S.A. § 1998(f), the director of the office of Vermont health access shall renegotiate the contract with the pharmacy benefits manager to ensure that the drug utilization review (DUR) board receives in executive session information relating to costs of prescription drugs.

Sec. E.309.4 STUDY ON THE PROMOTION OF GENERICS IN MEDICAID

(a) The office of Vermont health access shall determine the impacts of modifying the co-payment structure in Medicaid and VPharm from a three-tiered structure which varies depending on the cost of the drug to a two-tiered structure with a higher co-payment for a brand-name drug than for a generic drug. The office shall analyze the impacts of changing the fee structure on spending in the Medicaid and VPharm programs, on patient utilization of generic drugs and brand-name drugs, and on any access issues.

(b) The office shall report its analysis to the health access oversight committee no later than October 15, 2009. The health access oversight committee shall review the report and, as part of its annual report, make a recommendation to the general assembly on changing the fee structure.

Sec. E.309.5 VPHARM; VERMONT RX; REBATES

(a) As required by sections 2002, 2073(f), and 2074(d) of Title 33, the director of the office of Vermont health access shall require any manufacturer of pharmaceuticals purchased by individuals receiving assistance from VPharm or Vermont Rx to pay a rebate in an amount at least as favorable as the rebate or price discount paid to the office in connection with the Medicaid program. The director shall negotiate with pharmaceutical companies for the payment of these rebates or price discounts. The department shall explore negotiation strategies taken by other states in order to maximize the rebates or discounts achieved. If the Centers for Medicare and Medicaid Services approve the amendment requested to include VPharm and Vermont Rx in the Global Commitment to Health Medicaid Section 1115 waiver, the director shall establish rebates or price discounts for these programs as part of Medicaid.

Sec. E.309.6 33 V.S.A. § 2073(c) is amended to read:

(c) V-Pharm shall provide supplemental benefits by paying or subsidizing:

* * *

(2) any other cost-sharing required by Medicare part D, except for co-payments for individuals eligible for Medicaid and as provided for in subdivision (d)(1) of this section;

Sec. E.309.7 33 V.S.A. § 2073(d)(1) is amended to read:

~~(d)(1) The secretary of the agency of human services shall develop by rule the manner by which an individual shall contribute the individual's cost established in subdivision (2) of this subsection, except that individuals eligible for Medicaid shall only be subject to the cost-sharing requirements established by Medicaid and Medicare. The rule shall seek to minimize the~~

~~possibility of inadvertent loss of eligibility for Medicare part D and V-Pharm benefits. Prior to filing the rule, the secretary shall submit the proposed rule to the health access oversight committee. The health access oversight committee shall review and advise on the agency rules and policies developed under this subsection and shall submit for consideration any recommendations to the joint legislative committee on administrative rules.~~ An individual shall contribute a co-payment of \$1.00 for prescriptions where the cost-sharing amount required by Medicare Part D is \$29.99 or less and a co-payment of \$2.00 for prescriptions where the cost-sharing amount required by Medicare Part D is \$30.00 or more. A pharmacy may not refuse to dispense a prescription to an individual who does not provide the co-payment.

Sec. E.309.8 33 V.S.A. § 2074(c) is amended to read:

(c) Benefits under Vermont-Rx shall be subject to payment of a premium ~~amount~~ and co-payment amounts by the recipient in accordance with the provisions of this section.

* * *

(4) A recipient shall contribute a co-payment of \$1.00 for prescriptions costing \$29.99 or less and a co-payment of \$2.00 for prescriptions costing \$30.00 or more. A pharmacy may not refuse to dispense a prescription to an individual who does not provide the co-payment.

Sec. E.309.9 VPHARM; THERAPEUTIC EQUIVALENCY PILOT PROGRAM

(a) No later than July 1, 2009, the office of Vermont health access shall implement a pilot program to maximize the use of over-the-counter (OTC) and generic drugs used to treat the conditions specified in subsection (b) of this section by individuals enrolled in a Medicare Part D prescription drug plan and VPharm.

(b)(1) The VPharm therapeutic equivalency pilot program shall require the use of an OTC or generic drug in order to receive coverage of the Medicare Part D cost-sharing or of the prescription when the drug would be paid for entirely by VPharm, except that:

(A) an individual who is taking a brand name drug on June 30, 2009, after approval through a prior authorization program, may continue to receive coverage under VPharm for that drug; and

(B) a prescriber may override the substitution of a generic or OTC drug using the same criteria provided for under section 4606 of Title 18 (generic substitutions) by including a detailed explanation regarding:

(i) the OTC or generic drug or drugs that have been previously tried by the patient and:

(I) were ineffective; or

(II) resulted in the adverse or harmful side effects to the patient; or

(ii) the reasons why the provider expects that the OTC or generic drug or drugs may be ineffective or result in adverse or harmful side effects to the patient if the patient has not previously tried the drug or drugs.

(2) The designated pilot classes are lipotropics, which are statins most commonly used for the treatment of high cholesterol, and gastrointestinal proton pump inhibitors, which are most commonly used to reduce gastric acid. The drug utilization review (DUR) board shall determine the list of OTC and generic drugs that shall be available for coverage in each class and shall ensure that the list of generic drugs includes drugs available on the formularies of 90 percent of the Medicare Part D prescription drug plans available in Vermont. In designing the list, the DUR board shall maximize access to a variety of OTC and generic drugs for consumers.

(c) The office of Vermont health access shall notify prescribers and pharmacists about the pilot program and the requirement for the use of OTC and generics in the pilot classes described in subsection (b) of this section in order to receive coverage for those classes under VPharm.

(d) The office of Vermont health access, in collaboration with the DUR board, shall evaluate the pilot program and provide a report no later than January 15, 2010. The evaluation and report shall include an estimate of the savings from the increased use of OTC and generic drugs, negative impacts on consumer choice, and other positive or negative outcomes of the pilot program.

Sec. E.309.10 VPHARM AND VHAP CO-PAYMENTS

(a) Prior to December 5, 2009, the joint fiscal committee may suspend the co-payments in VPharm, VermontRx, and VHAP established under sections E.309.6, E.309.7, E.309.8, and E.309.12 of this act pending further action of the general assembly:

(1) if the Centers for Medicare and Medicaid Services approve the office of Vermont health access' request for an amendment to the Global Commitment for Health Section 1115 Medicaid waiver to include the VPharm program as part of that waiver; or

(2) if the VPharm program is included as a managed care organization (MCO) investment under the Global Commitment for Health.

Sec. E.309.11 MEDICAID COST CONTAINMENT STUDY

(a) The office of Vermont health access shall determine the feasibility of creating a preferred list of or entering into agreements with other states for purchasing medical devices and biologics to maximize the ability of the Medicaid program to ensure high quality products while negotiating favorable prices and containing costs.

(b) No later than January 15, 2010, the office shall report its analysis on the feasibility, including the potential benefits and harms to the senate committees on appropriations and on health and welfare and the house committees on appropriations and on human services.

Sec. E.309.12 VHAP; PRESCRIPTION DRUG CO-PAYMENTS

(a) An individual enrolled in the Vermont health access plan (VHAP) with income at or above 100 percent of the federal poverty guideline shall contribute a co-payment of \$1.00 for prescriptions costing \$29.99 or less and a co-payment of \$2.00 for prescriptions costing \$30.00 or more. A pharmacy may not refuse to dispense a prescription to an individual who does not provide the co-payment.

Sec. E.311 Health – administration and support (Sec. B.311, #3420010000)

(a) Area health education center: Of this appropriation, \$500,000 shall be granted to the area health education center (AHEC) to support the work and infrastructure of the statewide AHEC network to ensure an adequate and appropriate health care workforce, to bring quality improvement programs to health care professionals, and to create partnerships across community-based health care services to improve health care access and integration. Any funds not expended shall be carried forward to be available for use in subsequent fiscal years. The AHEC will provide the department of health with a final progress report and financial report detailing the unexpended funds to be carried forward at the close of the fiscal year.

(b) Health care provider loan forgiveness and repayment programs:

(1) The department of health may carry forward any unspent portion of funds designated for health professional loan repayment. The department and the grantee shall amend contracts to redistribute unexpended funds based on funding needs for identified disciplines. These funds may be used either alone or to match federal National Health Service Corps loan repayment funds, local funds, or private funds and shall be deposited into the loan repayment fund established under 18 V.S.A. § 10a or for the Vermont student assistance corporation for loan forgiveness programs for health care providers through the

dental hygienist incentive loan program, the nursing incentive loan program, and the dental student incentive loan program.

(2) Of this Global Commitment fund appropriation, \$870,000 shall be used for the purposes of loan repayment for health care providers and health care educators pursuant to 18 V.S.A. § 10a.

(3) Of this appropriation, \$100,000 is allocated for the Vermont student assistance corporation for loan forgiveness programs for health care providers through the dental hygienist incentive loan program, the nurse incentive loan program, and the dental student incentive loan program.

(c) Vermont academic detailing program:

(1) Of the special fund appropriation, \$300,000 shall be from the evidence-based education and advertising fund in section 2004a of Title 33 and used for the purposes of supporting the evidence-based education program established under subchapter 2 of Title 18, a university-based educational outreach program for health care professionals administered by the University of Vermont (UVM) College of Medicine office of primary care. The goal of this program is to promote high-quality, evidence-based, patient-centered, cost-effective medication treatment decisions. This program shall present an objective overview of what evidence from studies shows about various drugs used to treat a medical condition.

(2) The UVM office of primary care may collaborate with other states, countries, or entities that are working on similar programs.

(3) The UVM office of primary care may request information and collaboration from the Vermont department of health, the office of Vermont health access, prescribers, pharmacists, private insurers, hospitals, pharmacy benefit managers, drug utilization review boards, state agencies, and other programs in order to best utilize resources, prevent redundancies of effort, and facilitate appropriate linkages to complementary programs, such as the Vermont Blueprint for Health.

(d) Of these Global Commitment funds, \$750,000 shall be used to support the Vermont coalition of clinics for the uninsured health care and dental services provided by clinics for uninsured individuals and families and for federally qualified health center (FQHC) development, service expansion, and uncompensated care.

Sec. E.312 Health – public health (Sec. B.312, #3420021000)

(a) AIDS/HIV funding:

(1) The amount of \$335,000 of the general fund/Global Commitment fund appropriation shall be appropriated to the following Vermont AIDS service organizations and peer-support organizations for client-based support services. It is the intent of the general assembly that if Global Commitment fund monies in this subsection are unavailable, the total funding for Vermont AIDS service organizations and peer-support organizations for client-based support services shall be maintained through the general fund or other state-funding sources. The department of health AIDS program shall meet at least quarterly with the HIV/AIDS Community Advisory Group (CAG) with current information and data relating to service initiatives. The funds shall be allocated as follows:

(A) AIDS Project of Southern Vermont, \$71,863;

(B) ACORN, \$28,745;

(C) IMANI, \$37,985;

(D) VT CARES, \$131,407;

(E) Twin States Network, \$30,000;

(F) People with AIDS Coalition, \$35,000.

(2) Of the federal funds, Ryan White Title II funds for AIDS services and the AIDS Medication Assistance Program shall be distributed in accordance with federal guidelines. These guidelines shall not apply to programming funded by state general funds.

(3) The amount of \$100,000 of this general fund appropriation shall be appropriated to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programming which is currently not supported by federal funds due to federal restrictions. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; anti-stigma campaigns; and promotion of needle exchange programs. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds shall be distributed shall be determined by mutual agreement of the department of health, AIDS service organizations, the community planning group (CPG), and CAG. The department of health AIDS program shall be guided and advised by CPG and CAG on an ongoing basis in prioritizing prevention service needs in the disbursement of these funds.

(4) The secretary of human services shall immediately notify the joint fiscal committee if, at any time, there are insufficient funds in AMAP to assist all eligible individuals. The secretary shall work in cooperation with persons living with HIV/AIDS to develop a plan to continue access to AMAP medications until such time as the general assembly can take action.

(5) The secretary of human services shall work in conjunction with the AMAP advisory committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. The committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(6) The amount of \$140,000 general fund carry-forward funds from fiscal year 2009 shall be used for assistance to individuals in the HIV/AIDS Medication Assistance Program (AMAP), including the costs of prescribed medications, related laboratory testing, and nutritional supplements. These funds may not be used for any administrative purposes by the department of health or by any other state agency or department. Any remaining AMAP general funds at the end of the fiscal year shall be distributed to Vermont AIDS service organizations in the same proportions as those outlined under this subsection.

(b) Funding for the tobacco programs in fiscal year 2010 shall consist of the \$1,166,803 in tobacco funds and \$529,704 in Global Commitment funds appropriated in Sec. B.312 of this act; and \$212,709 of the tobacco funds appropriated in Sec. B.300 of this act. The tobacco control board shall determine how these funds are allocated to tobacco cessation, community based, media, public education, surveillance, and evaluation activities. This allocation shall include funding for tobacco cessation programs that serve pregnant women.

(c) Blueprint: Of this appropriation, \$5,051,400 is allocated to the Vermont Blueprint for Health. \$1,300,000 of the funds shall be used to provide incentive grants and stipends to physician practices and hospitals participating in the pilot projects developed under the Vermont Blueprint for Health established in 18 V.S.A. § 702.

Sec. E.313 Health - alcohol and drug abuse programs (Sec. B.313, #3420060000)

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the

department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

(c) Of the interdepartmental transfer in this section, \$150,000 shall be used to support the program dealing with gambling addiction.

(d) Of this appropriation, \$35,000 shall be used to support the drug court program in Chittenden County, \$25,000 shall be used to support the drug court program in Rutland County, and \$25,000 shall be used for court coordination in Bennington County.

(e) The department of health shall be advised by an executive council of Vermont's recovery center network on an ongoing basis to prioritize service and funding needs for recovery centers, to assist with the review of recovery center funding proposals, and to provide recommendations for disbursement of funds to the recovery centers and their support needs. The executive council shall consist of a board member of each recovery center. The executive council shall work with a network coordinator who provides technical assistance and training to recovery centers. The executive council, working with the department of health, shall have oversight of the recovery centers.

(f) Of this appropriation, \$45,000 shall be granted to the Vermont recovery center network. Of the appropriation, \$458,000 is the allocated share of the DETER program for recovery centers and shall be granted to the recovery centers in operation as of June 30, 2008.

(g) It is the intent of the general assembly that Maple Leaf Farm, Serenity House, and Valley Vista will undergo a formal, cost-based rate setting process prior to July 1, 2010. The division of alcohol and drug abuse programs shall report to the joint fiscal committee at its July 2009 meeting with draft rules or a draft procedure for establishing these rates.

(h) The total appropriation reflects a reduction of \$150,000 in treatment services. Prior to taking actions that distribute this savings to providers, the division of alcohol and drug abuse prevention must provide a plan to the joint fiscal committee at the July 2009 meeting for its review and approval.

(i) Of this appropriation, \$500,000 shall be available for operating expenses for a Chittenden County pilot program to unify existing treatment efforts in the county that will demonstrate savings in hospital expenditures related to detoxification and emergency treatment sufficient to offset the initial start-up investment by the end of the second year of operation and savings that exceed 50 percent of the program operation by the end of the third year of operation.

Sec. E.315 Mental health – Vermont state hospital (Sec. B.315, #3150080000)

(a) The community recovery residential program developed under this section shall be consistent with the goals identified in the existing “futures plan.”

Sec. E.316 Department for children and families – administration and support services (Sec. B.316, #3440010000)

(a) Of this appropriation, \$14,000 in general funds shall be provided as a grant to the Vermont Girl Scouts for a program enabling girl scouts and their siblings to visit their mothers in prison.

Sec. E.317 FISCAL YEAR 2010 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2010, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services consistent with Sec. B.1104 (AHS Grant Reductions) of this act and as provided for under this section.

(b) General rule. The division of rate setting shall calculate PNMI per-diem rates for state fiscal year 2010 as a percentage of each program's final per diem rate in effect on June 30, 2009. This percentage will equal a number ranging from 96 to 100 percent of each program's final per diem rate in effect on June 30, 2009, depending on funds available as determined by the secretary of human services as provided for in Sec. B.1104 of this act. Each PNMI program per diem rate will be set with the same percentage. The following is the one exception to this general rule:

(1) For programs categorized by the placement authorizing departments as crisis-stabilization programs with typical lengths of stay from 0 to 10 days, rates for state fiscal year 2010 shall be set retroactively as follows:

(i) The allowable budget shall be set by applying the same percentage used in subsection (a) of this section to the final approved budget for the rate year which includes June 30, 2009. The monthly allowable budget shall be the allowable budget divided by 12.

(ii) Within five days of the end of each month in state fiscal year 2010, the program shall submit the prior month's census to the division of rate setting. The per-diem rate shall be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(c) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2010.

(d) Rates set for state fiscal year 2010 shall be issued as final. The division shall send notices of each PNMI provider's per diem rate by July 1, 2009.

(e) For state fiscal year 2010, the three-month waiting provision of section 8.1(b) of the PNMI rate setting rules for the submission of a rate adjustment application is waived.

(f) For state fiscal year 2010, approved section 8 rate amounts, excluding financial relief, shall be reduced by the appropriate percentage consistent with the percentage used in calculating rates pursuant to subsection (a) of this section.

(g) The division shall ensure that setting rates of new PNMI residential programs does not disadvantage PNMI residential programs affected by subsection (a) of this section.

Sec. E.318 CHILD CARE ELIGIBILITY AND RATES; PROCESS

(a) It is the intent of the general assembly to address disparities in the child care subsidy program established in subchapter 2 of chapter 35 of Title 33,

both in income eligibility for the program and in child care provider rates. Currently, income eligibility is based on the federal poverty guideline and median income levels from 2000, and child care rates are insufficient for many families, requiring large co-payments or the approval of case-by-case variances.

(b) The purpose of this section is to direct the department to review and create a detailed proposal to reconstruct the current child care provider rate structure during the interim. The proposal would increase the income eligibility amounts to reflect 2009 federal poverty guideline (FPL) income levels while setting the floor for the upper income limit at no less than 200 percent of FPL. This change would increase the current upper income limit for a child care subsidy for a family of four from \$43,747 to \$44,088 and would allow for a higher upper income limit in the future if state funds are available.

(c)(1) The department for children and families shall create a proposal to restructure the child care subsidy rate structure to provide incentives for regulated child care providers to improve quality, reflect increased payments available through pre-kindergarten funding, and allow for a rate structure that is sufficient and not dependent on providing exceptions to existing rates.

(2)(A) The department shall report to the joint fiscal committee no later than its September 2009 meeting with a proposal meeting the intent and purposes of this section and the criteria in this subsection (c).

(B) The department shall also provide a summary of the proposal to the house committee on human services and the senate committee on health and welfare one week prior to the joint fiscal committee. The chairs of the house committee on human services and the senate committee on health and welfare may comment on the proposal to the joint fiscal committee.

(C) The joint fiscal committee may approve, deny, or suggest modifications to the proposal. If the joint fiscal committee suggests modifications, the department may accept the modifications at the next scheduled joint fiscal committee meeting or may revise its proposal for presentation at the next scheduled joint fiscal committee.

(d)(1) The department may simultaneously begin the rulemaking process provided for in chapter 26 of Title 3 to modify the child care subsidy program to conform to the proposal developed under this section. The department shall provide a copy of the draft rule to the joint fiscal committee with its proposal.

(2) Notwithstanding the time limitations in chapter 26 of Title 3 provided for review by the legislative committee on rules (LCAR), the rule modifications provided for in this subsection (d) shall not be approved by

LCAR until and unless the joint fiscal committee has approved the department's proposal as provided for in subsection (c) of this section.

Sec. E.318.1 33 V.S.A. § 3512(b) is amended to read:

(b) The subsidy authorized by this section shall be on a sliding scale basis. The scale shall be established by the commissioner, by rule, and shall bear a reasonable relationship to income and family size. The lower limit of the fee scale shall include families whose gross income is up to and including 100 percent of the federal poverty guidelines. The upper income limit of the fee scale shall be neither less than ~~82.5 percent~~ 200 percent of the federal poverty guidelines nor more than 100 percent of the state median income, adjusted for the size of the family. The scale shall be structured so that it encourages employment.

Sec. E.320 Department for children and families-aid to aged, blind and disabled (Sec. B.320, #3440050000)

(a) Notwithstanding chapter 13 of Title 33, the secretary of human services may reduce the state supplemental payment only by an amount equal to or less than 50 percent of the amount of the cost of living increase provided under the federal Supplemental Security Income (SSI) program. If individuals receiving SSI do not receive a cost of living increase, the secretary shall not reduce the state supplemental payment.

Sec. E.321. Sec. 137 of No. 65 of the Acts of 2007, as amended by Sec. 49 of No. 90 of the Acts of 2008 and Sec. 5.216 of No. 192 of the Acts of 2008 is further amended to read:

Sec. 137. GENERAL ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM

(a) Commencing with state fiscal year 2007, the agency of human services may establish ~~an~~ a housing assistance program within the general assistance program to create flexibility to provide these general assistance benefits. The purpose of the program is to mitigate poverty and serve applicants more effectively than they are currently served with the same amount of general assistance funds. The program shall operate consistent within existing statutes and rules except that it may grant exceptions to this program's eligibility rules and may create programs and services as alternatives to these rules.

~~(e)~~(b) The program may operate in up to 12 districts designated by the secretary of human services. This program will be budget neutral. For each district in which the agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The agency shall report annually to the general assembly on its findings from the programs, its recommendations for

changes in the general assistance program, and a plan for further implementation of the program.

(c) The agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of the general assistance flexibility program.

Sec. E.321.1 HOUSING ASSISTANCE; ARRA FUNDS

(a) This section shall not apply to the administration of housing assistance funded with general funds provided through the general assistance program under Sec. E.321 of this act and existing rules.

(b) In fiscal year 2010, the agency of human services may establish a housing assistance program with homelessness prevention and rapid rehousing program (HPRP) funds from the American Recovery and Reinvestment Act of 2009, Public Law 111-5. HPRP funds shall be granted to direct-service community organizations which demonstrate experience and expertise in serving the homeless or those at risk for homelessness. The funds shall also be granted in accordance with requirements established by the U.S. Department of Housing and Urban Development (HUD).

(c) The agency shall engage interested parties in the design of the program requirements, including a core set of services to be provided; implementation of the program; and evaluation of the program.

(d)(1) The agency shall establish procedures to ensure equitable access to housing assistance provided by direct service community organizations with HPRP funds, in compliance with chapter 139 of Title 9, through a standard application and assessment process.

(2) The agency shall ensure that grantees of these funds provide an appropriate grievance and appeal process for applicants and recipients of the funds, including for expedited appeals.

(e)(1) The agency shall establish reporting procedures for all grantees receiving HPRP funds to provide housing assistance and collect sufficient information to determine that grantees are following all requirements and to evaluate the program's effectiveness

(2) The agency of human services field service directors shall monitor the housing assistance programs provided by direct service community organizations granted HPRP funds and assess the effectiveness of these programs.

Sec. E.322 33 V.S.A. § 1701 is amended to read:

§ 1701. ~~FOOD-STAMP~~ SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM

(a) The state of Vermont may participate in the federal ~~food-stamp~~ supplemental nutrition assistance program which is provided for under Public Law 88-525, also known as the Food Stamp Act of 1964, as amended. The commissioner may adopt, and from time to time amend or repeal, regulations governing the operation of the program in the state.

(b) ~~{Repealed.}~~ An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

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Sec. E.322.1 SCHOOL NUTRITION PROGRAM PILOT PROJECT

(a) No later than August 1, 2009, the department of education shall apply to the Food and Nutrition Service for permission to conduct a pilot project under 42 U.S.C. § 1769i to simplify the certification process for families receiving the earned income tax credit who are categorically eligible for the state nutrition assistance program (SNAP). The pilot project shall be designed to allow families receiving the earned income tax to enroll in the school nutrition programs by providing the school with a receipt of proof of earned income tax credit without having to apply for SNAP. The pilot shall be implemented no earlier than August 1, 2010.

Sec. E.322.2 SUPPLEMENTAL NUTRITION ASSISTANCE; AGENCY ERRORS

(a) No later than July 1, 2009, the department for children and families shall submit a cost analysis to the Food and Nutrition Service (FNS) for permission to not establish an overpayment in the supplemental nutrition assistance program, called 3SquaresVt, when the overpayment to the household resulted from agency error and the overpayment amount is \$500 or less.

Sec. E.323 33 V.S.A. § 1103(c)(8) is added to read:

(8) An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

Sec. E.323.2 33 V.S.A. § 1203a is added to read:

§ 1203a. APPLICATION OF 21 U.S.C. § 862a

An individual domiciled in Vermont shall be exempt from the disqualification provided for in 21 U.S.C. § 862a.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP (Sec. B.324, #3440090000)

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$350,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2009, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance trust fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the home weatherization trust fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance trust fund be necessary for the 2009–2010 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2009, and if LIHEAP funds awarded as of December 31, 2009 for fiscal year 2010 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2010. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2009, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

Sec. E.324.2 33 V.S.A. § 2606(e) is added to read:

(e) 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. E.324.3 33 V.S.A. § 2604(c)(2) is amended to read:

(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 ~~that receive Temporary Assistance to Needy Families (TANF)~~, 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), TANF 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.

Sec. E.324.4 33 V.S.A. § 2605(c) is amended to read:

(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 ~~section~~ 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 ~~trust~~ fund for the purpose of providing annual home heating fuel assistance benefits, the secretary shall, by procedure, set the payment rate that shall be used to determine the amount of annual home heating fuel assistance for which each 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) of this section.

Sec. E.324.5 33 V.S.A. § 2609 is amended to read:

§ 2609. CRISIS RESERVES

Annually, the secretary shall determine by rule an appropriate amount of funds in the home heating fuel assistance ~~trust~~ fund to be set aside for expenditure for the crisis reserve component of the home heating fuel program. The secretary shall also adopt rules to define crisis situations for the expenditure of the home heating fuel crisis reserve, 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 household income is greater than 150 percent of the federal poverty level based on the income of all persons residing in the household.

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

opportunity (Sec. B.325, #3440100000)

(a) Of the general fund appropriation in this section, \$792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney emergency shelter funds. Grant decisions shall be made with assistance from the coalition of homeless Vermonters.

Sec. E.326 Department for children and families - OEO - weatherization assistance (Sec. B.326, #3440110000)

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) As part of the administration's annual budget testimony before the house and senate committees on appropriations, the office of economic opportunity shall report on appropriations utilizing existing resources within state government available in the office of economic opportunity's weatherization data management system that compiles performance data available on households weatherized in the past year to include:

(1) the number of households weatherized;

(2) the average program expenditure per household for energy efficiency;

(3) the average percent in energy savings;

(4) the energy and non-energy benefits combined;

(5) the benefits saved for every dollar spent;

(6) the average savings per unit for heating fuels;

(7) the gallons of oil saved related to the equivalent number of homes heated;

(8) projected number of households to be weatherized in the current program year; and

(9) the projected program expenditures for the current program year ending March 31.

(c) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. § 305a.

Sec. E.326.1 FISCAL YEAR 2010 STATE WEATHERIZATION EFFORTS

(a) The general assembly recognizes the importance of weatherization activities as a key component of housing affordability in Vermont. To this end, for fiscal year 2010, the following state resources shall be targeted to furthering weatherization efforts:

(1) \$5,160,000 of proceeds from the gross receipts tax to the weatherization trust fund to support weatherization activities of the office of economic opportunity;

(2) \$3,496,000 of Regional Greenhouse Gas Initiative (RGGI) funds through the Vermont department of public service and through the electric efficiency fund to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers to help meet the state's building efficiency goals established by 10 V.S.A. § 581.

(b) The Vermont housing conservation board and the Vermont housing finance agency shall carry out its affordable housing activities, to the extent possible, to improve weatherization and building envelope efficiency.

(c) In carrying out its affordable housing activities, to the maximum extent feasible, the Vermont housing and conservation board shall utilize appropriate amounts from the funds authorized in this act together with other available weatherization resources and programs in Vermont to ensure that new construction and rehabilitation of affordable apartments and homes with funding support from the board will achieve increased short- and long-term energy efficiencies.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living (Sec. B.330, #3460020000)

(a) Of this appropriation, \$100,000 shall be granted to support a supportive housing demonstration project managed by Cathedral Square Corporation. It is the intent of the general assembly that these funds be used as matching funds for a two-year period for grants to conduct research on cost-efficient and quality services in senior housing. Cathedral Square, in conjunction with the department of disabilities, aging, and independent living, shall identify the programmatic interventions intended to achieve measurable outcomes, including savings from services not needed because of the demonstration project services or improvements in participants' physical and mental well-being. The general assembly recognizes the imperative to develop a long-term care system in Vermont designed to meet the needs of a senior population projected to double by the year 2030. The general assembly endorses this demonstration project as the potential foundation for a home-centered long-term care policy in Vermont. The department and

demonstration shall report to the health access oversight committee no less than every six months on the progress of the demonstration project.

(b) Certification of adult day providers shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region and does not have an adverse impact on existing adult day services.

(c) Of this appropriation, \$23,655 in general funds shall be allocated for special assistance to adult day service providers. The department shall develop criteria on the use of these funds in consultation with the adult day programs. Funds remaining in this allocation after March 30, 2010 shall be distributed on an equitable basis to adult day programs by the close of the fiscal year.

(d) Of this appropriation, \$109,995 in general funds shall be allocated for base funds to adult day programs in the same proportion as they were allocated in fiscal year 2009.

(e) At the end of fiscal year 2009, of the remaining moderate needs group (MNG) funds originally allocated to adult day services, the department shall allocate \$12,367 to cover lifting the MNG 30-hour cap to 50 hours and \$97,108 to adult day services programs that have overutilized their MNG funds. All adult day services shall agree to stay within their allocations for fiscal year 2010, even if people have to go on waiting lists.

Sec. E.335 Corrections- administration (Sec. B.335, #3480001000)

(a) The department is authorized to explore the transition of the northern correctional facility (Newport) in whole or in part to a detention center that can be leased to the federal government that is sufficient to cover the cost of operating any leased portion which would remain operated by state employees. The department shall provide a status update at each meeting of the joint corrections oversight committee. Prior to implementing a transition, the department shall submit a plan for approval to both the joint corrections oversight committee and joint fiscal committee. The plan shall include how offender programs at the facility would be addressed in such a transition, specifically whether programs would be continued, moved, reduced, or eliminated.

Sec. E.337 Corrections – correctional education (Sec. B.337, # 3480003000)

(a) The appropriation in this section shall be made, notwithstanding 28 V.S.A. § 120(g).

Sec. E.338 Corrections – correctional services (Sec. B.338, # 3480004000)

(a) Of this general fund appropriation, \$106,820 shall be used as a grant to Dismas House of Vermont, Inc.

(b) Of the funds appropriated, up to \$8,000 shall be for equipment purchased for the “wood warms” program in Bennington.

(c) Of the funds allocated for transitional housing, \$200,000 shall be transferred to the agency of human services central office. It is the intent of the general assembly that the secretary of the agency of human services and the department of corrections in partnership with appropriate community providers and local or state housing authorities create a rental subsidy pilot program that results in successful reentry of eligible offenders. The program shall be designed to meet the following:

(1) Does not result in a concentration of reentrant populations in a single building, immediate group of buildings, or neighborhood.

(2) Is not limited to particular communities but can be applied statewide.

(3) Provides direct vendor payments to landlords for up to six months on a month-to-month basis.

(4) Conditions of release incorporate lease requirements.

(5) Savings from the program which can be reinvested in a manner that maintains or expands this pilot project or both or in other transitional housing activities that result in successful offender reentry.

(6) Coordination with offender reentry plans to assure necessary community services and case management.

Sec. E.342 Vermont veterans’ home – care and support services (Sec. B.342, #3300010000)

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans’ home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans’ home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

* * * Labor * * *

Sec. E.400 DEPARTMENT OF LABOR; AGENCY OF COMMERCE AND
COMMUNITY DEVELOPMENT; LEGISLATIVE COMMITTEE

(a) A committee is created to consist of the following members: three members at large appointed by the speaker of the house; three members at large appointed by the committee on committees; and three members at large appointed by the governor. A chair shall be appointed jointly by the speaker, the committee on committees, and the governor.

(b) The committee shall make recommendations for the possible restructuring of the agency of commerce and community development and the department of labor so that these agencies are better able to serve their respective constituencies by:

(1) Identifying areas for enhanced collaboration and increased efficiencies, including combining information technology resources and fiscal and accounting services and sharing regional information and common customer resource and service management.

(2) Reviewing funding sources for the agency and the department, the requirements and limitations for those sources, and evaluating how they will be affected by the restructuring plan.

(3) Examining the likelihood of general fund savings resulting from restructuring.

(4) Identifying staffing and compliance issues resulting from the receipt of federal funding.

(5) Examining management structures, including the duties and responsibilities of commissioners, deputy commissioners, and exempt division directors.

(6) Recommending a new organizational structure, possibly with a focus on grouping divisions or departments around common functions and constituencies.

(7) Examining alternative co-locations for administrative and operational functions located in Montpelier and regionally.

(8) Considering other areas of state government that might appropriately be included in the recommended structure.

(9) Establishing a time line for restructuring that provides the least disruption of essential services, particularly at a time of high unemployment, and that may contemplate a phased implementation plan.

(10) Gathering information on other models in other states.

(c) Prior to making its recommendations, the committee shall meet with, seek input from, and discuss restructuring with potentially affected constituencies, including: the secretary of commerce and community development, the commissioners of the departments of the agency of commerce and community development, the commissioner of labor, employees of the agency of commerce and community development and the department of labor, all state entities connected with these agencies, the Vermont league of cities and towns, municipalities, private planners and community development consultants, regional planning commissions, regional development corporations, chambers of commerce, historic preservationists, workforce investment boards, the Vermont Bar Association's workers' compensation committee, labor unions, training and education providers, housing entities, the Vermont institute on government effectiveness, and the general business community. The committee shall also utilize and build upon existing studies and research.

(d) The committee shall meet with the joint legislative government accountability committee in order to coordinate recommendations.

(e) The committee may meet up to eight times while the legislature is not in session.

(f) The legislative council shall provide professional and administrative support to the committee. Committee members are entitled to compensation and reimbursement of expenses as provided under section 406 of Title 2.

(g) The committee shall submit its recommendations to the legislative committees of jurisdiction no later than January 15, 2010.

Sec. E.401 Labor - programs (Sec. B.401, 4100500000)

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

Sec. E.401.1 10 V.S.A. § 543(f) is amended to read:

(f) Awards. Based on guidelines set by the council, the commissioner of labor shall make awards to the following:

(1) Training Programs. Public, private, and nonprofit entities for existing or new innovative training programs. There shall be a preference for programs that include training for newly created or vacant positions. Awards may be made to programs that retrain incumbent workers. ~~The department~~

~~shall ensure there are resources available in each quarter of the fiscal year.~~
Awards under this subdivision shall be made to programs or projects that do all the following:

* * *

* * * K-12 Education * * *

Sec. E.500 Education – finance and administration (Sec. B.500, #5100010000)

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.500.1 THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009; EDUCATION

(a) The American Recovery and Reinvestment Act of 2009.

(1) The American Recovery and Reinvestment Act of 2009 (ARRA) provides billions of dollars in federal funds to stimulate the economy in the short term and to invest in education and other essential public services necessary to ensure the long-term economic health of the nation.

(2) Four principles guide distribution of ARRA funds:

(A) Spend funds quickly to save and create jobs.

(B) Improve student achievement through school reform.

(C) Ensure transparency, reporting, and accountability.

(D) Invest one-time ARRA funds thoughtfully to minimize unsustainable recurring costs in the future.

(b) Title VIII of the ARRA. In Title VIII, the ARRA appropriates additional funding to supervisory unions and school districts through existing federal programs, such as Title I of the Elementary and Secondary Education Act (Title I) and the Individuals with Disabilities Education Act (IDEA), to enhance and develop educational practices and outcomes for students who are disadvantaged or disabled, to provide supports for the lowest performing schools, and to promote innovation and improvement in education for all students.

(c) Department of education. The general assembly recognizes that, if it has the capacity, the department of education shall help supervisory unions and school districts to use IDEA, Title I, and other federal stimulus funds, both within and among these entities, in coordinated, fiscally prudent ways that advance the educational purposes of the ARRA. Therefore, it is the intent of the general assembly to ensure that the department has the positions and funding that it needs to help supervisory unions and school districts. Examples of departmental assistance include:

(1) Developing, coordinating, or providing professional development models to assist implementation of evidence-based strategies to:

(A) Increase student participation and achievement levels, such as through responsiveness to intervention (RTI), positive behavioral supports (PBS), differentiated instruction (DI), the Vermont integrated instructional model (VIIM), and the formative assessment project.

(B) Provide effective prevention and intervention strategies to support students at risk of not completing high school.

(C) Promote secondary school transformation.

(D) Support early intervention and early childhood education.

(2) Coordinating early intervention and early education services statewide.

(3) Aiding school districts to provide assistive technology equipment not otherwise available to them through existing funding sources.

(d) Supervisory unions and school districts. It is the intent of the general assembly that federal IDEA, Title I, and any other federal stimulus funds received by supervisory unions or school districts are used in fiscally prudent ways to advance the purposes of the ARRA as it relates to education without creating unsustainable recurring costs, such as:

(1) To provide intensive professional development opportunities in special education and general education that focus on implementing innovative, evidence-based, schoolwide strategies in reading, math, and science and in the use of positive behavioral interventions and supports.

(2) To establish a system to identify and train highly effective teachers to serve as instructional leaders and mentors.

(3) To implement innovative, flexible, evidence-based programs and practices to identify and support students who are at risk of not completing high school.

(4) To implement student progress monitoring systems to assist teachers and administrators to collect and use data to improve instruction and learning for all students.

(5) To provide intensive training and coaching to teachers, administrators, and para-educators to improve services provided to students with disabilities, including autism and emotional behavioral disorders.

(6) To provide additional intervention services for children with disabilities who are eligible for early childhood education as that term is defined in 16 V.S.A. § 11(a)(31).

(7) To support the training and certification of early childhood educators working in a program offered by or through a school district.

(8) To increase the federal share of special education costs.

Sec. E.500.2 FIVE LIMITED SERVICE POSITIONS WITHIN THE DEPARTMENT OF EDUCATION

(a) Five limited service positions are authorized within the department of education to support implementation of Sec. E.500.1 of this act, including one exempt attorney position to specialize in special education law, one program coordinator I position, and three education consultant II positions.

(b) Of the funds appropriated in Sec. B.500 of this act, \$325,000 is from the special fund created in subsection 2959a(b) of Title 16 through an allocation made pursuant to subsection 2959a(f) of that title.

Sec. E.501 Education – education services (Sec. B.501 #510003000)

(a) In fiscal year 2010 and fiscal year 2011, \$1,131,751 shall be paid by the education fund for early education initiative grants for at-risk preschoolers. In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly.

Sec. E.501.1 Sec. 9.0001(d) of No 192 of the Acts of 2008 (sunset; teen parent education programs) is amended to read:

(d) Sec. 5.304.1 of this act shall take effect on July 1, 2008 and shall remain in effect until July 1, ~~2009~~ 2010.

Sec. E.502 Education-special education formula grants (Sec. B.502, #5100040000)

(a) The education fund appropriated in this section shall be made notwithstanding 16 V.S.A. §§ 2963(c)(3) and 2967(b).

Sec. E.503 Education – state-placed students (Sec. B.503, #5100050000)

(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education-adult education and literacy (Sec. B.504, #5100060000)

(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 1049a(c).

Sec. E.505 COMMUNITY HIGH SCHOOL OF VERMONT GRANT

(a) From the education funds appropriated in Sec. B.505 in fiscal year 2010 and fiscal year 2011, a base education payment shall be paid to the community high school of Vermont for full-time equivalent students studying high school equivalency coursework. For fiscal year 2010, this total grant shall be set at the base education payment for 355 full-time equivalent pupils. This amount shall be transferred from the funds appropriated in Sec. B.505 to the department of corrections - correctional education program. These payments shall be made, notwithstanding 16 V.S.A. § 4025(b)(1). In fiscal year 2012, these expenses shall revert to the general fund, and the general fund transfer shall be adjusted accordingly

Sec. E.505.1 Education – adjusted education payment (Sec. B.505, #5100090000)

(a) Any calculations required to identify funding levels for the education fund budget stabilization reserve under 16 V.S.A. § 4026(b) shall be calculated as if in fiscal year 2010 those revenues and appropriations included \$38,575,036 in additional revenues and \$38,575,036 in additional expenditures.

Sec. E.511 Education-technical education (Sec. B.511, #5100200000)

(a) The appropriation in this section shall be authorized, notwithstanding 16 V.S.A. § 1564.

Sec. E.511.1 REPEAL

(a) 16 V.S.A. § 1564 (equipment replacement fund) is repealed.

Sec. E.512 Education – No. 117 of the Acts of 2000 – cost containment (Sec. B.512, #5100310000)

(a) Notwithstanding any other provisions of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the state's 60-percent share of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 EDUCATION FUND TRANSFER ADJUSTMENT FOR ARRA FUND OFFSET

(a) Notwithstanding 16 V.S.A. § 4025(2), for fiscal year 2010, the general fund transfer to the education fund shall be \$239,203,945.

(b) Notwithstanding 16 V.S.A. § 4025(2), it is the intent of the general assembly that the fiscal year 2011 transfer shall be funded at \$240,803,945 less any adjustment for changes in the current use program.

(c) It is the intent of the general assembly that the fiscal year 2012 general fund transfer shall be as required in 16 V.S.A. § 4025(2) less any continuing offset for federal state fiscal stabilization funds.

Sec. E.513.1 16 V.S.A. § 4025(b) is amended to read:

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

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, other provisions of this chapter, and the provisions of chapter 135 of Title 32.

(2) To cover the cost of fund auditing, accounting, and of short-term borrowing to meet fund cash flow requirements.

(3) To make payments required under subdivisions 6066(a)(1) and (2) of Title 32 and only that portion attributable to education taxes, as determined by the commissioner of taxes, of payments required under subdivisions 6066(a)(3) and 6066(b) of Title 32.

* * *

Sec. E.514 State teachers' retirement system (Sec. B.514, #1265010000)

(a) In accordance with 16 V.S.A. § 1944(g)(2), the amount of the annual contribution to the Vermont state teachers' retirement system shall be \$41,503,002 in fiscal year 2010.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$19,821,109 is the "normal contribution," and \$21,681,893 is the "accrued liability contribution."

(c) The general assembly is proposing that a combination of \$40,228,002 in general funds and an estimated \$1,275,000 of Medicare Part D reimbursement funds be utilized to achieve funding at the actuarially recommended level.

* * * Higher Education * * *

Sec. E.600 University of Vermont (Sec. B.600, #1110006000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

Sec. E.602 Vermont state colleges (Sec. B.602, #1110009000)

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$428,786 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. E.603 Vermont state colleges – allied health (Sec. B.603, #1110010000)

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

Sec. E.605 Vermont student assistance corporation (Sec. B.605, #1110012000)

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont student assistance corporation to be deposited into the trust fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 100 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont student assistance corporation pursuant to Sec. E.215(a) and E.1100(a)(3)(B) of this act, \$242,500 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

* * * Natural Resources * * *

Sec. E.700 Natural Resource – Agency of Natural Resources - Administration

(a) Of the funds appropriated in Sec. B.700, \$25,000 is for water management typing for the White River basin and the West, Williams, and Saxons river basin.

(1) \$12,500 shall be granted to the Two Rivers Ottauquechee Regional Commission for the purpose of developing recommended water management type designations for the White River basin. In developing its recommendations, the Two Rivers Ottauquechee Regional Commission shall consult with the agency of natural resources watershed coordinator for the White River basin and shall consider the most recent information for the watershed available from the agency of natural resources and other sources.

(2) \$12,500 shall be granted to the Windham Regional Commission for the purpose of developing recommended water management type designations for the West, Williams and Saxons River basin. In developing its recommendations, the Windham Regional Commission shall consult with the agency of natural resources watershed coordinator for the White River basin and shall consider the most recent information for the watershed available from the agency of natural resources and other sources.

Sec. E.700.1 REPORT AND RULEMAKING ON WATER MANAGEMENT TYPING FOR THE WHITE RIVER BASIN AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, 2011, the Two Rivers Ottauquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E.700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under this section, the agency of natural resources shall

post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) Within three months of receipt of the recommended water management type designations under this section, the natural resources board shall initiate rulemaking to amend the water management types in order to consider the recommended water management type designations for the White River basin and the West, Williams and Saxons River basin.

Sec. E.700.2 FARMERS' WATERSHED ALLIANCE

(a) The secretary of natural resources shall allocate and grant \$125,000 of the funds appropriated to the agency for the Clean and Clear program to the Franklin County watershed alliance. The secretary shall report to the joint fiscal committee by September 15, 2009 regarding how this grant was allocated within the agency Clean and Clear budget. It is the intent of the general assembly that this funding, in coordination with \$75,000 of funding allocated through the agency of agriculture, food and markets, will provide a total grant of \$200,000 to the Franklin County watershed alliance for fiscal year 2010.

Sec. E.705 FUNDING GOALS FOR FISH & WILDLIFE

(a) It is the intent of the general assembly that the department of fish and wildlife be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

(b) The department shall seek to access to the maximum amount the state may be eligible for of Pittman-Robertson, Dingell-Johnson, and other federal revenues. The department shall establish and administer a grant program for Vermont organizations and citizens to utilize the Pittman-Robertson funds for the public sport shooting ranges and the improvement or modification of existing sport shooting ranges. Sport shooting ranges are defined as per 10 V.S.A. § 5227.

Sec. E.707 FUNDING GOALS FOR FORESTS, PARKS AND RECREATION

(a) It is the intent of the general assembly that the department of forests, parks and recreation be able to sustain services and seek the federal funds eligible to the state in the future through the generation of revenue and state funding.

Sec. E.717 Natural resources board (Sec. B.717, #6215000000)

(a) It is the intent of the general assembly that should the level of funding provided in Sec. B.717 of this act require reductions in personal service

expenses in fiscal year 2010, any such reductions shall not reduce enforcement activities of the board. The administration is encouraged to review the need to maintain the board chair position at a full-time level.

* * * Commerce and Community Development * * *

Sec. E.800 COMMUNITY DEVELOPMENT PROGRAM; FUND CONSOLIDATION PLAN; IMPLEMENTATION

(a) Consistent with the requirements of subchapter 1 of chapter 29 of Title 10, a committee chaired by the Vermont league of cities and towns and consisting of the executive directors of the Vermont housing finance agency, the Vermont economic development authority, and the secretary of the agency of commerce and community development or designee, the Vermont housing conservation board, the Vermont bankers association, municipalities, regional development corporations, and other appropriate entities shall develop a proposal for the best use of and administration of community development grants which have previously been awarded to municipalities and that are currently inactive from the community development block grant (CDBG) program authorized by Title I of the federal Housing and Community Development Act of 1974, as amended, 42 U.S.C. § 5301 et seq. The purpose of the proposal is to maximize the availability of CDBG funding for Vermont's municipalities. The proposal shall include criteria and processes for standardizing the administration and oversight of CDBG funds, while preserving a municipality's ability to access funds.

(b) The committee will be staffed by the agency of commerce and community development. The committee shall report its findings to the general assembly on or before January 15, 2010.

Sec. E.801 Housing and community affairs (Sec. B.801, #7110010000)

(a) Of this appropriation, \$60,000 shall be granted to the First Stop Program.

Sec. E.804 Community development block grants (Sec. B.804, #7110030000)

(a) Community development block grants shall carry forward until expended.

(b) Community development block grant (CDBG) funds shall be expended in accordance with and in the order of the following priorities:

(1) The greatest priority for the use of CDBG funds will be the creation and retention of affordable housing and jobs.

(2) The overarching priority and fundamental objective in the use of funds for all affordable housing is to achieve perpetual affordability through the use of mechanisms that produce housing resources that will continue to remain affordable over time. It is the goal of the state to maintain at least 45 to 55 percent of CDBG funds for affordable housing applications.

(3) Among affordable housing applications, the highest priorities are to preserve and increase the supply of affordable family housing, to reduce and strive to eliminate childhood homelessness, and to serve families and individuals at or below 30 percent of HUD Area Median Income and people with special needs as described in the Consolidated Plan. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) Projects which address the ongoing deterioration of the existing housing stock through acquisition, preservation, and rehabilitation of units shall comply with housing quality standards with priority given to lead hazard reduction and energy efficiency.

(5) Preference shall be given to projects that maintain the historic settlement pattern of compact village and downtown centers separated by a rural working landscape. Funds generally should not be awarded to projects that promote or constitute sprawl, defined as dispersed development outside compact urban and village centers, along highways, and in rural countryside.

(c) No less than 50 percent of CDBG-generated loan repayments shall remain available to municipalities awarded community development block grant funds.

(d) The department of housing and community affairs may not restrict CDBG applications for housing to projects which have been previously awarded federal low income housing tax credits.

Sec. E.806 Economic development (Sec. 806, #7120010000)

(a) Of this appropriation, \$50,000 shall be used by the Commission on the Future of Economic Development (CFED) to continue the benchmarking process and to develop strategies to implement the four principal goals for economic development recommended to the legislature by CFED in fiscal year 2009.

(b) For fiscal year 2010, the chair of CFED shall convene and chair a working group consisting of the current CFED members and the commissioner of the department of economic development.

(c) The working group shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office and the legislative council.

(d) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406(a); other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(e) The fiscal year 2010 working group shall:

(1) Collaborate with the state economists to finalize the statistical benchmarking system proposed in fiscal year 2009.

(2) Establish baseline values for each benchmark and subsequently perform an economic development analysis against the baseline values at a suitable interval.

(3) Review and report on the development of the specific goals and benchmarks required of state agencies and departments under 10 V.S.A. § 3(d).

(4) Develop a work plan for CFED for fiscal year 2011.

(f) The working group shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor not later than January 15, 2010.

Sec. E.813 10 V.S.A. § 311 is amended to read:

§ 311. CREATION OF THE VERMONT HOUSING AND CONSERVATION BOARD

(a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under chapter 73 of Title 8.

~~(b) The board shall consist of nine members, including ex officio the secretary of agriculture, food and markets, the secretary of commerce and community development, the secretary of natural resources and the executive director of the Vermont housing finance agency, or their designees, and five public members who shall be residents of the state and who shall in the opinion of the governor be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important~~

~~natural areas or recreational lands. At least one member shall be a representative of lower income Vermonters and one member shall be a farmer as defined in 32 V.S.A. § 3752(7). The public members shall be appointed by the governor with the advice and consent of the senate for three year terms beginning on February 1 of the year in which the appointment is made, except that the first members appointed by the governor to the board shall be appointed, one for a term of one year, two for a term of two years and two for a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

The board shall consist of the following 11 members:

- (1) The secretary of agriculture, food and markets or his or her designee.
- (2) The secretary of human services or his or her designee.
- (3) The secretary of natural resources or his or her designee.
- (4) The executive director of the Vermont housing finance agency or his or her designee.
- (5) Three public members appointed by the governor who shall be residents of the state and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in subdivision 3752(7) of Title 32.
- (6) One public member appointed by the speaker of the house, who shall not be a member of the general assembly at the time of appointment.
- (7) One public member appointed by the senate committee on committees, who shall not be a member of the general assembly at the time of appointment.
- (8) Two public members appointed jointly by the speaker of the house and the president pro tempore of the senate as follows:
 - (A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.
 - (B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

(c) The public members shall serve terms of three years beginning July 1 of the year of appointment. However, two of the public members first appointed by the governor shall serve initial terms of one year; and the public members first appointed by the speaker and committee on committees shall serve initial terms of two years. A vacancy occurring among the public members shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed.

~~(e)~~(d) Annually, the board shall elect from among its public members a chair and vicechair. The board may elect ~~such~~ officers as it may determine. Meetings shall be held at the call of the chair or at the request of three members. A majority of the sitting members shall constitute a quorum and action taken by the board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

~~(d)~~(e) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each ~~such~~ member shall be reimbursed from the fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

~~(e)~~(f) The board shall employ an executive director to administer, manage and direct the affairs and business of the board, subject to the policies, control and direction of the members. The board may employ technical experts and ~~such~~ other officers, agents and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties and compensation. The board shall use the office of the attorney general for legal services.

Sec. E.813.1 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided to a business corporation by ~~section 1852 of Title 11~~ Title 11A and including, without limiting the generality of the foregoing, the power to:

(1) upon application from an eligible applicant in a form prescribed by the board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this state to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter;

(4) transfer funds to the department of housing and community affairs to carry out the purposes of this chapter.

(b) The board shall seek out and fund not-for-profit organizations and municipalities that can assist any region of the state which has high housing prices, high unemployment and low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing. The board shall administer the "HOME" affordable housing program which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The state of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and outcomes that the board will annually report on to the Vermont department of housing and community affairs.

(c) On behalf of the state of Vermont, the board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund which was enacted under HR 3221, Title 1, Subtitle B, Section 1228 of the Federal Housing Finance Regulatory Reform Act of 2008 to increase perpetually affordable rental housing and home ownership for low and very low income families.

~~(e)~~(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter.

~~(d)~~(e) The board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and state bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. E.813.2 GRANT STATUS; JFO #2370

(a) In accordance with the legislature's authority under 32 V.S.A. § 5, the U.S. Department of Housing and Urban Development (HUD) Neighborhood Stabilization Program (NSP) grant (JFO #2370), in the amount of \$19,600,000 is accepted pursuant to and subject to a memorandum of understanding (MOU) reached between the agency of commerce and community development (ACCD) and the Vermont housing and conservation board (VHCB) dated May 7, 2009, for the use of NSP funds by the Vermont housing and conservation board (VHCB) to grant subgrants to eligible projects. Further, the general assembly concludes that the MOU shall include the reservation of actual costs of \$3,000,000 to be solicited and awarded by VHCB, and conveyed by a grant agreement to VHCB. The MOU shall also include, but is not limited to provisions that will allow VHCB to be reimbursed for the actual costs of its administration up to \$400,000; a requirement that owners of projects funded with grant funds shall execute housing subsidy covenants to ensure permanent affordability; a requirement that VHCB will act according to and ensure compliance with all applicable state and federal laws and regulations; and that ACCD will provide training and technical assistance to VHCB staff with regard to administration of the NSP grant. It is also understood that the total of the NSP funds awarded to the state of Vermont that are not allocated pursuant to the MOU shall be utilized consistent with the terms of the HUD approval of the NSP grant. The MOU between ACCD and VHCB shall be submitted to the house and senate committees on appropriations and the joint fiscal committee immediately upon its execution.

* * * Transportation * * *

Sec. E.900 19 V.S.A. § 11a is amended to read:

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

(a) ~~The maximum amount of~~ No transportation funds that may shall be appropriated for the support of government; other than for the agency of transportation, the transportation board, transportation pay act funds, construction of transportation capital facilities used by the agency of transportation, and transportation debt service shall not exceed \$32,852,807.00, and the department of public safety. The amount of transportation funds appropriated to the department of public safety shall:

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

Sec. E.910 Transportation – central garage (Sec. B.910, #8110000200)

(a) Of this appropriation, \$6,216,757 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.916 Transportation – town highway aid program (Sec. B.916, #810003000)

(a) This appropriation is authorized, notwithstanding 19 V.S.A. § 306(a).

* * * Miscellaneous * * *

Sec. E.1100 FISCAL YEAR 2010 NEXT GENERATION FUND ALLOCATIONS (Sec. B.1100(a))

(a) The \$3,293,000 appropriated in Sec. B.1100(a)(1) of this act from the next generation initiative fund, created in 16 V.S.A. § 2887, shall be as follows:

(1) Workforce development: \$1,415,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,415,500 is appropriated to the Vermont workforce education and training fund, which is administered by the department of labor, for workforce development. Up to seven percent of the funds may be used for administration of the program.

(B) Adult Technical Education Programs. The amount of \$410,500 is appropriated to the department of labor, working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(C) UVM Technology Transfer Program. The amount of \$118,750 is appropriated to the University of Vermont. This appropriation is for patent development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(D) Vermont center for emerging technologies. The amount of \$118,750 is appropriated to the agency of commerce and community development for a grant to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont.

(2) Loan repayment: The sum of \$300,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to

the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(3) Scholarships and grants: \$929,500 as follows:

(A) Nondegree VSAC Grants. The amount of \$494,500 is appropriated to the Vermont student assistance corporation. This appropriation shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult-technical education that is not part of a degree or accredited certificate program. A portion of this appropriation shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of this appropriation shall be used for administrative overhead.

(B) The sum of \$150,000 is appropriated to the Vermont student assistance corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

(C) Dual Enrollment Programs. The sum of \$285,000 is appropriated to the Vermont state colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institution are better academically or geographically suited to student need.

Sec. E.1103. COST REDUCTION AUTHORIZATION

(a) Due to the current and continuing fiscal stress that will impact the Vermont state budget, the secretary of administration is authorized to develop a plan for submission to the legislative joint fiscal committee to make \$14,700,000 in general fund expenditure reductions and proportionate reductions in other funding sources through revisions to payroll and personnel services related expenditures as indicated below.

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

(c) Second, the general assembly strongly urges the Vermont state employees' association and the secretary of administration to negotiate

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

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

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

(d) Third, in the event that the expenditure reductions are not achieved through subsection (c) of this section, the secretary of administration shall develop an alternate savings plan for submission to the legislative joint fiscal committee on or before June 10, 2009. In developing a plan, the secretary shall operate within the following parameters:

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

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

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

(e) No reductions in force shall take place or be effective unless and until they are part of a plan submitted to and approved by the legislative joint fiscal committee. The secretary may include alternatives to position reductions and shall not be limited to positions already submitted to the legislature in list development.

(f) The legislative joint fiscal committee shall treat any plan submitted for approval under the procedures outlined under 32 V.S.A. § 704.

(g) The recommendations in subsections (c) and (d) of this section shall apply to all state employees in all branches of government. Agency or department heads may adjust the salaries or furloughs of exempt employees who have already taken furloughs or salary reductions in excess of the impacts of the plan above to make them consistent with the proposals under subsections (c) and (d) of this section.

(h) The secretary of administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the joint committee on

corrections oversight and the joint fiscal committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded.

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.100, C.101, C.102, C.103, C.104, C.105, D.103, D.105, D.106, D.108, D.109, D.110, E.102.1, E.129, E.135.2, E.135.3, E.204(b), E.207(c), E.209(c), E.307.1, E.322.2, E.330(c), and E.813.2 shall take effect on passage.

(b) Sec. E.318.1 (33 V.S.A. § 3512(b)) shall take effect upon approval by the joint fiscal committee of the proposal provided for in Sec. E.318 of this act. If the proposal is not approved, 33 V.S.A. § 3512(b), as amended by Sec. E.318.1 of this act, shall revert to the language it contained before the passage of this act.

(c) Sec. E.813.2 shall take effect upon passage by the house and senate.

* * * Proposed Miscellaneous Tax Amendments * * *

Sec. H.1. INCREASING THE NUMBER OF COMPLIANCE PERSONNEL
IN THE DEPARTMENT OF TAXES

(a) Of the funds appropriated to the department of taxes in this act, \$535,000 is for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, one collector, one desk audit supervisor, and either one attorney or a second collector.

(b) It is the intent of the general assembly that the funding of an additional \$935,000 be provided to the tax department in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and

converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. H.2. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT OF LABOR

(a) Of the funds appropriated to the department of labor in this act, \$308,212 shall be for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Tax Amnesty * * *

Sec. H.3. TAX AMNESTY

(a) Notwithstanding any law to the contrary, the commissioner of taxes shall establish a tax amnesty program during which all penalties that could be assessed by the commissioner may be waived without the need for any showing by the taxpayer of reasonable cause or the absence of willful neglect if the taxpayer, prior to the expiration of the amnesty period, files proper returns for any tax types and any period for which the taxpayer has or had a filing obligation and pays the full amount of tax shown on such return together with all interest due thereon. The amnesty program shall be established for a period of six consecutive weeks to be determined by the commissioner, to expire not later than October 2, 2009.

(b) The amnesty program shall apply to a tax liability of any tax type for any periods for which the due date of the return was before January 26, 2009 but shall not apply to those penalties which the commissioner would not have the sole authority to waive, including fuel taxes administered under the International Fuel Tax Agreement or under the local option portions of taxes.

(c)(1) The commissioner shall maintain records of the amnesty provided under this section, including:

(A) the number of taxpayers provided with amnesty;

(B) the types of tax liability for which amnesty was provided and, for each type of liability:

(i) the amount of tax liability collected by the commissioner; and

(ii) the amount of penalties forgone by virtue of the amnesty; and

(iii) the total outstanding tax liability due to the state, for the period through June 30, 2009, after the collection of all funds under this section.

(2) The commissioner shall file a report detailing the information required by subdivision (1) of this subsection with the clerk of the house of representatives and the secretary of the senate, the joint fiscal committee, the house committee on ways and means, and the senate committee on finance not later than December 15, 2009; provided, however, that the report shall not contain information sufficient to identify an individual taxpayer or the amnesty an individual taxpayer was provided under this section.

Sec. H.4. FUNDING FOR TAX AMNESTY

(a) Of the funds appropriated to the tax department in this act, \$132,000 is for the purpose of marketing the tax amnesty program provided for in Sec. H.3 of this act. In order to help stimulate the local economy, the legislature asks in determining what resources or marketing firms to use, the department give priority to Vermont-based firms.

* * * Sale of State-Owned Personal Property * * *

Sec. H.5. SALE OF STATE-OWNED SURPLUS PERSONAL PROPERTY

In order to raise capital and to free space in buildings owned or leased by the state, the commissioner of buildings and general services is authorized and directed to conduct a "spring cleaning" to identify and sell surplus personal property of the state. Each department and agency of the state shall, in accordance with section 1556 of Title 29, transfer all surplus personal property to the commissioner, who is authorized to sell such surplus personal property pursuant to subdivision 1556(6). Notwithstanding section 1557 of Title 29, the proceeds of such sale, net of the commissioner's administrative costs, shall be deposited into the general fund.

* * * Department of Revenue * * *

Sec. H.6. DEPARTMENT OF TAXES; DEPARTMENT OF REVENUE;
TRANSITION

(a) In accordance with the report of the commissioner of taxes dated January 22, 2007, the department of taxes shall be converted into a department of revenue no later than June 30, 2012.

(b) To accomplish the requirement set out in subsection (a) of this section, there is hereby established a revenue transition committee to review and approve the commissioner's plan to transition the department of taxes to a department of revenue, which shall be responsible for collecting taxes, fees, levies, and other assessments as determined pursuant to subsection (c) of this section. The revenue transition committee shall be composed of the following seven members:

(1) The commissioner of finance and management or designee;

(2) The state treasurer or designee;

(3) A member of the house committee on ways and means, appointed by the speaker of the house;

(4) A member of the house committee on government operations, appointed by the speaker of the house;

(5) A member of the senate committee on finance, appointed by the committee on committees;

(6) A member of the senate committee on government operations, appointed by the committee on committees;

(7) The court administrator or designee.

(c) The commissioner shall review each state revenue source and determine whether the management of such revenue source should:

(1) remain substantially as is;

(2) be transferred to the treasurer's lockbox services contract;

(3) be transferred to the department of taxes, which shall ultimately be redesignated the department of revenue; or

(4) be transferred to another entity.

(d) The revenue transition committee shall meet as needed to review and approve the commissioner's implementation plan for the transition to a revenue department. The commissioner shall report to the revenue transition committee the findings and recommendations required pursuant to

subsection (c) of this section, and the commissioner will implement any changes upon the approval of the revenue transition committee.

(e) No later than February 15 of each of the three years following the effective date of this act, the committee shall issue a report to the general assembly on its findings and containing specific recommendations concerning the implementation of the transition, efficiencies, technology, staffing issues, and recommendations with respect to subsection (c) of this section.

(f) The legislative members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided to members of standing committees under 2 V.S.A. § 406 for attendance at a meeting when the general assembly is not in session.

Sec. H.7. STATUTORY REVISION

After June 30, 2012, the legislative council is directed to revise the Vermont Statutes Annotated to reflect the redesignation of the department of taxes as the department of revenue. When applicable, the term "commissioner of taxes" shall be replaced by the term "commissioner of revenue"; and when applicable, the term "department of taxes" shall be replaced by the term "department of revenue."

* * * Education Property Tax Rates * * *

Sec. H.8. FISCAL YEAR 2010 EDUCATION PROPERTY TAX RATE REDUCTION

(a) For fiscal year 2010 only, the education property tax imposed under subsection 5402(a) of Title 32 shall be reduced from the rate of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.35 per \$100.00; and

(2) the tax rate for homestead property shall be \$0.86 multiplied by the district spending adjustment for the municipality, per \$100.00 of equalized property value as most recently determined under section 5405 of Title 32.

(b) For claims filed in 2010 only, "applicable percentage" in subdivision 6066(a)(2) of Title 32 shall be reduced from 2.0 percent and instead shall be 1.80 percent multiplied by the fiscal year 2010 district spending adjustment for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.80 percent.

* * * Fiscal Year 2010 Education Base Payment Amount * * *

Sec. H.9. FISCAL YEAR 2010 EDUCATION BASE PAYMENT AMOUNT

Notwithstanding subsection 4011(b) of Title 16 or any other provision of law, the base education payment for fiscal year 2010 only shall be \$8,485.00.

* * * Electronic Filing of Property Transfer Tax * * *

Sec. H.10. DEVELOPMENT OF ELECTRONIC SYSTEM FOR FILING AND PAYING PROPERTY TRANSFER TAXES

No later than August 1, 2009, the department of taxes shall file with the joint fiscal committee an implementation plan for the electronic filing of property transfer tax returns and the electronic payment of property transfer taxes.

* * * VHFA: Moral Obligation for Pledged Equity Funds * * *

Sec. H.11. FINDINGS AND INTENT

Moral obligation of the state is used by municipal bond insurers, such as the Vermont Housing and Finance Agency (VHFA), as a discretionary capitalization obligation. By expanding VHFA's ability to pledge the state's existing commitment of moral obligation without increasing the amount of the state's existing potential obligation, the general assembly can provide VHFA with another tool to increase confidence and attract new financial partners so that the agency can continue its housing programs for low and moderate income Vermonters, even in these challenging economic times.

Sec. H.12. 10 V.S.A. § 631(f) is amended to read:

(f) The agency, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the agency, ~~which shall thereupon be cancelled, at a price not exceeding:~~

~~(1) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or~~

~~(2) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.~~

as shall be determined in the economic best interests of the agency.

Sec. H.13. REPEAL

10 V.S.A. § 632 (authorizing the Vermont housing and finance agency to establish reserve funds) is repealed.

Sec. H.14. 10 V.S.A. § 632a is added to read:

§ 632a. RESERVE AND PLEDGED EQUITY FUNDS

(a) The agency may create and establish one or more special funds, herein referred to as “debt service reserve funds” or “pledged equity funds.”

(b) The agency shall pay into each debt service reserve fund:

(1) Any moneys appropriated and made available by the state for the purpose of such fund.

(2) Any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing their issuance.

(3) Any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any debt service reserve fund created and established under this section except as hereinafter provided shall be used, as required, solely for the payment of the principal of the bonds, notes, or other debt instruments secured in whole or in part by such fund or of the payments with respect to the bonds, notes, or other debt instruments specified in any resolution of the agency as a sinking fund payment, the purchase or redemption of the bonds, the payment of interest on the bonds, notes, or other debt instruments, or the payment of any redemption premium required to be paid when the bonds, notes, or other debt instruments are redeemed prior to maturity, or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the agency’s behalf; provided, however, that the moneys or financial instruments in any such debt reserve fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the agency for such fund as provided in this section except for the purpose of paying, when due, with respect to bonds secured in whole or in part by such fund, the principal, interest, redemption premiums, and sinking fund payments and of reimbursing, when due, the issuer of any credit enhancement for any such payments made by it, for the payment of which other moneys of the agency are not available. Any income or interest earned by or increment to any debt service reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(c) The agency shall pay into each pledged equity fund:

(1) Any moneys appropriated and made available by the state for the purpose of such fund.

(2) Any proceeds of the sale of notes, bonds, or other debt instruments to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof.

(3) Any other moneys or financial instruments such as surety bonds, letters of credit, or similar obligations which may be made available to the agency for the purpose of such fund from any other source or sources. All moneys or financial instruments held in any pledged equity fund created and established under this section except as provided in this section shall be used, as required, solely to provide pledged equity or over-collateralization of any trust estate of the agency to the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement obtained by the agency; provided, however, that the moneys or financial instruments in any pledged such equity fund shall not be drawn upon or withdrawn from such fund at any time in such amounts as would reduce the amount of such funds to less than the pledged equity requirement established by resolution of the agency for such fund as provided in this section except for the purposes set forth in and in accordance with the governing resolution. Any income or interest earned by or increment to any pledged equity fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of such pledged equity fund below the requirement for such fund. Anything in this subdivision to the contrary notwithstanding, upon the defeasance of the bonds, notes, or other debt instruments with respect to which the pledged equity requirement was established, the agency may transfer amounts in such fund to another fund or account of the agency proportionately to the amount of such defeasance; provided that the agency shall repay to the state any amount appropriated by the state pursuant to subsection (f) of this section.

(d) The debt service reserve and pledged equity requirements for any fund established under this section shall be established by resolution of the agency prior to the issuance of any bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or prior to entering into any credit enhancement agreement and shall be the amount determined by the agency to be reasonably required in light of the facts and circumstances of the particular debt issue or credit enhancement; provided that the maximum amount of the state's commitment with respect to any pledged equity fund shall be determined by the agency at or prior to entering into any credit

enhancement agreement related to such pledged equity fund. The agency shall not at any time issue bonds, notes, or other debt instruments secured in whole or in part by a debt service reserve fund or enter into any credit enhancement agreement that requires establishment of a pledged equity fund created and established under this section unless:

(1) the agency at the time of such issuance or execution shall deposit in such fund from the proceeds of such bonds, notes, or other debt instruments or from other sources an amount which, together with the amount then in such fund, will not be less than the requirement established for such fund at that time;

(2) the agency has made a determination at the time of the authorization of the issuance of such bonds, notes, or other debt instruments or at the time of entering into such credit enhancement agreement that the agency will derive revenues or other income from the mortgage loans that secure such bonds, notes, or other debt instruments or that relate to any credit enhancement agreement sufficient to provide, together with all other available revenues and income of the agency other than any amounts appropriated by the state pursuant to this section for the payment or purchase of such bonds, notes, and other debt instruments and reimbursement to the issuer of any credit enhancement the payment of any expected deposits into any pledged equity fund established with respect to such credit enhancement, and the payment of all costs and expenses incurred by the agency with respect to the program or purpose for which such bonds, notes, or other debt instruments are issued; and

(3) the state treasurer or his or her designee has provided written approval to the agency that the agency may issue such bonds, notes, or other debt instruments and enter into any related credit enhancement agreement.

(e) In computing the amount of the debt service reserve or pledged equity funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as that term is defined by resolution of the agency, if purchased at other than par.

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the

president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, and the sum so certified may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. H.15. SAVINGS CLAUSE

Nothing in Sec. H.14 of this act shall be construed to impair the obligation of any preexisting contract or contracts entered into by the agency or by the state.

* * * Tax Expenditure Reporting Requirement * * *

Sec. H.16. 32 V.S.A. § 306 is amended to read:

§ 306. BUDGET REPORT

(a) The governor shall submit to the general assembly, not later than the third Tuesday of every annual session, a budget which shall embody his or her estimates, requests and recommendations for appropriations or other authorizations for expenditures from the state treasury. In the first year of the biennium, the budget shall relate to the two succeeding fiscal years. In the second year of the biennium, it shall relate to the succeeding fiscal year.

(b) The governor shall also submit to the general assembly, not later than the third Tuesday of each session of every biennium, a tax expenditure budget which shall embody his or her estimates, requests, and recommendations. The tax expenditure budget shall be provided to the house committee on ways and means and the senate committee on finance, which committees shall review the tax expenditure budget and shall report their recommendations in bill form.

Sec. H.17. 32 V.S.A. § 307 is amended to read:

§ 307. FORM OF BUDGET

(a) The budget shall be arranged and classified so as to show separately the following estimates and recommendations:

- (1) Expenses of state administration.
- (2) Deficiencies, overdrafts, and unexpended balances in appropriations of former years.
- (3) Bonded debt, loans and interest charges.
- (4) All requests and proposals for expenditures for new projects, new construction, additions, improvements, and other capital outlay.
- (5) With respect to the tax expenditure budget required under subsection 306(b) of this chapter, all requests and proposals for new, amended, or continued tax expenditures as defined in section 312 of this chapter.

* * *

* * * Vermont State-Sponsored Affinity Card Program * * *

Sec. H.18. 32 V.S.A. § 584 is added to read:

§ 584. VERMONT STATE-SPONSORED AFFINITY CARD PROGRAM

(a) The state treasurer is hereby authorized to sponsor and participate in an affinity card program for the benefit of the residents of this state upon his or

her determination that such a program is feasible and may be procured at rates and terms in the best interest of the cardholders. In selecting an affinity card issuer, the treasurer shall consider the issuer's record of investments in the state and shall take into consideration program features which will enhance the promotion of the state-sponsored affinity card, including consumer-friendly terms, favorable interest rates, annual fees, and other fees for using the card.

(b) The treasurer shall consult with other state agencies about potential public purpose projects to be designated for the program and shall allow cardholders to designate that funds be used either to support sustainable agricultural programs, renewable energy programs, state parks and forestland programs, or any combination of these. The net proceeds of the state fees or royalties generated by this program shall be transmitted to the state and shall be deposited in a state-sponsored affinity card fund and subsequently transferred to the designated state programs and purposes as selected by the cardholders. The funds received shall be held by the treasurer until transferred for the purposes directed by participating state-sponsored affinity cardholders in accordance with the trust fund provisions of section 462 of this title.

(c) All program balances at the end of the fiscal year shall be carried forward and shall not revert to the general fund. Interest earned shall remain in the program. The treasurer's annual financial report to the governor and the general assembly shall contain an accounting of receipts, disbursements, and earnings of the state-sponsored affinity card program.

(d) The state shall not assume any liability for lost or stolen credit cards nor any other legal debt owed to the financial institutions.

(e) The state treasurer is authorized to adopt such rules as may be necessary to implement the Vermont state-sponsored affinity card program.

* * * Government Licenses and Employment * * *

Sec. H.19. 32 V.S.A. § 3113 is amended to read:

§ 3113. REQUIREMENT FOR OBTAINING LICENSE ~~OR,~~
GOVERNMENTAL CONTRACT, OR EMPLOYMENT

* * *

(c) Every agency shall, upon request of the commissioner, furnish a list of licenses and contracts issued or renewed by such agency during the reporting period; provided, however, that the secretary of state shall, with respect to certificates of authority to transact business issued to foreign corporations, furnish to the commissioner only those certificates originally issued by the secretary of state during the reporting period and not renewals of such

certificates. The lists ~~should~~ shall include the name, address, ~~social security~~ Social Security or federal identification number of such licensee or provider, and such other information as the commissioner may require.

* * *

(i) No agency of the state shall hire any person as a full-time, part-time, temporary, or contractual employee unless the person shall first sign a written declaration under the pains and penalties of perjury that the person is in good standing with respect to or in full compliance with a plan to pay any and all taxes due as of the date such declaration is made. This requirement applies only to the initial hire of an individual into a position that is paid using the state of Vermont federal taxpayer identification number, other than as a county employee, and not to an employee serving in such position or who returns to any position in state government as a result of a placement right or reduction in force recall right.

* * * Unclaimed Property * * *

Sec. H.20. 32 V.S.A. § 3113a is added to read:

§ 3113a. ABANDONED PROPERTY; SATISFACTION OF TAX LIABILITIES

The commissioner may request from the office of the treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to section 1249 of Title 27. If any such owner owes taxes to the state, the commissioner, after notice to the owner, may request and the treasurer shall transfer the abandoned property of such owner to the department for setoff of the taxes owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if the tax debt is not the owner's debt; or if the debt has been paid; or if the tax debt was appealed within 60 days from the date of the assessment and the appeal has not been finally determined; or if the debt was discharged in bankruptcy.

* * * Mapping Program * * *

Sec. H.21. 32 V.S.A. § 3409 is amended to read:

§ 3409. PREPARATION OF PROPERTY MAPS

Consistent with available resources and pursuant to a memorandum of understanding entered into between the commissioner and the Vermont center for geographic information, the ~~director shall prepare~~ center shall provide regional planning commissions, state agencies, and the general public with orthophotographic maps of the state at a scale appropriate for the production

and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director or the center.

(1) The ~~director~~ center shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by ~~the director~~ it of the total area of that town. Any map shall be available, without charge, for public inspection ~~both in the office of the Vermont mapping program and in the office of the town clerk~~ to whom the map was supplied.

(2) The ~~director~~ may state of Vermont shall retain the copyright of any map prepared ~~under this section by the Vermont mapping program, and the center and the Vermont mapping program shall jointly own the copyright to~~ any map prepared on or after the effective date of this act.

(3) A person, who, without the written authorization of the director and the center, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined an amount not to exceed \$1,000.00.

(4) At a reasonable charge to be established by the center and the director, the ~~director~~ center shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section.

* * * Unorganized Towns and Gores and Unified Towns and Gores * * *

Sec. H.22. 32 V.S.A. § 4408 is amended to read:

§ 4408. HEARING BY BOARD

(a) On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

(b) Ad hoc board for unorganized towns and gores and unified towns and gores. For purposes of hearing appeals under this subchapter only, the supervisor shall create an ad hoc board composed of:

(1) the supervisor; and

(2) one member from each adjoining municipality's board of civil authority, to be appointed by each respective board of civil authority,

representing no fewer than three and no more than five of the adjoining municipalities, at the discretion of the supervisor.

(c) The ad hoc board provided for in subsection (b) of this section shall, for purposes of hearing appeals under this subchapter only, act as a board of civil authority, and an aggrieved party shall have further appeal rights as though the party had appealed to a board of civil authority.

* * * Education Property Tax Information Insert * * *

Sec. H.23. 32 V.S.A. § 5402(b)(1) is amended to read:

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. ~~Each homestead property tax bill shall include a copy of the document entitled "About Your 20XX Taxes "The more you spend the more you pay", updated annually for each town by the commissioner of taxes.~~

* * * Unsigned Declaration of Homestead * * *

Sec. H.24. 32 V.S.A. § 5410(c) is added to read:

(c) In the event that an unsigned but otherwise completed homestead declaration is filed with the declarant's signed state income tax return, the commissioner may treat such declaration as signed by the declarant.

* * * Unrelated Business Income of Nonprofit Corporations * * *

Sec. H.25. 32 V.S.A. § 5811(3) and (18) are amended to read:

(3) "Corporation" means any business entity subject to income taxation as a corporation, and any entity qualified as a small business corporation, under the laws of the United States, with the exception of the following entities which are exempt from taxation under this chapter:

(A) Railroad and insurance, ~~surety and guaranty~~ companies, ~~mutual or otherwise~~ that are taxed under chapter 211 of this title;

~~(B) Life, fire and marine insurance companies and mutual life, fire and marine insurance companies;~~

~~(C) Farmers' or other mutual hail, cyclone, fire or life insurance companies, mutual water, mutual or cooperative telephone companies or similar organizations of a purely local character, the income of which companies consists solely of assessments, dues and fees collected from the members for the sole purpose of meeting the expenses of the company;~~

~~(D) Farmers', fruit growers', or like associations organized and operated on a cooperative basis:~~

~~(i) for the purpose of processing, preparing for market, handling or marketing the farm products of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses, on the basis of either quantity or the value of the products furnished by them;~~

~~(ii) for the purpose of purchasing supplies and equipment for the use of the members and other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses; or~~

~~(iii) for the purpose of processing, preparing for market, or marketing handcraft products as defined in section 991 of Title 11 of members or other producers and turning back to them the proceeds of sales, less the necessary marketing, handling and processing expenses;~~

~~(E) Credit unions organized under chapter 71 of Title 8 and federal credit unions;~~

~~(F)(C) Nonprofit hospital service corporations organized under chapter 123 of Title 8;~~

~~(G)(D) Nonprofit medical service corporations organized under chapter 125 of Title 8;~~

~~(H) Free public library corporations organized under chapter 3 of Title 22;~~

~~(I) Cemetery corporations and associations, labor, agricultural or horticultural organizations, fraternal beneficiary societies, no part of the net earnings of which inures to any member or stockholder;~~

~~(J) Sanitary corporations and corporations organized for religious, charitable, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(K) Business organizations, chambers of commerce or boards of trade and area development organizations not organized for profit, no part of the net earnings of which inures to the benefit of any private stockholder or individual member;~~

~~(L) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;~~

~~(M) Clubs organized and operated exclusively for pleasure and recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual member; or~~

~~(N) Any political organization which is exempt from or does not owe any federal income taxes as provided in the federal internal revenue code.~~

* * *

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

* * *

(D) For a corporation with federal exempt status, "Vermont net income" means all income that is subject to federal income tax, including unrelated business income under Section 511 of the Internal Revenue Code and any income arising from debt-financed property subject to taxation under Section 514 of the Internal Revenue Code.

* * * Annual Update of Links to Federal Law * * *

Sec. H.26. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for taxable year ~~2007~~ 2008, but without regard to federal income tax rates under Section 1 of the Internal Revenue Code, are hereby adopted for the purpose of computing the tax liability under this chapter.

* * * Trustee Process * * *

Sec. H.27. 32 V.S.A. § 5892 is amended to read:

§ 5892. ACTION TO COLLECT TAXES; LIMITATIONS

(a) Action may be brought by the attorney general of the state at the instance of the commissioner in the name of the state to recover the amount of the tax liability of any taxpayer, if the action is brought within six years after the date the tax liability was collectible under section 5886 of this title. The action shall be returnable in the county where the taxpayer resides or has a

place of business, and if the taxpayer neither resides nor has a place of business in this state, the action shall be returnable in Washington ~~county~~ County.

(b) Notwithstanding sections 3167 and 3168 of Title 12, a motion may be brought by the attorney general of the state at the instance of the commissioner in the name of the state for issuance of trustee process at the same time as an action is brought under subsection (a) of this section, and, if judgment is granted in that action, the court may proceed immediately to hear and render a decision on the trustee process.

* * * Repeal of Certain Tax Credits * * *

Sec. H.28. REPEAL

(a) 32 V.S.A. § 5930v (providing an income tax credit for eligible venture capital investment) is repealed effective for tax years beginning on or after January 1, 2010.

(b) 32 V.S.A. § 3802(13) (exempting fallout shelters from property tax) is repealed for grand lists prepared for April 1, 2010 and after.

* * * Property Tax Adjustments * * *

Sec. H.29. 32 V.S.A. § 6066a is amended to read:

§ 6066a. DETERMINATION OF PROPERTY TAX ADJUSTMENTS

* * *

(c) The commissioner shall notify the municipality of any claim and refund amounts unresolved by September 15 at the time of final resolution, including adjudication if any; provided, however, that towns will not be notified of any additional adjustment amounts after ~~December 31~~ September 15 of the claim year, and such amounts shall be paid to the claimant by the commissioner.

* * *

(f) Property tax bills.

* * *

(4) If the property tax adjustment amount as described in subsection ~~(b)~~(e) of this section exceeds the property tax, penalties and interest, due for the current and all prior years, the municipality shall refund the excess to the taxpayer, without interest, within 20 days of the first date upon which taxes become due and payable or 20 days after notification by the commissioner of education, whichever is later.

* * *

* * * Clarifying the Homestead Declaration Requirements * * *

Sec. H.30. DECLARATION OF HOMESTEAD

The commissioner of taxes shall ensure that the homestead declaration form clearly informs taxpayers that a homestead declaration must be filed each year regardless of whether or not the taxpayer is applying for an income sensitivity adjustment and that homestead declarations must be timely filed even if the taxpayer is granted an extension of time to file his or her return.

* * * Estate Tax * * *

Sec. H.31. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this state. The base amount of this tax shall be a sum equal to the amount ~~by which~~ of the credit for state death taxes allowable to a decedent's estate under Section 2011, ~~as in effect on January 1, 2001,~~ of the Internal Revenue Code, ~~hereinafter sometimes referred to as the "credit," exceeds the lesser of as in effect on January 1, 2001.~~ This base amount shall be reduced by the lesser of the following:

(1) The total amount of all constitutionally valid state death taxes actually paid to other states; or

(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.

(b) A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this state. The amount of this tax shall be a sum equal to the proportion of the ~~credit~~ base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this state bears to the value of the decedent's total gross estate for federal estate tax purposes.

(c) The Vermont estate tax shall not exceed the amount of the tax imposed by Section 2001 of the Internal Revenue Service Code calculated using the applicable credit amount under Section 2010 as in effect on January 1, 2008, with no deduction under Section 2058.

(d) All values shall be as finally determined for federal estate tax purposes.

Sec. H.32. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

In all cases where ~~the federal gross estate at the time of the death of the decedent exceeds the applicable federal exclusion amount or where the estate is subject to federal estate tax~~ a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the estate tax imposed by this chapter. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the commissioner such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. H.33. 32 V.S.A. § 7445 is amended to read:

§ 7445. COPIES OF FEDERAL ESTATE TAX RETURNS TO BE FILED

It shall be the duty of the executor of every person who may die a resident of Vermont or a nonresident with real estate or tangible personal property having an actual situs in Vermont to file with the commissioner a duplicate of all federal estate tax returns which he or she is required to make to the federal authorities, or, if no federal estate tax return is required, a pro forma federal estate tax return for the estate of a decedent with a Vermont estate tax liability shall be filed with the commissioner.

Sec. H.34. 32 V.S.A. § 7446 is amended to read:

§ 7446. WHEN RETURNS TO BE FILED

The estate tax return required under section 7444 of this title shall be filed ~~at the time the federal estate tax return is required to be filed under the laws of the United States, including any extensions of time for filing granted by the federal authorities~~ within nine months of the death of the decedent. Prior to expiration of the filing period, executors may apply for a six-month extension.

Sec. H.35. 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, ~~2008~~ 2009, are hereby adopted for the purpose of computing the tax liability under this chapter, except:

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

(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) ~~without any~~ the deduction for state death taxes under Section 2058 of the Internal Revenue Code shall not apply.

* * * Cigarette and Tobacco Taxes * * *

Sec. H.36. 32 V.S.A. § 7702 is amended to read:

§ 7702. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings, unless the context otherwise requires:

* * *

(13) “Snuff” means any finely cut, ground, or powdered tobacco that is not intended to be smoked, has a moisture content of no less than 45 percent, and is not offered in individual single-dose tablets or other discrete single-use units.

* * *

(15) “Tobacco products” means ~~eigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweeping of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner; but shall not include cigarettes, little cigars, roll-your-own tobacco, moist snuff, or new smokeless tobacco as defined in this section.

* * *

(20) "New smokeless tobacco" means any tobacco product manufactured from, derived from, or containing tobacco that is not intended to be smoked, has a moisture content of less than 45 percent, or is offered in individual single-dose tablets or other discrete single-use units.

Sec. H.37. 32 V.S.A. § 7771(c) is amended to read:

(c) The tax imposed under this section shall be at the rate of ~~89.5~~ 112 mills per cigarette or little cigar and for each 0.09 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. H.38. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all tobacco products except roll-your-own tobacco and little cigars taxed under section 7771 of this title possessed in the state of Vermont by any person for sale on and after July 1, 1959 which were imported into the state or manufactured in the state after said date, except that no tax shall be imposed on tobacco products sold under such circumstances that this state is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the armed forces of the United States operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. Such tax ~~on~~ is intended to be imposed only once upon the wholesale sale of any tobacco products product and shall be at the rate of ~~44~~ 92 percent of the wholesale price for all tobacco products except snuff, which shall be taxed at \$1.66 per ounce, or fractional part thereof, ~~and is intended to be imposed only once upon any tobacco product and new smokeless tobacco, which shall be taxed at the greater of \$1.66 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of \$1.99 per package.~~ Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all tobacco products within the state are subject to tax until the contrary is established and the burden of proof that any tobacco products are not taxable hereunder shall be upon the person in possession thereof. Wholesalers of tobacco products shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. H.39. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

* * *

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this state who is either a wholesaler, or a retailer who at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retailer at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and on which cigarette stamps have been affixed before July 1, ~~2006~~ following enactment of this act. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.60~~ \$0.25 per stamp. Each wholesaler and retailer subject to the tax shall, on or before July 25, ~~2006~~ following enactment of this act, file a report to the commissioner in such form as the commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. ~~on July 1, 2006~~ following enactment of this act, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2006~~ following enactment of this act, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retailer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

* * *

* * * Sales and Use Tax on Digital Downloads * * *

Sec. H.40. 32 V.S.A. § 9701(45), (46), and (47) are added to read:

(45) Transferred electronically: means obtained by the purchaser by means other than tangible storage media.

(46) Specified digital products: means digital audio-visual works, digital audio works, digital books, or ringtones that are transferred electronically.

(A) Digital audio-visual works: means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any;

(B) Digital audio works: means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones;

(C) Digital books: means works that are generally recognized in the ordinary and usual sense as "books."

(D) Ringtones: means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.

(47) End user: means any person other than a person who received by contract a product transferred electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

Sec. H.41. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this state. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

* * *

(8) Specified digital products transferred electronically to an end user.

Sec. H.42. 32 V.S.A. § 9772 is amended to read:

§ 9772. AMOUNT OF TAX TO BE COLLECTED

(a) For the purpose of adding and collecting the tax imposed by this chapter, or an amount equal as nearly as possible or practicable to the average equivalent thereof, to be reimbursed to the vendor by the purchaser, the vendor shall ~~use either the calculation in subdivision (1) of this subsection or the formula in subdivision (2). The tax required to be remitted shall be the rate specified in section 9771 of this title multiplied by the total sales price of all the taxable transactions; provided, however, the tax required to be remitted shall be no more than the amount required to be collected. The vendor shall be entitled to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter.~~

(1) ~~The multiply the~~ total sales price of all the ~~transaction multiplied~~ transactions taxable by the rate specified in section 9771 of this title carried to the third decimal place and rounded up to the nearest whole cent if the third decimal point is greater than four and rounded down to the nearest whole cent if the third decimal point is four or less. The tax may be computed on either the total invoice amount or on each taxable item.

Amount of Sale	Amount of Tax
\$0.01-0.10	No Tax
0.11-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-1.00	.06

~~In addition to a tax of \$0.06 on each full dollar, a tax shall be collected on each part of a dollar in excess of a full dollar in accordance with the following formula:~~

\$ 0.01-0.16	\$.01
0.17-0.33	.02
0.34-0.50	.03
0.51-0.66	.04
0.67-0.83	.05
0.84-0.99	.06

* * *

Sec. H.43. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this state, except as otherwise exempted under this chapter:

* * *

(2) Of any tangible personal property manufactured, processed or assembled by the user, if items of the same kind of tangible personal property are offered for sale by him or her in the regular course of business, but the mere storage, keeping, retention or withdrawal from storage of tangible personal property or the use for demonstrational or instructional purposes of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him or her; and for purposes of this section only, the sale of electrical power generated by the taxpayer shall not be considered a sale by him or her in the regular course of business if at least 60 percent of the electrical power generated annually by the taxpayer is used by the taxpayer in his or her trade or business; ~~and~~

(3) Of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any taxable services described in subdivision 9771(3) of this title have been performed; and

(4) Specified digital products transferred electronically to an end user.

* * * Sales Tax on Spirituous Liquor * * *

Sec. H.44. 32 V.S.A. § 9743(1) is amended to read:

(1) The state of Vermont, or any of its agencies, instrumentalities, public authorities, public corporations (including a public corporation created pursuant to agreement or compact with another state) or political subdivisions when it is the purchaser, user or consumer, or when it is a vendor of services or property of a kind not ordinarily sold by private persons, or when it charges for admission to any amusement; except that a performance jointly produced or presented by it and another person shall not be exempt from amusement tax unless it meets the joint production requirements imposed on a qualified organization under subdivision (3)(B) of this section and sales of alcoholic beverages shall not be exempt from sales tax.

* * * Returns Upon Business Closing * * *

Sec. H.45. 32 V.S.A. § 9775 is amended to read:

§ 9775. RETURNS

(a) Except as otherwise provided in this section, every person required to collect or pay tax under this chapter shall, where the sales and use tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) \$500.00 or less, pay the tax imposed by this chapter in one annual payment on or before the 25th day of January of each year. Every person required to collect or pay tax under this chapter shall, where the sales and use

tax liability under this chapter for the immediately preceding calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$500.00 but less than \$2,500.00, pay the tax imposed by this chapter in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December of each year. In all other cases, except as provided in ~~subsection~~ subsections (e) and (g) of this section, the tax imposed by this chapter shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due. Payment by electronic funds transfer does not affect the requirement to file returns. The return of a vendor of tangible personal property shall show such information as the commissioner may require.

* * *

(g) A person required to report sales and use tax annually who cancels his, her, or its sales and use tax account shall file a final return not later than 60 days after such cancellation.

* * * Land Gains Tax * * *

Sec. H.46. 32 V.S.A. § 10009(b) is amended to read:

(b) All the administrative provisions of chapter 151 of this title, including those relating to the collection and enforcement by the commissioner of the withholding tax and the income tax, and of chapter 103, including those relating to interest and penalty charges, shall apply to the tax imposed by this chapter.

* * * Capital Gains Exemption and Partial Exclusion of Deduction for State
Income Taxes * * *

Sec. H.47. 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;
~~and~~

(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; ~~and~~

(ii) ~~40 percent of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code, but the total amount of decrease under this subdivision (ii) shall not exceed 40 percent of federal taxable income~~ the first \$5,000.00 of adjusted net capital gain income as defined in Section 1(h) of the Internal Revenue Code; and

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

* * * Deduction for Vehicle Purchase Sales Tax * * *

Sec. H.47b. INCLUSION IN INCOME OF AMOUNT OF DEDUCTION TAKEN FOR SALES AND USE TAX ON PURCHASE OF NEW VEHICLE

(a) For taxable year 2009 only, a taxpayer shall increase his or her taxable income calculated pursuant to Section 5811(21) by the amount of any deduction taken pursuant to Section 164(a)(6) of the Internal Revenue Code.

(b) The \$100,000 appropriation in Sec. B 1101 (a) (10) of the this act is to fund the joint legislative government accountability committee established in Sec. 5 of No. 206 of the Acts of the 2008 General Assembly (adj. sess.) for the purpose of hiring consultants to make recommendations for further efficiencies in state government.

* * * Reduction of Income Tax Rates * * *

Sec. H.48. REDUCTION OF PERSONAL INCOME TAX RATES

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

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

9.00%8.80%9.50%8.95%

Sec. H.48a. STATUTORY REVISION

The legislative council is directed to revise the Vermont Statutes Annotated to reflect the income tax rate changes in Sec. H.48 of this act.

Sec. H.49. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal years 2010 and 2011, the following two properties shall be exempt from education property tax under chapter 135 of Title 32: Buildings and land owned and occupied by a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, one of which is designated by the Springfield Hospital and the other designated by the North Country Hospital, to promote exercise and healthy lifestyles for the community and to serve citizens of all income levels in this mission. This exemption shall apply, notwithstanding the provisions of subdivision 3832(7) of Title 32.

* * * Digital Business Entities * * *

Sec. H.50. LEGISLATIVE INTENT

The purpose of the following sections of this act concerning digital business entities is to build on the momentum created by Secs. 74 through 100 of No. 190 of the Acts of the 2007 Adj. Sess. (2008), which provided for Vermont companies to conduct much of their statutorily required corporate affairs using electronic media, including e-mail, facsimile, and web-based filings.

Sec. H.51. 32 V.S.A. § 5811(26) is added to read:

(26) "Digital business entity" means a business entity which, during the entire taxable year:

(A) was not a member of an affiliated group or engaged in a unitary business with one or more members of an affiliated group that is subject to Vermont income taxation; did not have any Vermont property, payroll, or sales and did not perform any activities in this state which would constitute doing business for purposes of income taxation except activities described in subdivisions (15)(C)(i) (fulfillment operations) and (C)(ii) (web page or Internet site maintenance) of this section; and

(B) used mainly computer, electronic, and telecommunications technologies in its formation and in the conduct of its business meetings, in its interaction with shareholders, members, and partners, in executing any other formal requirements.

Sec. H.52. 32 V.S.A. § 5832(2) is amended to read:

(2)(A) \$75.00 for small farm corporations. “Small farm corporation” means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than \$100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or

(C) \$250.00 for all other corporations.

Sec. H.53. 32 V.S.A. § 5832a is added to read:

§ 5832a. DIGITAL BUSINESS ENTITY FRANCHISE TAX

(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:

(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or \$250.00, but in no case more than \$500,000.00; or

(2) where the authorized capital stock does not exceed 5,000 shares, \$250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, \$500.00; and the further sum of \$250.00 on each 10,000 shares or part thereof.

(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than \$500,000.00 or less than \$250.00.

(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.

(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.

(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total

number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.

(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the commissioner with a copy of its federal tax return.

Sec. H.54. 32 V.S.A. § 5838 is added to read:

§ 5838. DIGITAL BUSINESS ENTITY ELECTION

A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business entity for the taxable year.

Sec. H.55. REPORT TO THE GENERAL ASSEMBLY ON DIGITAL BUSINESS ENTITY INCOME

Beginning in 2011 and every year thereafter, by January 15, the commissioner of taxes shall report to the house committee on ways and means and to the senate committee on finance on the amount of income reported to date to the department by businesses electing to be taxed as digital businesses, an estimate of the amount of income taxes exempted as a result, and details as to the size of businesses reporting. The committees shall review the report and make their recommendation to the general assembly as to whether to continue the taxpayer option of a digital business election and whether to extend the option to pass-through entities. If the digital business election is repealed, the commissioner's reporting requirement of this section shall no longer apply.

* * * Blue Ribbon Tax Structure Commission * * *

Sec. H.56. BLUE RIBBON TAX STRUCTURE COMMISSION

(a) Composition of commission. There is hereby established a blue ribbon tax structure commission composed of three to five members to be selected as follows:

(1) The speaker of the house, the president pro tempore of the senate, and the governor shall each appoint one member; and

(2) The three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members.

(b) The commission shall be appointed as soon as possible after the effective date of this act. The panel shall elect a chair and a vice chair from among its members.

(c) Purpose and goals. The commission shall prepare a structural analysis of the state's revenue system and offer recommendations for improvements and modernization and provide a long-term vision for the tax structure. The commission shall have as its goal a tax system that provides sustainability, appropriateness, and equity. For guidance, the commission may use the Principles of a High-Quality State Revenue System as prepared by the National Conference of State Legislatures as of June 2007. A high-quality revenue system:

(1) Comprises elements that are complementary, including the finances of both state and local governments.

(2) Produces revenue in a reliable manner. Reliability involves stability, certainty, and sufficiency.

(3) Relies on a balanced variety of revenue sources.

(4) Treats individuals equitably. Minimum requirements of an equitable system are that it imposes similar tax burdens on people in similar circumstances, it minimizes regressivity, and it minimizes taxes on low income individuals.

(5) Facilitates taxpayer compliance. It is easy to understand and minimizes compliance costs.

(6) Promotes fair, efficient, and effective administration. It is as simple as possible to administer, raises revenue efficiently, is administered professionally, and is applied uniformly.

(7) Is responsive to interstate and international economic competition.

(8) Minimizes its involvement in spending decisions and makes any such involvement explicit.

(9) Is accountable to taxpayers.

(d) The blue ribbon commission shall receive technical support from the department of taxes, the legislative joint fiscal office, and consultants. From data provided from the tax department the following reports will be provided to the commission:

(1) Changes in personal income, arranged by decile, over the last five years;

(2) House site and homestead value arranged by adjusted gross income (AGI) and, where available, household income;

(3) Gross and net school taxes paid, arranged by adjusted gross income and, where available, by household income.

(e) The joint fiscal office with the assistance of the legislative council and the department of taxes may contract with one or more consultants to provide assistance with achieving the goals for the commission. The consultants shall have extensive experience with state tax systems and shall have participated in at least one other study of a state tax system.

(f) Work Plan.

(1) Year 1 – Examine Vermont’s income tax structure and analyze, among other things, whether the principles of sustainability, appropriateness, and equity would be better met by using adjusted gross income rather than federal taxable income. This shall include an examination of personal exemptions, deductions, brackets, credits, and other adjustments to income.

The commission shall prepare a work plan by September 15, 2009, preliminary findings by November 1, 2009, and a final report due January 1, 2010 submitted to the governor, the speaker, the president pro tempore, the house committee on ways and means and the senate committee on finance.

(2) Year 2 – The commission, by February 1, 2010, shall also present a proposed work plan which shall include a delivery date prior to February 1, 2011 for examining tax expenditures, fees, consumption taxes, and business taxes. The work plan shall include examining whether fees are being used to fund general responsibilities of government and whether such use is sustainable, appropriate, and equitable. The work plan shall include an analysis of the process for reviewing tax expenditures under section 312 of Title 32.

(g) Of the funds appropriated to the joint fiscal office, \$200,000 is for the purpose of hiring consultants and other support for the commission.

(h) Non-legislative members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010. Any legislative members of the commission shall be entitled to the same per diem compensation and reimbursement of necessary expenses for attendance at a meeting when the general assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

* * * Financing and Effectiveness of the Vermont Education System * * *

SEC. H.57. FINANCING AND EFFECTIVENESS OF THE VERMONT EDUCATION SYSTEM IN THE 21ST CENTURY; COMMITTEE

(a) Findings.

(1) The future of Vermont’s economic and social well-being is dependent on a strong, efficient public education system.

(2) Pressures on Vermont's education funding system, the state's general fund, and the Vermont economy as a whole make it increasingly difficult to ensure that Vermonters will continue to have access to the high quality education they have come to expect.

(b) Committee created. There is created a committee to examine potential improvements to the structure and funding of the Vermont educational system in light of the state's limited financial resources. When performing the duties assigned to it, the committee shall consider the work of the committee convened by the governor, the speaker of the house, and the president pro tempore during the 2009 legislative session. Among other issues, the committee shall:

(1) Examine the role and the effectiveness of the policy-making, management, and administrative structure that creates and implements Vermont education policy, including consideration of the functions of the legislature, the governor, the state board of education, the department of education, supervisory unions, local school boards, parents, students, community members, and other entities and individuals.

(2) Consider the types of decisions the identified entities and individuals make and how these decisions influence decisions made by others, with a focus on how they shape educational outcomes and drive funding requirements.

(3) Identify and evaluate the long-range sustainability of current and potential funding sources and mechanisms.

(4) Determine whether and to what extent each identified funding source and mechanism advances the mission of Vermont's educational system, including whether it complies with Brigham v. State, 166 Vt. 246 (1997).

(c) Committee membership. The committee shall have 15 members who shall be:

(1) The chairs of the house committees on education, on appropriations, and on ways and means or their designees, plus one additional member of the house of representatives appointed by the speaker of the house.

(2) The chairs of the senate committees on education, on appropriations, and on finance or their designees, plus one additional member of the senate appointed by the committee on committees.

(3) The commissioner of education or the commissioner's designee.

(4) Six members from constituencies such as the business community, superintendents, school boards, teachers, parents, and community members to

be selected by July 15, 2009 as follows: two by the speaker of the house, two by the committee on committees, and two by the governor.

(d) Committee's overall composition. Persons making appointments under subsection (c) of this section shall consider the overall composition of the committee and shall attempt to ensure both that committee members have a broad understanding of the current education funding system and that the committee includes both supporters and critics of the system.

(e) Initial meeting. The commissioner of education shall convene the first meeting of the committee on or before July 30, 2009. The committee shall select a chair from among its members at the first meeting.

(f) Committee staff. The department of education and the joint fiscal office shall provide administrative and fiscal services to the committee. The committee shall rely upon the legislative council to draft all proposed legislation.

(g) Compensation for legislators. For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 406(a).

(h) Compensation for private citizens. Committee members who are not full-time state employees shall be entitled to expenses as provided in 32 V.S.A. § 1010 from money appropriated for this purpose by the general assembly.

(i) Number of meetings authorized. The committee shall meet no more than six times unless specifically authorized by the speaker of the house and the president pro tempore of the senate.

(j) Report. On or before December 15, 2009, the committee shall present detailed written findings and recommendations to the members of the house and senate committees on education, the house committee on ways and means, the senate committee on finance, and the governor. It shall provide draft legislation designed to implement its recommendations to the same parties by January 15, 2010.

Sec. H.58. EFFECTIVE DATES

This section. and Secs. H.1–H.57 of this act shall take effect upon passage, except:

(1) Sec. H.22 (establishing an ad hoc board of civil authority for unorganized towns and gores and unified towns and gores) shall apply to appeals filed on or after July 1, 2009.

(2) Sec. H.23 (repealing tax information insert) shall apply to homestead property tax bills mailed in 2009 and after.

(3) Sec. H.24 (unsigned declaration of homestead) shall apply to declarations filed in calendar year 2010 and after.

(4) Sec. H.25 (taxation of unrelated business income of nonprofit corporations) shall take effect for taxable years beginning on and after January 1, 2010.

(5) Sec. H.26 (update of link to federal income tax laws) shall apply to taxable years beginning on and after January 1, 2008.

(6) Sec. H.29 (deadline for notice from department to towns regarding adjustment amounts) shall apply to homestead declarations filed in 2009 and after.

(7) Secs. H.31–H.35 (estate taxes) shall apply to estates of individuals dying on or after January 1, 2009.

(8) Secs. H.36–H.39 (tax on cigarettes and other tobacco products) shall take effect on July 1, 2009.

(9) Secs. H.40–H.43 (sales and use tax on digital downloads) shall take effect on July 1, 2009.

(10) Sec. H.44 (sales tax on spirituous liquor) shall take effect on July 1, 2009).

(11) Sec. H.45 (cancellation of sales and use tax account) shall take effect with respect to cancellations on or after July 1, 2009.

(12) Sec. H.47 (capital gains exemption and state income tax deduction) shall apply to taxable years beginning on or after January 1, 2009.

(13) Secs. H.50–H.55 (digital business entities) shall take effect on January 1, 2010.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

SUSAN J. BARTLETT
RICHARD W. SEARS
DIANE B. SNELLING

Committee on the part of the Senate

MARTHA P. HEATH
MARK LARSON

Committee on the part of the House

Pending the question, Shall the report of the Committee of Conference be adopted? **Rep. Scheuermann of Stowe** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee of Conference be adopted? was decided in the affirmative. Yeas, 91. Nays, 52.

Those who voted in the affirmative are:

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

Those who voted in the negative are:

Acinapura of Brandon	Canfield of Fair Haven	Donaghy of Poultney
Adams of Hartland *	Clark of Vergennes *	Donahue of Northfield *
Ainsworth of Royalton *	Clerkin of Hartford	Fagan of Rutland City *
Baker of West Rutland	Crawford of Burke	Flory of Pittsford
Botzow of Pownal	Davis of Washington	Greshin of Warren
Branagan of Georgia *	Devereux of Mount Holly	Haas of Rochester
Brennan of Colchester	Dickinson of St. Albans	Higley of Lowell *
Browning of Arlington	Town *	Hube of Londonderry *

Hubert of Milton *	McFaun of Barre Town	Savage of Swanton
Koch of Barre Town *	McNeil of Rutland Town	Scheuermann of Stowe
Komline of Dorset	Morley of Barton	Stevens of Shoreham
Krawczyk of Bennington	Morrissey of Bennington *	Turner of Milton
Larocque of Barnet	Myers of Essex	Westman of Cambridge
Lawrence of Lyndon *	O'Donnell of Vernon	Wheeler of Derby
Lewis of Derby *	Pearce of Richford	Winters of Williamstown
Marcotte of Coventry	Peaslee of Guildhall	Wright of Burlington *
McAllister of Highgate *	Perley of Enosburg	Zuckerman of Burlington
McDonald of Berlin	Reis of St. Johnsbury	

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

Helm of Castleton	Kilmartin of Newport City	Trombley of Grand Isle
Johnson of Canaan	Potter of Clarendon	Young of St. Albans City

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

Rep. Adams of Hartland explained his vote as follows

“Mr. Speaker:

Several weeks ago our legislative leaders feigned surprise that Vermont is in a financial crisis. They had been warned time and again since last October that the negative news received from the state economist would be coming and that this body needed to make hard decisions to stabilize and prepare Vermont for the tough times ahead. Instead we are preparing to continue with what has become our M.O.-raise taxes on hard-working Vermonters. We fail to remember or perhaps ignore that Vermonters pockets are not bottomless and whose assets in these troubling times are not limitless. Thousand of Vermonters all across our beautiful state are getting by with less, or with very little at all. Business owners are experiencing sales so bad that they go without paying themselves and in some cases – closing their doors (perhaps for good) and putting their employees out of work. Homebuilders, contractors and others in the building trades are having the same issues as shopkeepers as new housing starts are at an all-time low. Realtors who are only compensated when a property sells have seen sales dwindle to a fraction of what they once were. Farmers make less on a gallon milk than what it costs them to produce it. Yet we under the Golden Dome continue putting more pressure on Vermonters that struggle hard to earn a living by requiring they open their wallets wider and send us more to fritter away on our favorite programs.

We need to remember, no we **must** remember, that government was instituted to be a protector of our rights, not a provider of privileges.”

Rep. Ainsworth of Royalton explained his vote as follows

“Mr. Speaker:

In passing this budget, the legislature has effectively refused to make the tough choices that all Vermonters are facing during these challenging economic times. Instead of living within our means and ensuring that we fund government at a level we can afford, Democratic leadership has placed over \$30 million in new taxes onto the backs of struggling Vermonters. I think one of our Senators put it best: we already knew that we can’t afford to live in Vermont, now we can’t afford to die, we can’t afford to move, and if we want to drown our sorrows in drink we can’t afford to that now either.”

Rep Ancel of Calais explained her vote as follows

“Mr. Speaker:

I voted yes for a tax cut for low and middle income taxpayers for progressivity and for continued prosperity in our income tax structure.

43% of Vermonters will have lower income taxes as a result of today’s action. 54% will see no change. This is a tax policy we can be proud of.

Rep. Branagan of Georgia explained her vote as follows

“Mr. Speaker:

This weekend is the opening of the newest star Trek movie of which I am a long time fan. I dearly wished to attend the opening this weekend, but feeling strong responsibility to complete this legislation (and hope to make Vermont’s fiscal future better) kept me here.

After looking at this budget and revenue package, all I can say is “Beam me up Scottie”.

Rep. Clark of Vergennes explained his vote as follows

“Mr. Speaker:

We cannot build a loyal and trusting citizenry by taxing away their independence and initiative. If we continue to erode their confidence and trust by punishing their success, we chance never regaining their respect and trust. They know and we know that this budget attempts to escape the fiscal responsibility we have to all Vermonters over the next several years by evading our responsibility today. We need to adopt fiscal policies based on the sound fiscal policies that made this state so great: common sense, initiative, hard work and frugality.”

Rep. Dickinson of St. Albans Town explained her vote as follows

“Mr. Speaker:

Our job as legislators is to build a budget that the Vermont economy can support. We have less revenue and we must work together to find the balance between raising taxes and budget cuts that will protect our neediest citizens, provide necessary services and that will not threaten our struggling tax-payers and business community.

I regret that I cannot support a budget because it fails to address the economic reality that faces Vermonters today.

Rep. Donahue of Northfield explained her vote as follows

“Mr. Speaker:

I am tired of leaving this building each year hanging my head because of the process by which we addressed the most significant issues facing the role of our government. I do not know how we look our constituents in the face. This year, in addition to all else, we addressed an economic crisis through decisions narrowed into a few weeks of time, outlined to us in a 132-page document received three hours ago. We have no contingency for the further downgrades likely in the months ahead.

I vote no for many of the reason identified by others regarding our fiscal sustainability and the substance of this bill. But I vote no even more so, because of the way we have conducted ourselves in its development and review.

In these past few days, I believe we have reached new heights in the travesty of process, and the abdication of our responsibility to our constituents and our state that occurs when we vote on major legislation on this floor without allowing time to think it through, ask questions, get information and make careful judgments that are appropriate to the gravity of the issues. I protest this vote.

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

“Mr. Speaker:

This budget chooses pet projects over scholarships for our Vermont students. It chooses conservation over economic development. It chooses a short-term band aid in lieu of a long-term solution. Mr. Speaker, this budget must do better to address the public’s interests.”

Rep. Fisher of Lincoln explained his vote as follows:

“Mr. Speaker:

This is a very tough budget package for me to come around to support. I know

the impacts of the cuts we have made here. I know the lives that will be impaired.

When people say we have not made the tough decisions, I say they don't know the people who will be most impacted.

Yet a balance has been found here. While I would call for enough revenue to provide for a sound safety net, this is a supportable compromise. I am thankful that many far worse cuts have been avoided. I am thankful for this good work on behalf of all Vermonters."

Rep. French of Shrewsbury explained his vote as follows:

"Mr. Speaker:

Over a two year period with the help of AARA funding specifically designated to be used in that manner, this body has made over 400 million dollars in cuts while only raising 21.4 million in new revenue. A remarkable achievement in an extraordinary economic climate. Sounds like a lot of hard choices to me."

Rep. Higley of Lowell explained his vote as follows:

"Mr. Speaker:

Vermonters need their legislators to be responsible with their money now more than ever. I vote "no" on this irresponsible budget."

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

"Mr. Speaker:

I support this budget because it includes a middle class tax cut for the hardworking Vermonters. According to the non-partisan analysis of JFO 43% of Vermonters will get a tax reduction as a result of this proposal at a time when they need it the most."

Rep. Hubert of Milton explained his vote as follows:

"Mr. Speaker:

I voted no on the budget today for the following reasons:

1. In the economic hard times we are in now, hard working Vermonters need a break from more taxes.
2. The tax increases you are asking for are flawed (DLC 4.4 million) cigarette tax 2.50 per carton and 100% increase in all other tobacco products. This will not increase revenues, but will send 15 to 50% of our tax dollars to other states.
3. We need cuts, not more taxes."

Rep. Hube of Londonderry explained his vote as follows:

“Mr. Speaker:

To characterize the steps taken to balance the 2120 budget as adjustments or cuts is a disservice to the people of this state.

Roughly 40% of the \$59 million in cuts are nothing more than cost shifts or raids – this is net of the additional \$.03 per \$100 tax reduction that truly is owed to Vermont property owners.

Hopefully, we will be recipients of divine intervention when constructing our 2011 and 2012 budgets as we will have run out of smoke and mirrors.”

Rep. Johnson of South Hero explained her vote as follows:

“Mr. Speaker:

In two years Vermont has seen a cumulative \$423 million budget gap. Less than 5% of that - \$21.3 million – has been in new revenues. This budget spreads responsibility fairly across all Vermonters. Some Vermonters will see a decrease in services. Some will see very slight increases in taxes. All will see a long-term reduction in marginal tax rates. I support this difficult, responsible budget.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

This bill demonstrates this legislature’s inability to make the hard decisions needed to assure Vermonter’s financial health. It preserves pet programs in a time when belt tightening is in order, and it manifests an attitude that the taxpayers can always be tapped for just a little more.”

Rep. Lewis of Derby explained his vote as follows:

“Mr. Speaker:

This could be the final straw that will break the back of Vermonters.”

Rep. Lawrence of Lyndon explained his vote as follows:

“Mr. Speaker:

In this budget, we have instituted an elimination of the capital gains exemption that is retroactive to January 1, 2009. How can we do this to elderly Vermonters who use these funds for their income, to family businesses, farmers, and loggers who have already made financial decisions based on the exemption in place:

We have pulled the rug out from under many Vermonters – we have broken

their trust and faith in government.”

Rep. Maier of Middlebury explained his vote as follows

“ Mr. Speaker:

I vote YES to support a budget that supports health care for Vermonters. In these difficult economic times, people all over the country who lose their jobs also lose their health care. That is not true in Vermont and I am proud of our state.”

Rep. Marek of Newfane explained his vote as follows

“Mr. Speaker:

“Hard times require hard decisions. Those charged with preparing this budget asked us all over and over and over again for explanations as to how they could approach that task in better ways. So few explanations then, so many now after the fact and after the hard work is all done.”

Rep. McAllister of Highgate explained his vote as follows

“ Mr. Speaker:

At a time when Vermont families and small businesses are reducing their spending in order to pay their bills and stay in business, the state, in this budget, is increasing its spending and using \$40 million in new, additional taxes on Vermonters to do so. It’s as if we just applied for a new credit card to pay for a shopping spree, only this time, it’s Vermonters who are going to have to pay the balance and interest payments for years and years to come.”

Rep. Minter of Waterbury explained her vote as follows

“ Mr. Speaker:

“Any budget in these economic times needs to use multiple strategies to maintain economic security, ensure safe neighborhoods, strong communities, excellent schools and social stability. We are all in this together and Vermonters want to see the compromise, responsibility and leadership, which this budget provides. I support this budget, not just because it makes me feel good, but because it faces our economic challenges in a responsible way. Our state revenues are rapidly declining and this budget asks Vermonters to weather this economic storm together. It asks for sacrifice from those most in need of state services while asking more from those with income security. This budget asks from all sectors, including the education fund, in these economic times.”

Rep. Morrissey of Bennington explained her vote as follows

“ Mr. Speaker:

“It is with a heavy heart that today I cannot support a 2010 appropriations bill as presented. The appropriations bill is the most critical piece of legislation we pass during a session.

Mr. Speaker, we had a tremendous opportunity, especially in these difficult times to have our committees prioritize their work to address the efficiencies and the inefficiencies in state government.

This bill does nothing to plan for our near certain future reductions in state revenue, relies heavily on temporary “tax payers” federal dollars and places us at the edge of a cliff that we will fall off in 2 years or less.

The budget today, is unsustainable, and does little to plan for our state’s future.

Our constituents were looking for us to help to provide some stability as they continue to struggle with their own financial challenges. Unfortunately, I fear we have only added to them now and long into the future.”

Rep. Mrowicki of Putney explained his vote as follows

“ Mr. Speaker:

This budget provides medicine for elders, hardly a pet project. It assists single mothers struggling in poverty that would have been cut, and on and on. It does cut \$60 million but balances the cuts with an even- handed compassion. I’m proud of the legislative leadership that has stepped up to present a budget that faces our responsibilities without forsaking our neighbors in need.”

Rep. Poirier of Barre City explained his vote as follows

“ Mr. Speaker:

I voted yes, while not agreeing with all the provisions, because in January the Governor announced that he was going to cut 600 state employee positions, regardless of how they were funded. The Governor has shown no respect to the state employees during these past 4 months, and no desire to negotiate a responsible compromise.

Fortunately, the conference committee adopted language to treat the Vermont workforce as professionals and with dignity.”

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

Mr. Speaker:

I vote yes because this bill supports the resident's of St. Johnsbury and the NEK with good paying jobs at the correctional center which also helps support area business.

Rep. Stevens of Waterbury explained his vote as follows:

Mr. Speaker:

I strongly supported this budget – it expresses the American ideal of compromise and extraordinary times require extraordinary measures, rather than take political potshots at each other. I hope next year our desire to address the fundamental deficiencies of funding our government overwhelms our political divide.

Rep. Wright of Burlington explained his vote as follows:

Mr. Speaker:

It is with great disappointment I vote no on this budget. We have failed to make fundamental change and structural reform. We have increased spending and nearly every tax imaginable. Rather than work together the entire legislative session to find workable solutions, we passed a political document that faces a certain veto. Today we have failed Vermonters on our most basic obligation: Do No Harm. The dark clouds and gathering storm outside, as we vote today, are symbolic of the action we took today. Passage of this budget would result in thunderous harm to Vermont's economy.

**Rules Suspended; Senate Proposal of Amendment Concurred in;
Rules Suspended; Action Ordered Messaged to Senate Forthwith
and Bill Delivered to the Governor Forthwith**

H. 12

Pending entrance of the bill on the Calendar for notice, **Rep. McDonald of Berlin**, moved that the rules be suspended and House bill, entitled

An act relating to education property tax rates;

Be taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking Sec. 2 in its entirety and inserting in lieu thereof Secs. 2, 3, 4 and 5 to read as follows:

Sec. 2. FISCAL YEAR 2010 AND 2011 BASE EDUCATION PAYMENT AMOUNT

Notwithstanding subsection 4011(b) of Title 16 or any other provision of law, the base education payment for fiscal years 2010 and 2011 shall be \$8,544.00.

Sec. 3. AMENDMENT

Each occurrence of the amount “\$239,303,944” in Secs. B.513 and E.513(a) in H.441 of 2009 shall instead be “\$240,803,944”.

Sec. 4. REPEAL

Secs. E.109 and E.109.1 of H.441 of 2009 (per acre valuation and study) are repealed as of the date of passage of this act.

Sec. 5. APPLICATION AND EFFECTIVE DATE

Secs. 1 (tax rates) and 2 (base education payment) of this act shall supersede and take precedence over any provisions of H. 441 of 2009 as enacted, and this act shall take effect upon final enactment of, and delivery to the secretary of state of, a state budget act for fiscal year 2010.

Pending the question, Shall the rules be suspended to take up the bill for immediate consideration pending its entrance on the Notice Colander? **Rep. Donahue of Northfield** 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 rules be suspended to take up the bill for immediate consideration pending its entrance on the Notice Colander? was decided in the affirmative. Yeas, 133. Nays, 2.

Those who voted in the affirmative are:

Acinapura of Brandon	Consejo of Sheldon	Gilbert of Fairfax
Adams of Hartland	Copeland-Hanzas of	Grad of Moretown
Ainsworth of Royalton	Bradford	Greshin of Warren
Ancel of Calais	Corcoran of Bennington	Haas of Rochester
Andrews of Rutland City	Courcelle of Rutland City	Head of South Burlington
Aswad of Burlington	Crawford of Burke	Heath of Westford
Atkins of Winooski	Davis of Washington	Higley of Lowell
Audette of South Burlington	Deen of Westminster	Hooper of Montpelier
Baker of West Rutland	Devereux of Mount Holly	Howard of Rutland City
Bissonnette of Winooski	Dickinson of St. Albans	Howrigan of Fairfield
Bohi of Hartford	Town	Hubert of Milton
Botzow of Pownal	Donaghy of Poultney	Jerman of Essex
Branagan of Georgia	Donovan of Burlington	Jewett of Ripton
Bray of New Haven	Edwards of Brattleboro	Johnson of South Hero
Brennan of Colchester	Emmons of Springfield	Keenan of St. Albans City
Browning of Arlington	Evans of Essex	Klein of East Montpelier
Burke of Brattleboro	Fagan of Rutland City	Koch of Barre Town
Canfield of Fair Haven	Fisher of Lincoln	Krawczyk of Bennington
Cheney of Norwich	Flory of Pittsford	Lanpher of Vergennes
Clarkson of Woodstock	Frank of Underhill	Larocque of Barnet
Clerkin of Hartford	French of Shrewsbury	Larson of Burlington
Condon of Colchester	French of Randolph	Lawrence of Lyndon
Conquest of Newbury	Geier of South Burlington	Lenes of Shelburne

Leriche of Hardwick	Moran of Wardsboro	Shand of Weathersfield
Lewis of Derby	Morrissey of Bennington	Sharpe of Bristol
Lippert of Hinesburg	Mrowicki of Putney	Smith of Mendon
Lorber of Burlington	Myers of Essex	South of St. Johnsbury
Macaig of Williston	Nease of Johnson	Spengler of Colchester
Maier of Middlebury	Nuovo of Middlebury	Stevens of Waterbury
Malcolm of Pawlet	O'Brien of Richmond	Stevens of Shoreham
Manwaring of Wilmington	Obuchowski of Rockingham	Sweaney of Windsor
Marek of Newfane	Orr of Charlotte	Taylor of Barre City
Martin of Springfield	Partridge of Windham	Till of Jericho
Martin of Wolcott	Pearce of Richford	Toll of Danville
Masland of Thetford	Peaslee of Guildhall	Townsend of Randolph
McAllister of Highgate	Pellett of Chester	Waite-Simpson of Essex
McCullough of Williston	Peltz of Woodbury	Webb of Shelburne
McDonald of Berlin	Perley of Enosburg	Westman of Cambridge
McFaun of Barre Town	Poirier of Barre City	Weston of Burlington
McNeil of Rutland Town	Pugh of South Burlington	Wheeler of Derby
Milkey of Brattleboro	Ram of Burlington	Wilson of Manchester
Miller of Shaftsbury	Reis of St. Johnsbury	Winters of Williamstown
Minter of Waterbury	Rodgers of Glover	Wizowaty of Burlington
Mitchell of Barnard	Savage of Swanton	Zenie of Colchester
Mook of Bennington	Scheuermann of Stowe	Zuckerman of Burlington

Those who voted in the negative are:

Donahue of Northfield	Turner of Milton
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Those members absent with leave of the House and not voting are:

Clark of Vergennes	Kitzmiller of Montpelier	Potter of Clarendon
Helm of Castleton	Komline of Dorset	Trombley of Grand Isle
Hube of Londonderry	Marcotte of Coventry	Wright of Burlington
Johnson of Canaan	Morley of Barton	Young of St. Albans City
Kilmartin of Newport City	O'Donnell of Vernon	

Thereupon, the Senate proposal of amendment was considered and concurred in.

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

House Resolution Adopted

H.R. 21

House resolution, entitled

House resolution urging the federal government to approve Canadian provincial enhanced driver's licenses as meeting the land and sea border requirements of the Western Hemisphere Travel Initiative

Which was taken up and adopted on the part of the House.

Recess

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

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

Message from the Senate No. 66

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 313. An act relating to near-term and long-term economic development.

And has accepted and adopted the same on its part.

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

H. 313

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

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

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the Senate recede from its

proposals of amendment and that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Vermont has lost nearly 15,000 jobs since the cyclical peak in November of 2007, reaching an unemployment rate of 7.2 percent as of April 2009. Broader measures of underemployment, which include workers forced from full time to part time work and marginally attached workers, now exceed nine percent in Vermont. Revised macro-economic projections anticipate that the Vermont rate of unemployment will reach nine percent for the first time in more than 30 years.

(2) Initial claims for unemployment insurance have continued to rise, spiking in Vermont in recent months at record levels, with the weekly average of claims in January of 2009 reaching approximately 1,550.

(3) At the national level, the unemployment rate has reached 8.5 percent and consumer spending, which accounts for more than two-thirds of all economic activity, has experienced its steepest reversal since the Great Depression, with inflation-adjusted spending dropping by more than 10 percent in four of the last five months. Consumption taxes in Vermont are expected to recede accordingly, with sales and use revenues expected to be down five percent in fiscal year 2009 and meals and rooms receipts down three percent, with further declines expected in fiscal year 2010, which would comprise the first ever consecutive annual declines for these important revenue sources.

(4) Residential construction in Vermont has come to a virtual halt in Vermont, declining by nearly 70 percent. With weakness in Vermont second home markets mounting in the face of regional job losses, housing price declines are likely in the next four-to-seven quarters, with very low property price appreciation for an extended period of at least four-to-five years. This stagnation in property prices will ultimately have a significant impact on grand list growth and the tax base for the largest component of the education fund.

(5) Federal tax changes resulting from the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, while stimulating to the national economy, will result in reduced state tax revenues in approximately \$9.1 million in fiscal year 2010.

(6) Despite the many difficulties in the national and Vermont economies at this time, there are several factors leaning against the prevailing winds that offer hope for an emergent recovery. For one, United States and global fiscal and monetary policies are as stimulative as they have ever been, with even

additional capacity and willingness if further measures are required to right the economy.

(7) For the first time in 55 years, the Consumer Price Index is expected to post an annual decline in 2009, while inflation and related energy prices have been subdued, lowering consumer gas and heating bills, providing additional disposable income.

(8) Business inventories have been dramatically reduced, setting the stage for rapid gains in output and hiring, once demand resumes.

(9) With the passage of ARRA, Vermont is positioned to receive nearly one billion dollars in resources, which will be allocated to state and local government, to Vermont businesses, and to individuals. In addition, federal tax cuts will result in approximately \$500 million in savings to Vermont businesses and individuals.

(10) Although state government is limited in its ability in the near-term to initiate new programs and expenditures due to revenue constraints, it can provide targeted support to programs best suited to capitalize on state and federal funding to leverage growth. The state can also improve existing programs, permitting processes, funding mechanisms, and other areas that affect economic development, in order to provide a more efficient and effective role for government to aid Vermont's businesses and individuals and lead the state in its economic recovery.

(11) In the long-term, once the current economic crisis inevitably subsides, Vermont will be prepared to move forward with a focused economic development strategy based on four principal, interrelated goals generated by the commission on the future of economic development:

(A) Vermont's businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(B) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(C) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(D) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(12) The four principal goals emerged from two and one-half years of the commission's study of Vermont's economy and the public policies that advance and impede economic development. The goals are interdependent and interconnected, and they must all be addressed if Vermont is to reach its economic development promise.

(13) The implementation of the goals is the joint task of the legislature, the administration, our local, regional, and state agencies, our nongovernmental organizations, and our citizens. State economists have concluded that the goals cannot be adequately evaluated with a small set of simplistic benchmarks, but rather, must be evaluated through a wide range of indicators using statistical benchmarks accompanied by a narrative that is a contextual interpretation of the data by professionals. Ultimately, consistent monitoring of credible benchmarks will provide information on both the efficacy and cost-effectiveness of our public policies and strategies so that necessary adjustments can be made to continually improve Vermont's economic prosperity.

(14) Despite its small scale and accessible government, Vermont lacks a shared statewide vision of its economic future. Economic vitality in Vermont is hampered by the lack of coordination among and between state agencies, between regional economic development corporations and regional planning commissions, and between these regional entities and state agencies. As a result of these disconnects, Vermont lacks a single, holistic, integrated state plan for economic development. Additionally, coordinated regional input is imperative for an effective, nimble, and integrated statewide economic development plan. Strong regional development organizations and regional planning commissions are critical partners and resources. Our citizens and business and civic leaders consistently recognize Vermont's small scale and easy access to our government as a potential strength, but observe that we have often failed to take advantage of the opportunities that our smallness offers us.

(15) Vermonters are struggling to secure basic needs such as health care, child care, affordable housing, and quality education. These basic needs are prerequisites to, rather than the product of, economic development. Employers recognize that the health and well-being of our workforce are critical to business success. Worker recruitment, retention, and productivity depend on worker quality of life as measured by wages, health care, child care, housing, connected communities, and a healthy environment.

(16) In addition to providing for these basic needs, an essential role of government is investing in our digital, physical, and human infrastructure as the foundation for all successful economic development. Funding, building,

and maintaining our state's infrastructure is one of the highest priorities for the investment of state resources.

(17) The lack of adequate and reliable broadband and cellular infrastructure and access across the state not only impedes the growth of existing and new business in Vermont, but may induce existing businesses to relocate to other states that have better access to broadband and cellular service. Digital infrastructure benefits include government cost savings, increased productivity, and improved quality of life for Vermonters.

(18) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(19) The Vermont telecommunications authority has made significant progress toward, and should continue going forward as the primary vehicle for, achieving the goal of realizing universal availability of adequate mobile telecommunications and broadband services, with a focus on unserved and underserved areas in the state.

(20) Vermonters' ingenuity, work ethic, and entrepreneurship have long been viewed as competitive assets. Our rapidly evolving economy requires a collaborative partnership of business people, educators, representatives from nongovernmental organizations, and government leaders to provide a skilled workforce to traditional and emerging Vermont businesses, and to enhance career opportunities to all Vermonters.

(21) The strength of our state economy is dependent upon a diversity of business sectors. Despite difficult economic conditions, the state should exercise leadership and creativity in continuing its support of traditional economic drivers such as tourism, agriculture, forestry, construction, and manufacturing, among others.

(22) Tourism has a stabilizing effect on Vermont's economy by insulating the state's residents from the inevitable ups and downs of national and global business cycles, while providing individuals and their families with a diverse set of earning possibilities and challenging occupations that fit into their lifestyle and family situation. Vermont should continue to support this critical component of its economy.

(23) State government should lead by example in supporting local- and state-based economic strategies that are not protectionist, but rather, build on the proud Vermont tradition of self-reliance. Initiatives such as Local First, the department of agriculture, food and markets' Buy Local program, and state and

local government procurement policies for food, goods, and services that give priority to Vermont businesses when possible, each enhance the Vermont economy through the demonstrated multiplier effects of buying local.

(24) Vermont is home to a vibrant manufacturing sector, which consists of many businesses producing specialized and innovative products. Nationwide, manufacturing accounts for the majority of product and service innovation, and businesses whose competitive advantage flows from innovative and unique products and services, rather than low-cost or high volume, enjoy significantly increased profitability and generate more job opportunities and tax revenue. State government's role should be to support this dynamic manufacturing base, and to provide the necessary training, education, and resources to cultivate a culture of innovation.

(25) In addition to traditional economic drivers, there are new, unique, and innovative Vermont businesses that are successfully competing in the global marketplace that need to be nurtured. There is broad consensus that Vermont can further leverage its brand, including its green reputation, into economic gain. Our entrepreneurial people, healthy environment, and connected communities – our quality of life – are genuine economic assets.

(26) Vermont's reputation for environmental stewardship can be turned to our advantage. Vermont businesses, government, and environmental organizations must be partners and leaders in supporting and creating a green economic sector and the use of green business practices throughout our diverse economy.

(27) Microenterprise also plays an important role in our state's economy and within the working lives of low to moderate income families. Microenterprises develop new industries, increase community assets, are important providers of goods and services in local communities, find unique solutions to local problems, and keep profits circulating locally. Microenterprise provides economic opportunity for low income households and is a proven wealth creation strategy for struggling communities.

(28) Microenterprises often require access to training, services, financing, and support that are different from what small businesses require in order to grow and prosper. Microenterprise financing options and business training and technical assistance are equally important and work together to support microenterprise development.

(29) The legislature, administration, and myriad economic and community partners must now work together with unerring discipline to focus policies, regulations, programs, and incentives on the critical interconnection between

Vermont's assets, our collective values, our capabilities, and the opportunities which will increase state revenues and the prosperity of all Vermonters.

Sec. 2. PURPOSE; POLICY STATEMENTS FOR FEDERAL STIMULUS COLLABORATION AND FUTURE UTILIZATION OF ECONOMIC DEVELOPMENT RESOURCES

(a) The purpose of this act is to promote the economic development of the state and the prosperity of its businesses and citizens. In the near-term, this act is intended to address the immediate economic crisis facing Vermont. The purposes of this act include the following:

(1) To preserve and create jobs and promote economic recovery.

(2) To assist those most impacted by the recession.

(3) To provide opportunities for investments needed to increase economic efficiency, entrepreneurship, and business growth in traditional and emerging sectors.

(4) To provide oversight and guidance for the expenditure of ARRA funds to ensure that the benefits of the federal stimulus extend to the broadest geographic and demographic range of Vermont businesses and individuals.

(b) The American Reinvestment and Recovery Act of 2009 ("ARRA") provides economic development resources that are available to the state, its subdivisions, and the private sector. In order to realize the full potential of these funds, and in order to most effectively increase the opportunities for Vermonters to benefit from the ARRA, the director of Vermont's office of economic stimulus and recovery ("VOESR") shall, to the extent possible: coordinate efforts to obtain funds under the ARRA; oversee the use of those funds received by or through the state; and collect information on the use of funds awarded to Vermont recipients.

(c) State agencies that are recipients of ARRA formula fund allocations and applicants for ARRA competitive grants shall collaborate to the extent possible to present unified proposals for funding. The VOESR shall provide support to applicants and recipients of ARRA funds to develop unified proposals, and priority shall be given to those programs that achieve multiple economic development goals simultaneously and demonstrate broad geographic benefits. Where applicable, potential beneficiaries shall use best efforts to structure programs so as to maximize eligibility for ARRA funds, and the VOESR shall give priority to those programs that are structured to maximize ARRA eligibility.

(d) The ARRA offers competitive grants to stimulate economic development in the areas of agriculture and rural development, broadband and

telecommunications, energy efficiency and renewable energy, employment and training, educational technical assistance, redevelopment of abandoned and foreclosed homes, homelessness prevention and housing, and energy-saving and green retrofit investments in elderly, low income, and disability housing. In order to help Vermonters secure competitive grant funding, the VOESR, in coordination with the appropriate agencies of the state, shall be responsible for identifying competitive grant programs relating to the department's or agency's jurisdiction. Each agency shall provide technical and logistical information and support to the VOESR as necessary, and shall connect grant applicants with grant-writing and additional resources and services available from both the VOESR and related public and private resources as appropriate.

(e) In the long term, this act seeks to build a foundation for economic development through targeted investments, modifications, and improved efficiencies in economic development initiatives, environmental and energy permitting, and other state investment and regulatory programs that will provide long-term economic benefits. It is the intent of the general assembly to ultimately channel these economic development efforts through the principal goals and benchmarks identified by the commission on the future of economic development, using both new and existing resources from the state and federal levels to increase prosperity for all Vermonters.

Sec. 3. ARRA FUNDS; ECONOMIC SECURITY FOR WOMEN

(a) While all Vermonters are suffering from the current economic downturn, research indicates that women and female-headed households are likely to bear a disproportionate share of the hardship. As a result of longstanding discrimination and economic disadvantage, they often have fewer personal assets to sustain them through periods of unemployment, and they tend to feel cutbacks in traditional, public safety-net programs more acutely than men do, particularly in times of economic crisis. The general assembly, therefore, encourages that the recession's disparate impact on women and children be taken into consideration in the awarding of federal funds under the ARRA to the extent allowable by law.

(b) The VOESR shall report the number of jobs created and retained by industry as required by federal law for the purpose of determining the number of jobs that are likely to benefit women.

* * * Commission on the Future of Economic Development * * *

Sec. 4. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ~~VERMONT DEVELOPMENT BOARD~~ THE FUTURE OF ECONOMIC DEVELOPMENT

* * *

§ 3. ECONOMIC DEVELOPMENT; LONG-TERM GOALS; REVIEW AND ASSESSMENT

(a) For purposes of the Vermont Statutes Annotated and state economic development programs and assistance, “economic development” means the process of generating economic wealth and vitality, security, and opportunity for all Vermonters.

(b) There are established the following four principal, interrelated goals for future economic development in Vermont:

(1) Vermont’s businesses, educators, nongovernmental organizations, and government form a collaborative partnership that results in a highly skilled multigenerational workforce to support and enhance business vitality and individual prosperity.

(2) Vermont invests in its digital, physical, and human infrastructure as the foundation for all economic development.

(3) Vermont state government takes advantage of its small scale to create nimble, efficient, and effective policies and regulations that support business growth and the economic prosperity of all Vermonters.

(4) Vermont leverages its brand and scale to encourage a diverse economy that reflects and capitalizes on our rural character, entrepreneurial people, and reputation for environmental quality.

(c) The four principal goals shall be used to guide the design and implementation of each economic development program, policy, or initiative that is sponsored or financially supported by the state, its subdivisions, agencies, authorities, or private partners.

(d)(1) The commission on the future of economic development, or a working group thereof designated by the general assembly, shall work with the state economists and the joint fiscal office to adopt benchmarks for the four principal goals.

(2) The commission or workgroup thereof shall on or before January 15, 2010 report to the house committee on commerce and economic development, the senate committee on finance, and the senate committee on economic development, housing and general affairs concerning its review of the goals, benchmarks, and agency progress pursuant to this subsection.

(3) On or before January 15, 2010, the commission shall recommend to the senate committee on economic development, housing and general affairs, the senate committee on finance, the house committee on commerce and

economic development, the house committee on ways and means, and the governor on whether it would promote the best interests of Vermont for the commission to continue its review of the goals and benchmarks, or if a successor to that responsibility should be designated. Notwithstanding any recommendation, the commission shall continue to perform the review unless and until a successor is designated by legislation approved by the legislature and the governor.

Sec. 5. Commission on the Future of Economic Development WORKGROUP

(a) Pursuant to 10 V.S.A. § 3(d), for FY 2010, the chair of CFED shall convene and chair a workgroup composed of the current CFED chair, the commissioner of economic development, the current legislative members, and such other current members of CFED that the chair shall appoint at his or her discretion.

(b) The workgroup shall receive reasonable administrative, fiscal, and legal support from the joint fiscal office and the legislative council.

(c) Legislative members of the committee shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 2 V.S.A. § 406; other members shall be entitled to per diem compensation and reimbursement of necessary expenses as provided in 32 V.S.A. § 1010.

(d) The FY 2010 workgroup shall:

(1) Collaborate with the state economists to finalize the statistical benchmarking system proposed in FY 2009.

(2) Establish baseline values for each benchmark and subsequently perform an economic development analysis against the baseline values at a suitable interval.

(3) Determine the best model for an entity responsible for developing and overseeing economic planning in Vermont. The entity's responsibilities would include: establishing a statewide, comprehensive economic development plan; making policy recommendations to the general assembly and governor; analyzing existing programs and policies in terms of the benchmarks and the four principal goals established by CFED; amending and updating the plan, benchmarks, and goals as necessary; and reporting annually to the general assembly and governor on the status of economic development in Vermont.

(4) Study models of economic development used in other states, such as the private-public-nonprofit coordinating board used in Arizona (Arizona

Economic Resource Organization) and the North Carolina economic development board.

(5) Propose ways of improving the value and usefulness of the unified economic development budget required under 10 V.S.A. § 2.

(e) The workgroup shall report its findings and recommendations to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor not later than January 15, 2010.

(f) This shall supersede any conflicting provision adopted by act of the general assembly in the 2009 legislative session.

* * * Workforce Development * * *

Sec. 6. FINDINGS AND ARRA WORKFORCE DEVELOPMENT PRIORITIES

(a) The general assembly recognizes numerous hurdles that inhibit workforce opportunities for working families in need of adequate child care, for low income persons, for the disabled, and for the elderly. The department of labor, and other agencies where applicable, shall use ARRA funds allocated to workforce development, including funds for child care services, to expand employment opportunities to the unemployed, to dislocated workers, to working families, and to low income, disabled, and elderly Vermonters.

(b) The general assembly recognizes the opportunities available to the next generation of Vermonters to secure well-paying and secure jobs in emerging sectors such as energy efficiency and health care, including health care information technology. The department of education, the department of labor, and other agencies where applicable, shall use ARRA funds allocated to education and workforce development to promote education and job opportunities in these emerging sectors.

(c) Current economic conditions may present an opportunity for unemployed or dislocated workers to innovate and develop new businesses or products. Where appropriate, the departments of labor and of education should use ARRA funds for training and education to aid unemployed or dislocated workers in pursuing product innovations and new business pursuits.

(d) Prior to expending ARRA funds for workforce development or for expenditures that will require additional workforce capacity, the government authority seeking funding shall collaborate with the department of labor to determine that the workforce capacity currently exists, or alternatively, how much capacity will be necessary to implement a program or project. To the

extent allowable under the ARRA, the relevant agency shall prioritize expenditures first for training that is necessary to maintain current employment, second for hiring or training unemployed and dislocated workers, and third for promoting new hiring. Priority for workforce training funds shall be given to programs or training that will result in increased worker remuneration or job promotion to the extent allowable.

(e) When pursuing competitive grant funds for workforce development under Title VIII of the ARRA, the VOESR shall coordinate with appropriate government agencies, nonprofit organizations, private businesses, and individuals to secure the maximum amount of resources available to promote workforce development and opportunity for Vermonters.

Sec. 7. Sec. 7(a)(3) of No. 46 of the Acts of 2007 (career and alternative workforce education) is amended to read:

(3) Career And Alternative Workforce Education. The amount of \$900,000 is appropriated to the department of labor. Of this appropriation, \$450,000 is from the fiscal year 2007 monies transferred to the next generation initiative fund, and \$450,000 is from the fiscal year 2008 monies transferred to the next generation initiative fund. This appropriation shall be to support

out-of-school youth, youth at risk, and youth at risk of remaining unemployed with outcomes that lead to employment or continued education ~~as follows:~~

~~(A) Forty five percent (45%).~~ At least 25 percent of this appropriation shall be for grants to regional technical centers, comprehensive high schools, and other programs for career exploration programs for students entering grades 7 through 12-, and at least 25 percent

~~(B) Fifty five percent (55%)~~ shall be for grants to regional technical centers, comprehensive high schools, the community high school of Vermont, and non-profit organizations, designated by the workforce development council, for alternative and intensive vocational/academic programs for secondary students in order to earn necessary credits toward graduation.

Sec. 8. Sec. 6 of No. 46 of the Acts of 2007 is amended to read:

Sec. 6. WORKFORCE DEVELOPMENT LEADER;~~LEADERSHIP~~

~~COMMITTEE; CREATED~~

(a) The commissioner of labor shall be the leader of workforce development strategy and accountability. The commissioner of labor shall consult with ~~and chair a subcommittee of the workforce development council consisting of the secretary of human services, the commissioner of economic development, the commissioner of education, four business members~~

~~appointed by the governor, and a higher education member appointed by the governor. Membership on the subcommittee shall be coincident with the members' terms on the workforce development council~~ the workforce development council executive committee in developing the strategy, goals, and accountability measures. The workforce development council shall provide administrative support. The ~~subcommittee~~ executive committee shall assist the leader. The duties of the leader include all the following:

(1) developing a limited number of overarching goals and challenging measurable criteria for the workforce development system that supports the creation of good jobs to build and retain a strong, appropriate, and sustainable economic environment in Vermont;

(2) reviewing reports submitted by each entity that receives funding from the Next Generation fund. The reports shall be submitted on a schedule determined by the executive committee and shall include all the following information:

(A) a description of the mission and programs relating to preparing individuals for employment and meeting the needs of employers for skilled workers;

(B) the measurable accomplishments that have contributed to achieving the overarching goals;

(C) identification of any innovations made to improve delivery of services;

(D) future plans that will contribute to the achievement of the goals;

(E) the successes of programs to establish working partnerships and collaborations with other organizations that reduce duplication or enhance the delivery of services, or both; and

(F) any other information that the committee may deem necessary and relevant.

(3) reviewing information pursuant to subdivision (2) of this section that is voluntarily provided by education and training organizations that are not required to report this information but want recognition for their contributions;

(4) issuing an annual report to the governor and the general assembly on or before December 1, which shall include a systematic evaluation of the accomplishments of the system and the participating agencies and institutions and all the following:

(A) a compilation of the systemwide accomplishments made toward achieving the overarching goals, specific notable accomplishments,

innovations, collaborations, grants received, or new funding sources developed by participating agencies, institutions, and other education and training organizations;

(B) ~~an evaluation~~ identification of each provider's contributions toward achieving the overarching goals;

(C) identification of areas needing improvement, including time frames, expected annual participation, and contributions, and the overarching goals; and

(D) recommendations for the allocating of next generation funds and other public resources.

(5) developing an integrated workforce strategy that incorporates economic development, workforce development, and education to provide all Vermonters with the best education and training available in order to create a strong, appropriate, and sustainable economic environment that supports a healthy state economy; and

(6) developing strategies for both the following:

(A) coordination of public and private workforce programs to assure that information is easily accessible to students, employees, and employers, and that all information and necessary counseling is available through one contact; and

(B) more effective communications between the business community and educational institutions, both public and private.

(b) Entities receiving grants through the workforce education and training fund (WETF) and the Vermont training program (VTP) shall provide the Social Security number of each individual who has successfully completed a training program funded through the WETF and the VTP within 30 days. This requirement shall not apply to training seminars lasting no more than two days. On or before July 1 of each year, the department of labor and the department of economic development shall process the information received within the most recent 12 months and prepare the report required in subdivision (a)(4) of this section. The report shall include a table that sets forth quarterly wage information received pursuant to 21 V.S.A. § 1314a at least 18 months following the date on which the individuals completed the program of study. The table shall include the number of individuals completing the program, the number of those individuals who are employed in Vermont, and the median quarterly income of those individuals.

(c) Other entities, including public and private institutions of higher education, postsecondary and secondary programs, and other training providers who wish to receive grants under the WETF and the VTP may do so by making a request in writing to the commissioner of labor and the commissioner of economic development who shall make a decision regarding inclusion of such programs and the process for the collection of the necessary data.

(d) Confidentiality. Notwithstanding any other provision of law, the departments of labor and of economic development shall collect the Social Security numbers of students for the purposes of this section. The departments shall retain Social Security numbers collected from the entities listed in subsection (b) of this section for no more than five years from the date of receipt by the departments. Access to the Social Security numbers provided to the department of labor and department of economic development shall be limited to those department individuals creating the table required in subsection (b) of this section and shall be confidential. The departments shall prepare the tables in a way that ensures the confidentiality of all trainee and employer information. A department employee who intentionally communicates or otherwise makes available to the general public a Social Security number collected pursuant to this section or who otherwise disseminates the number for purposes other than those specified in this section shall be subject to the penalties of the Social Security Number Protection Act, subchapter 3 of chapter 62 of Title 9.

Sec. 9. REPEAL

The following are repealed:

- (1) Sec. 7(d) of No. 46 of the Acts of 2007 (reporting);
- (2) 10 V.S.A. § 543(g) (reporting); and
- (3) Section 5.801.1 of No. 192 of the Acts of the 2007 Adj. Sess. (2008).

Sec. 10. WORK-BASED LEARNING REPORT

(a) On or before January 1, 2010, the career and technical education coordinator within the department of education, the commissioner of economic development or his or her designee, and the commissioner of labor or his or her designee, shall submit a report to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, and the governor regarding work-based learning programs in Vermont.

(b) The report shall include an inventory of existing career and technical education (CTE) work-based learning programs and other non-CTE work-based learning opportunities, such as registered apprenticeships, high

school internships, and postsecondary internships, as well as community-based learning programs. The report also shall include the amount and source of funding for each program; the number of personnel hired to administer each program; participation in each program; categorization of learning opportunities offered; and other relevant standards and outcomes. Finally, the report shall include recommendations relative to statewide and regional coordination; creation of timely skill standards based on emerging or growing industry sectors; credentials that articulate postsecondary training and education; and the expansion, restructuring, or elimination of existing programs.

Sec. 11. GREEN WORKFORCE COLLABORATIVE; STIMULUS
MONIES

(a) The workforce development council and the commissioner of labor shall convene a green workforce collaborative as a committee of the council. The purpose of the collaborative is to develop and promote a vocational curriculum, career training, and employment opportunities for Vermonters in green industry sectors; maximize the state's use of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5; enhance the economic and environmental vitality of the state; and give priority to programs that provide education, training, and other services to target populations of eligible individuals.

(b) Members of the collaborative shall include the career and technical education coordinator within the department of education, as well as representatives of the various workforce training programs within the departments of economic development and of labor, as appropriate, the Vermont Energy Investment Corporation, representatives from Vermont Technical College and other Vermont educational institutions, and representatives of any other programs or entities pursuing green workforce development in Vermont, as deemed appropriate by the commissioner of labor.

(c) For purposes of this section:

(1) "Green industry sectors" shall include:

(A) The energy-efficient building, construction, and retrofit industries.

(B) The renewable electric power industry.

(C) The energy-efficient and advanced drive train vehicle industry, including performance and low-emission vehicle technology, automotive

computer systems, mass transit fleet conversion, and the servicing and maintenance of those technologies.

(D) The biofuels industry.

(E) The deconstruction and materials use and re-use industries.

(F) The energy-efficiency assessment industry serving the residential, commercial, or industrial sectors.

(G) Manufacturers that produce sustainable products using environmentally sustainable processes and materials.

(H) Pollution prevention and hazardous and solid waste reduction.

(I) Soil or water conservation, or forestation strategies to mitigate climate change impacts.

(J) Any other sector deemed appropriate by the green workforce collaborative.

(2) "Target populations" shall include:

(A) Workers impacted by national energy and environmental policy.

(B) Individuals in need of updated training related to the energy efficiency and renewable energy industries.

(C) Veterans, or past and present members of reserve components of the Armed Forces.

(D) Unemployed individuals.

(E) Individuals, including at-risk youth, seeking employment pathways out of poverty and into economic self-sufficiency.

(F) Formerly incarcerated, adjudicated, nonviolent offenders.

(G) Any other populations specifically referenced in Title VIII of ARRA as enacted or as amended subsequent to passage of this act.

(d) In promoting education and training in green industry sectors, the collaborative shall seek to capitalize on existing infrastructure wherever appropriate, including the Center for Sustainable Practices at Vermont Technical College, the Vermont State Colleges, the University of Vermont, the regional technical centers, and the comprehensive high schools, including adult technical education programs.

(e) Funding of programs designed to promote a green workforce in Vermont is a legislative priority with respect to appropriations of

unencumbered federal monies available through the state fiscal stabilization fund under § 14002(a) of Title XIV of Division A of ARRA.

(f) The commissioner of labor shall collaborate with the director of the office of economic stimulus and recovery to secure competitive grants available under Titles IV and VIII of ARRA, and shall further pursue other state or federal workforce training funds available through the Vermont departments of education and of labor, and through the Vermont Energy Investment Corporation.

(g) On or before January 15, 2010, the commissioner of labor shall provide the house committee on commerce and economic development, the senate committee on economic development, housing and general affairs, and the senate and house committees on natural resources and energy a report detailing a status and needs assessment of green workforce development in Vermont pursuant to this section.

* * * Misc. Technical VEGI Amendments * * *

Sec. 12. 32 V.S.A. § 5930b(b)(2) is amended to read:

(2) The council shall review each application in accordance with section 5930a of this title, except that the council may provide for ~~a preliminary~~ an initial approval pursuant to the conditions set forth in subsection 5930a(c), followed by a final approval at a later date, before December 31 of the calendar year in which the economic activity commences.

Sec. 13. RETROACTIVE APPLICATION

Sec. 12 of this act shall apply retroactively to all applications received on or after January 1, 2007.

Sec. 14. 32 V.S.A. § 5930a is amended to read:

§ 5930a. VERMONT ECONOMIC PROGRESS COUNCIL

* * *

(b)(1) The Vermont economic progress council, within 60 days of receipt of a complete application, shall approve or deny the following economic incentives:

~~(1)(A)~~ tax stabilization agreements and exemptions under subdivision 5404a(a)(2) of this title;

~~(2) applications for allocation to municipalities of a portion of education grand list value and municipal liability from new economic development under subsection 5404a(e) of this title; and~~

~~(3)(B)~~ Vermont employment growth incentives (VEGI) under section 5930b of this title.

(2) All incentives are subject to application of the incentive ratio as determined under subdivision 5930b(b)(3) of this title and no tax stabilization agreement, or exemption or allocation shall be approved except in conjunction with the approval of an incentive under subdivision ~~(3)(1)(B)~~ of this subsection.

* * *

(d) The council shall apply the cost-benefit model in reviewing applications under subdivisions (b)(1), ~~(2), and (3)~~ (A) and (B) of this section to determine the net fiscal benefit to the state. The cost-benefit model shall be a uniform and comprehensive methodology for assessing and measuring the projected net fiscal benefit or cost to the state of proposed economic development activities. Any modification of the cost-benefit model shall be subject to the approval of the joint fiscal committee. The cost-benefit analysis shall include consideration of the effect of the passage of time and inflation on the value of multi-year fiscal benefits and costs.

(1) In determining the projected net fiscal benefit or cost of the incentives considered under ~~subdivisions~~ subdivision (b)(1) ~~and (2)(A)~~ of this section, the council shall calculate the net present value of the enhanced or forgone statewide education tax revenues, reflecting both direct and indirect economic activity. If the council approves an incentive pursuant to this section, the net fiscal costs, if any, to the state shall be counted as if all those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the annual authorization for such approvals established by the legislature for the applicable calendar year.

(2) In determining the projected net fiscal benefit or cost of the incentives considered under subdivision ~~(b)(3)~~ (b)(1)(B) of this section, the council shall calculate the net present value of the enhanced or forgone state tax revenues attributable to the incentives, reflecting both direct and indirect economic activity over the five-year award period. If the council approves an incentive, the net fiscal costs, if any, to the state shall be counted as if all of those costs occurred in the year in which the council first approved the incentive and that cost shall reduce the amount of the council's annual authorization for approval of economic incentives as established by the legislature for the applicable calendar year.

(e) Only a business may apply for approval under subdivision ~~(b)(3)~~ (b)(1)(B) of this section. A municipality and a business must apply jointly for

approval of a tax stabilization agreement pursuant to ~~subdivisions~~ subdivision (b)(1) ~~and (2)(A)~~ of this section.

* * *

Sec. 15. 32 V.S.A. § 5930b(f) is amended to read:

(f) The property of a business whose authority to earn, apply or retain incentives under this section has been revoked is ineligible for property tax stabilization under subdivision 5404a(a)(2) of this title ~~or allocation of property tax value under subsection 5404a(e) of this title for any education property tax grand list~~ after the date of revocation.

* * * Capitalization on Federal Stimulus Funding for Smart Grid,
Additional State Energy Grants, and Rural Electrification Grants * * *

Sec. 16. FEDERAL FUNDING FOR SMART GRID AND ENERGY
GRANTS; STATE COLLABORATION

It is the intent of the legislature that the department of public service, Vermont utilities, and other interested parties work collaboratively to ensure that Vermont capitalizes on all available funding allocated for research, workforce development, and projects relating to energy efficiency and electric generation, transmission, and distribution under Titles I and IV of Division A of the American Recovery and Reinvestment Act of 2009. Accordingly, to ensure that Vermont accesses and utilizes federal resources under the ARRA to the fullest extent possible:

(1) The department of public service shall investigate and pursue the opportunities for funding of electricity delivery and energy reliability research and projects to implement smart grid technologies, activities, and workforce training made available under Title IV of the ARRA.

(2) The department of public service shall generate a list of projects that are eligible for federal loan and grant funding available from the United States Departments of Agriculture and of Energy under the ARRA, identify the source of the grant funding, and identify the necessary steps for securing grant funds. The department shall work collaboratively with private utilities, additional government entities as necessary and appropriate, and other interested persons to design and submit grant applications that best position the state to capitalize on available funds.

(3) The governor, the department of public service, the public service board, and relevant state and local governmental entities shall take any and all steps necessary to implement the measures required under section 410 of the American Recovery and Reinvestment Act of 2009 to ensure that Vermont will

receive the maximum amount of additional state energy grants available from the United States Department of Energy under part D of Title III of the Energy Policy and Conservation Act.

* * * Legislative Priorities: ARRA Funds * * *

Sec. 17. LEGISLATIVE PRIORITIES FOR ARRA FUNDS

(a) With respect to federal monies potentially available to the state of Vermont as competitive funds under the ARRA, the general assembly establishes the following priorities as outlined in this section.

(b) Burlington International Airport (BTV). The general assembly recognizes the importance of maintaining and upgrading the programs and facilities at BTV, Vermont's primary commercial airport. BTV has an estimated economic impact of over one-half billion dollars annually. The general assembly finds that the development of the following list of planned airport projects is a legislative priority:

(1) A new aviation technical center facility.

(2) A new customs border protection office.

(3) The following three south-end taxiway projects:

(A) Completion of taxiway K connection from the new general aviation apron to the end of runway 33;

(B) Rehabilitation of portions of taxiways C and G and construction of a new intersection; and

(C) Completion of a parallel taxiway G from existing taxiway C to runway 1-19.

(4) The building of a green roof on the parking structure.

(c) Agriculture. Agriculture is one of the major drivers of the state's economy. For that reason, the general assembly recognizes the crucial role of agriculture in the state of Vermont and expresses the following priorities for federal funding that may become available through ARRA:

(1) The agency of agriculture, food and markets, Vermont agricultural credit corporation, and the Vermont housing and conservation board's farm viability program shall cooperate in seeking ARRA funding from the USDA Farm Service Agency, the USDA Rural Development Program, and other appropriate federal programs and shall prioritize applications for federal stimulus funding based on the goals established in this act. The agency shall further work to educate relevant entities about funding opportunities, provide

technical application assistance to priority applicants, and develop a single, common application to be used by applicants for agency funding.

(2) The following are specific agriculture priorities and include the state entities to which funding for these priorities should be directed:

(A) Stabilization of spring planting with loans through the Vermont agricultural credit corporation and the Vermont economic development authority.

(B) Support for in-state slaughter and processing facilities through grants and technical assistance from the agency of agriculture, food and markets.

(C) Funding for regional food hubs and dairy transition through the Vermont housing and conservation board farm viability program and support for the Vermont farm-to-plate investment program, established by Sec. 35 of this act, through the Vermont sustainable jobs fund.

(D) Environmental protection and energy conservation, including power modernization and methane digesters through grants and technical assistance from the agency of agriculture, food and markets.

(d) Municipal communications services. Since passage of an act relating to establishing the Vermont telecommunications authority and to advancing broadband and wireless communications infrastructure throughout the state of Vermont, No. 79 of the Acts of 2007, many Vermont towns and cities have affiliated themselves to promote, sponsor, develop, and provide a range of communications services to their respective inhabitants, governments, schools, and businesses. Through local volunteer initiatives, resources have been collected and directed toward the design, construction, operation, and management of publicly owned communications plants, with minimal dependency on the resources, finances, and credit of the state of Vermont. Access to various forms of public and private credit enhancement will assist towns and cities in further developing and constructing communications plant improvements through lower capital interest and financing costs. Under the ARRA, financial resources may be made available to the state that are suitable for application in assisting unserved municipalities in their communications goals. With respect to these local efforts and the federal stimulus monies, the general assembly establishes the following priorities:

(1)(A) The North-link project launched by Northern Enterprises, Inc. in 2007.

(B) The broadband initiative of East Central Vermont Community Fiber.

(C) Replacement of the Burke Mountain power line owned and operated by Vermont Public Television.

(2) To the extent possible, allocation of ARRA initiatives available to Vermont shall include direct and indirect credit enhancement assistance to unserved municipalities seeking capital to fund communications plant improvements.

(3) The development, promotion, construction, and operation of public communications plants in unserved areas is declared to be in the best interest of Vermont and an infrastructure priority among capital improvements eligible to receive benefits under the ARRA.

Sec. 18. SBA LOAN PROGRAMS; STIMULUS PROGRAMS

(a) Significant changes have been made to the Small Business Association (SBA) loan programs pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5. These changes create an opportune time for Vermont entrepreneurs seeking to start, expand, or acquire a small business. Time is of the essence, however, because the new opportunities created by ARRA will sunset at the end of 2009.

(b) The commissioner of economic development, in cooperation with the director of the Vermont district office of the United States SBA, shall work with small business lending companies such as the Vermont economic development authority, the Vermont small business development center, the Vermont bankers association, and the association of Vermont credit unions, to promote favorable SBA-loan program changes among potential borrowers.

(c) Some of the SBA-loan program changes under ARRA include a one-time opportunity at very low risk to lenders (90 percent guaranty) and very low cost for small businesses (no guarantee fee, prime at a low of 3.25 percent) to access lines of credit, contract financing (such as government contracts with the agency of transportation), export financing, and long-term fixed-asset financing of real estate and equipment.

Sec. 19. VIRTUALIZED INFORMATION TECHNOLOGY

INFRASTRUCTURE; STUDY

(a) The legislative director of information technology and the commissioner of the department of information and innovation shall issue a request for proposals no later than July 1, 2009 to evaluate the viability of cloud computing and other virtualized infrastructure options for the state's information technology infrastructure as it pertains to the use of e-mail, spreadsheets, word processing, and calendars in the legislative, executive, and judicial branches of government. Evaluations shall consider the following:

- (1) Current service level and scalability to future service needs;
- (2) Physical and virtual data security and recovery;
- (3) Potential for savings in software licensing and hardware investment in both the near and long term;
- (4) Opportunities for improved systems performance and capacity;
- (5) Specific vendors and relevant vendor policies; and
- (6) Potential for legal and regulatory obstacles.

(b) The legislative director of information technology and the commissioner of the department of information and innovation shall submit the proposals to the legislative information technology committee established under chapter 22 of Title 2 on or before January 15, 2010. The director and the commissioner are respectively authorized to implement virtualized information technology.

(c) This section supersedes any similar cloud-computing proposal in H.441 (2009).

Sec. 20. INITIATIVE TO BUILD A MEDIA AND FILM INDUSTRY IN

VERMONT

(a)(1) Given its unique blend of creative, cultural, and educational resources, Vermont currently has an opportunity to become a destination for a new media and film industry.

(2) Vermont is home to authors, filmmakers, producers, and young people concentrating their educational and professional development in the emerging fields of communications, multi-media and film production, graphic and digital design, and performing arts.

(3) Vermont's natural and seasonal beauty and the charm and character of its towns and regions equals or surpasses other potential destinations for the media and film industry, and these strengths position Vermont as an ideal location for filming and producing movies, television, commercials, and other media.

(4) Vermont is home to at least seven institutions of higher education that provide one or more degrees or certificate programs in media or film sectors, including Burlington College's cinema studies and film production program; Champlain College's communications and creative media division; the University of Vermont's film and television studies program; Marlboro College's undergraduate programs in media, visual, and performing arts; Bennington College's Visual Arts program; Johnson State's Fine and

Performing Arts programs; and Castleton State College's concentrations in communications, mass media, and digital media.

(b) Considering these substantial resources, it is the intent of the general assembly to encourage and promote the development of a strong and dynamic media and film sector within Vermont's creative economy.

(c) The Vermont film corporation, in collaboration with the Vermont film and media coalition and, to the extent possible, the faculty and students of Burlington College, Champlain College, the University of Vermont, Marlboro College, Bennington College, Johnson State, and Castleton State College, shall propose a program to develop a media and film sector within Vermont's economy. The corporation should consider the most beneficial role the state can play in supporting the media and film sector, and should consider grants, public-private partnerships, and other appropriate financing mechanisms in order to promote this sector of the creative economy and to retain young Vermonters currently supported by the communications, film, and media programs at Vermont colleges and universities.

(d) On or before January 30, 2010, the corporation is invited to deliver a presentation of its program proposal to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development.

* * * ARRA: Schools: Tax Credit Bond Financing * * *

Sec. 21. 16 V.S.A. chapter 125, subchapter 5 is added to read:

Subchapter 5. Tax-Credit Bond Financing

§ 3597. TAX-CREDIT BOND FINANCING; QUALIFIED SCHOOL

ACADEMY ZONES; QUALIFIED SCHOOL CONSTRUCTION

BONDS

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, expanded existing and created new tax-credit bond programs available to public schools. Accordingly, school districts are authorized to issue bonds to finance public school building construction and rehabilitation, the purchase of equipment, the development of course materials, and teacher and personnel training, consistent with sections 1397E and 54F of the Internal Revenue Code, pertaining to qualified school academy zones and qualified school construction bonds.

* * * School Construction: ARRA Funds * * *

Sec. 22. Sec. 45(b) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

(b)(1) Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, if a school district declares its intent to pay for the cost of a school construction project without state aid provided pursuant to chapter 123 of Title 16 and has received voter approval for the project on or after March 7, 2007, then the commissioner of education shall review the project as a preliminary application upon the district's request. In this case, the commissioner shall use the standards and processes of chapter 123 for determining preliminary approval, and shall deduct the portion of education spending that is approved from the calculation of excess spending under 32 V.S.A. § 5401(12). Preliminary approval received pursuant to this subsection is to be used solely for purposes of:

(A) calculating whether the district has exceeded the excess spending threshold ~~and neither; or~~

(B) enabling the district to proceed with a project using funds other than those provided under chapter 123 of Title 16, or both.

(2) Neither preliminary approval nor the provision of technical assistance indicates that the district will receive state aid for school construction or preliminary approval for that aid when school construction aid is again available. Notwithstanding subsection (a) of Sec. 36 of No. 52 of the Acts of 2007, upon the request of the district, the department shall provide technical assistance regarding the planning and implementation of school renovation and construction.

* * * Microbusiness and Entrepreneurship * * *

Sec. 23. MICROBUSINESS; ARRA FUNDS

It is the intent of the general assembly to enhance the individual development account program and the microbusiness development program currently administered by the office of economic opportunity using funds available through federal allocations and competitive grants available under Title VIII of the ARRA.

Sec. 24. ECONOMIC OPPORTUNITY STUDIES AND COLLABORATION

The office of economic opportunity and a designee of the community action agency directors' association shall conduct a joint study of possible tools to promote the success of individual development accounts and the microbusiness development program. The study shall evaluate:

(1) Innovative microenterprise development funding models to identify ways to fill existing gaps in start-up capital.

(2) A guarantee program or interest buy-down program that encourages private banks to make longer-term, lower-interest fixed rate loans to Community Development Financial Institutions (CDFIs).

(3) A tax credit to businesses and individuals that donate funds to microenterprise development programs or IDA matched savings and financial education programs, under which the department of economic development would administer tax credits totaling 75 percent of the value of each donation to recognized qualified organizations with an annual statewide maximum for tax credits of \$500,000.00 for contributions.

(4) A policy for collaboration with the Vermont treasurer's office to utilize financial education funding for credit counseling and education.

(5) The feasibility of a first-year tax credit to microenterprises, and a credit or grant to self-employed persons for first-time employee hiring to ease the workers' compensation burden.

(6) The most effective strategy to link the department of education with other public and private efforts to develop and support microbusiness.

(7) The most effective means for reporting to the house committee on commerce and economic development, the house committee on human services, and other committees as appropriate, to ensure sufficient oversight by the legislature over whether funding is serving low income Vermonters and meeting stated economic development and human service goals.

* * * Entrepreneurs' Seed Capital Fund * * *

Sec. 25. 10 V.S.A. chapter 14A is amended to read:

CHAPTER 14A. ~~THE VERMONT~~ ENTREPRENEURS'

SEED CAPITAL FUND

§ 290. DEFINITIONS

For purposes of this chapter:

(1) "Follow-on investment" means any investment in a Vermont firm following the initial investment.

(2) "Fund manager" means the investment management firm responsible for creating the fund, securing capital commitments, and implementing the fund's investment strategy, consistent with the requirements of this section. The fund manager shall be paid a fee which reflects a percentage of the fund's

capital under management and a performance-fee share based on the fund's economic performance, as determined by the authority.

(3) "Seed capital" means first, nonfamily, nonfounder investment in the form of equity or convertible securities issued by a firm which had, in the 12 months preceding the date of the funding commitment, annual gross sales of less than \$3,000,000.00.

§ 291. ~~VERMONT~~ ENTREPRENEURS' SEED CAPITAL FUND;

AUTHORIZATION; LIMITATIONS

(a) The Vermont economic development authority shall cause to be formed a private investment equity fund to be named "the ~~Vermont~~ entrepreneurs' seed capital fund" or "the fund" ~~is authorized~~ for the purpose of increasing the amount of investment capital provided to new Vermont firms or to existing Vermont firms for the purpose of expansion. The authority may contract with one or more persons for the operation of the fund as fund manager. Such contract shall contain the terms and conditions pursuant to which the fund shall be managed to meet the fund's objective of providing seed capital to Vermont firms. The terms of the contract shall require that, if the fund manager does not meet the investment criteria specified in the contract, the fund manager may not be awarded the performance fee established under subdivision (c)(2) of this section.

(b) The ~~Vermont seed capital~~ fund shall be formed as ~~either a business corporation or a limited partnership pursuant to Title 11 and shall be subject to all the following:~~

(1) The ~~Vermont seed capital~~ fund shall not invest in any firm in which ~~a total of more than a 25 percent~~ any interest in that firm is held by an investor of the ~~Vermont seed capital~~ fund ~~combined with any interest held in the firm or by the spouse or dependent, children, or other relative of the investor.~~

(2) The fund shall invest at least 40 percent of its total capital in initial investment in firms which had in the 12 months preceding the date of the funding commitment annual gross sales of less than \$1,000,000.00 and may reserve the remainder of its capital for follow-on investments in these businesses, as appropriate.

(3) Before the fund makes any investments, the fund shall:

(A) ~~If organized as a corporation, have and thereafter maintain a board of nine directors to be elected by the shareholders.~~

(B) ~~If organized as a partnership, have and maintain a board of three~~ five advisors who shall be appointed by the authority as follows: two shall be

appointed by the authority, two shall be appointed by the fund manager, and one shall be appointed jointly by the authority and the fund manager. The board of advisors shall represent solely the economic interest of the state with respect to the management of the fund and shall have no civil liability for the financial performance of the fund. The board of advisors shall be advised of investments made by the fund and shall have access to all information held by the fund with respect to investments made by the fund.

~~(3)(4)~~ The Vermont seed capital fund, within 120 days after the close of each fiscal year of its operations, shall issue a report that includes an audited financial statement certified by an independent certified public accountant. The report also shall include a compilation of the firm data required by subsection (d) of this section. These data shall be reported in a manner that does not disclose competitive or proprietary information, as determined by the authority. This report shall be distributed to the governor and the legislative council senate committee on economic development, housing and general affairs and the house committee on commerce and economic development and made available to the public. The report shall include a discussion of the fund's impact on the Vermont economy and employment.

~~(4)(5)~~ The Vermont seed capital fund shall not make distributions of more than 75 percent of its net profit to its investors during its first five years of operation.

~~(5)(6)~~ No person shall be allocated more than 40 20 percent of the available tax credits. For the purposes of determining allocation, the attribution rules of Section 318 of the Internal Revenue Code in effect as of the effective date of this chapter shall apply.

~~(6)(7)~~ The capitalization of the fund is not limited under this section; however, only the first \$5 \$7,150,000.00 of capitalization of the Vermont seed capital fund raised from Vermont taxpayers on or before January 1, 2014 2020, shall be eligible for partial tax credits as specified in 32 V.S.A. § 5830b.

~~(7)(8)~~ All investments and related business dealings using funds that qualify for partial tax credits under 32 V.S.A. § 5830b shall be subject to the following restrictions:

(A) The investments shall be restricted to Vermont firms, which for the purposes of this chapter means that their Vermont apportionment equals or exceeds 50 percent, using the apportionment rules under 32 V.S.A. § 5833, and they maintain headquarters and a principal facility in Vermont. Any funds invested in Vermont firms shall be used for the purpose of enhancing their Vermont ~~investments~~ operations. Investment shall be restricted to firms that export the majority of their products and services outside the state or add

substantial value to products and materials within the state. In its investments, the fund shall give priority to new firms and existing firms that are developing new products, and shall take into consideration any impact on in-state competition and also whether the investment will encourage economic activity that would not occur but for the fund investment.

(B) Each ~~Vermont seed capital~~ fund investment in any one firm, in any 12-month period shall be limited to a maximum of ten percent of the ~~Vermont seed capital~~ fund's capitalization and, for the life of the fund, to a maximum of 20 percent of the fund's total capitalization.

(C) At least two-thirds of the monies invested by the ~~Vermont seed capital~~ fund and qualifying for a tax credit under 32 V.S.A. § 5830b shall at all times be invested in the form of equity or convertible securities. ~~This provision shall not prohibit~~ unless the fund manager determines it is reasonable and necessary to pursue temporarily the generally accepted business practice of earning interest on working funds deposited in relatively secure accounts such as savings and money market funds.

(c) Any firm receiving monies from the fund must report to the fund manager the following information regarding its activities in the state over the calendar year in which the investment occurred:

(1) The total amount of private investment received.

(2) The total number of persons employed as of December 31.

(3) The total number of jobs created and retained, which also shall indicate for each job the corresponding job classification, hourly wage and benefits, and whether it is part-time or full-time.

(4) Total annual payroll.

(5) Total sales revenue.

(d) The authority, in consultation with the fund manager, shall establish reasonable standards and procedures for evaluating potential recipients of fund monies. The authority shall make available to the general public a report of all firms that receive fund investments and also indicate the date of the investment, the amount of the investment, and a description of the firm's intended use of the investment. This report shall be updated at least quarterly.

(e) Information and materials submitted by a business receiving monies from the fund shall be available to the auditor of accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the auditor of accounts shall not disclose, directly or indirectly, to any person any proprietary business information.

Sec. 26. REPEAL

10 V.S.A. § 292 (providing for the initial organization of the Vermont seed capital fund) is repealed.

Sec. 27. 32 V.S.A. § 5830b is amended to read:

§ 5830b. TAX CREDITS; ~~VERMONT~~ ENTREPRENEURS' SEED
CAPITAL FUND

(a) The initial capitalization of the ~~Vermont entrepreneurs'~~ seed capital fund ~~comprising a maximum \$5 million~~, as established in 10 V.S.A. § 291, up to \$7,150,000.00 raised from Vermont taxpayers on or before January 1, ~~2014~~ 2020, shall entitle those taxpayers to a credit against the tax imposed by sections 5822, 5832, 5836, or 8551 of this title and by 8 V.S.A. § 6014. The credit may be claimed for the taxable year in which a contribution is made and each of the four succeeding taxable years. The amount of the credit for each year shall be the lesser of four percent of the taxpayer's contribution or 50 percent of the taxpayer's tax liability for that taxable year prior to the allowance of this credit; provided, however, that in no event shall the aggregate credit allowable under this section for all taxable years exceed 20 percent of the taxpayer's contribution to the initial ~~\$5 million~~ \$7,150,000.00 capitalization of the ~~Vermont seed capital~~ fund. The credit shall be nontransferable except as provided in subsection (b) of this section.

(b) If the taxpayer disposes of an interest in the ~~Vermont seed capital~~ fund within four years after the date on which the taxpayer acquired that interest, any unused credit attributable to the disposed-of interest is disallowed. This disallowance does not apply in the event of an involuntary transfer of the interest, including a transfer at death to any heir, devisee, legatee, or trustee, or in the event of a transfer without consideration to or in trust for the benefit of the taxpayer or one or more persons related to the taxpayer as spouse, descendant, parent, grandparent, or child.

* * * Technology Loan Program * * *

Sec. 28. 10 V.S.A. chapter 12, subchapter 12 is added to read:

Subchapter 12. Technology Loan Program

§ 280aa. FINDINGS AND PURPOSE

(a) Technology-based companies are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of this increasingly important sector of Vermont's economy is dependent upon the availability of flexible, risk-based capital. Because the primary assets of technology-based companies sometimes consist almost

entirely of intellectual property, such companies frequently do not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of technology-based companies and the resultant creation of high-wage employment in Vermont, a technology loan program is established under this subchapter.

§ 280bb. TECHNOLOGY LOAN PROGRAM

There is created a technology (TECH) loan program to be administered by the Vermont economic development authority. The program shall seek to meet the working capital and capital-asset financing needs of technology-based companies. The Vermont economic development authority shall establish such policies and procedures for the program as are necessary to carry out the purposes of this subchapter. The authority's lending criteria shall include consideration of in-state competition and whether a company has made reasonable efforts to secure capital in the private sector.

* * * Downtown and Village Center Tax Credits * * *

Sec. 29. 32 V.S.A. § 5930ee is amended as follows:

§ 5930ee. LIMITATIONS

Beginning in fiscal year ~~2008~~ 2010 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$1,600,000.00~~ \$1,700,000.00.

* * *

* * * Licensed Lender Study * * *

Sec. 30. STUDY ON THE APPLICATION OF VERMONT'S LICENSED-LENDER REQUIREMENTS TO CERTAIN COMMERCIAL LENDING PRACTICES

(a) The commissioner of banking, insurance, securities, and health care administration shall convene a work group to recommend amendments to Vermont's licensed-lender laws, chapter 73 of Title 8, for the purpose of facilitating limited instances of high-risk, secured commercial lending by specialized persons such as venture capital firms, individuals, and partnerships. The work group shall consider proposals such as a limited exemption or an expedited registration process that permits capital investments in and secure commercial loans to technology firms, in a responsible manner.

(b) Members of the work group shall include representatives from the Vermont Bankers Association, the Vermont Bar Association, the department of economic development, the Vermont economic development authority, and the entrepreneurial industry sector of Vermont.

(c) The commissioner shall report the work group's recommendations to the senate committees on economic development, housing and general affairs and on finance and the house committee on commerce and economic development no later than January 1, 2010.

* * * Minimum Wage * * *

Sec. 31. 21 V.S.A. § 384 is amended to read:

§ 384. ~~PROHIBITION OF EMPLOYMENT;~~ WAGES

(a) An employer shall not employ an employee at a rate of less than \$7.25, and, beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than \$3.65 an hour, and beginning January 1, 2008, and on each January 1 thereafter, this basic tip wage rate shall be increased at the same percentage rate as the minimum wage rate. For the purposes of this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the United States government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the United States government.

(b) Notwithstanding subsection (a) of this section, an employer shall not pay an employee less than one and one-half times the regular wage rate for any work done by the employee in excess of 40 hours during a workweek. However, this subsection shall not apply to:

(1) Employees of any retail or service establishment. A "retail or service establishment" means an establishment 75 percent of whose annual volume of sales of goods or services, or of both, is not for resale and is recognized as retail sales or services in the particular industry.

(2) Employees of an establishment which is an amusement or recreational establishment, if:

(A) it does not operate for more than seven months in any calendar year, or

(B) during the preceding calendar year its average receipts for any six months of that year were not more than one-third of its average receipts for the other six months of the year.

(3) Employees of an establishment which is a hotel, motel, or restaurant.

(4) Employees of hospitals, public health centers, nursing homes, maternity homes, therapeutic community residences, and residential care homes as those terms are defined in Title 18, provided:

(A) the employer pays the employee on a biweekly basis; and

(B) the employer files an election to be governed by this section with the commissioner; and

(C) the employee receives not less than one and one-half times the regular wage rate for any work done by the employee:

(i) in excess of eight hours for any workday; or

(ii) in excess of 80 hours for any biweekly period.

(5) Those employees of a business engaged in the transportation of persons or property to whom the overtime provisions of the Federal Fair Labor Standards Act do not apply, but shall apply to all other employees of such businesses.

(6) Those employees of a political subdivision of this state.

(7) State employees; who ~~shall be~~ are covered by the U.S. Federal Fair Labor Standards Act.

(c) However, an employer may deduct from the rates required in subsections (a) and (b) of this section the amounts for board, lodging, apparel, rent, or utilities paid or furnished or other items or services or such other conditions or circumstances as may be usual in a particular employer-employee relationship, including gratuities as determined by the wage order made under this subchapter.

* * * State Contracts: Compliance with State and Federal Laws * * *

Sec. 32. WORKERS' COMPENSATION; STATE CONTRACTS;

COMPLIANCE WITH DAVIS-BACON

(a) The agencies of administration and transportation shall establish procedures to assure that state contracting procedures and contracts are designed to minimize the incidents of miscoding of employees in NCCI job codes and misclassification of the status of workers as independent contractors rather than employees by state contractors on projects with a total project cost of more than \$250,000.00 by requiring those contractors to provide, at a minimum, all the following:

(1) Detailed information including information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees requested by the applicable agency. This information shall be included with the project bid.

(2) A list of subcontractors on the job along with lists of the subcontractor's subcontractors and by whom those subcontractors are insured for workers' compensation purposes. For purposes of this subsection and subdivision (3) of this subsection, subcontractors do not include entities that provide supplies only and no labor to the overall contract or project.

(3) For construction and transportation projects over \$250,000.00, a payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information and similar information for the subcontractors regarding their subcontractors shall also be provided to the department of labor and to the department of banking, insurance, securities, and health care administration, upon request.

(4) For all other state contracts not otherwise covered under subdivision (3) of this subsection, the information required under subdivision (3) shall only be required upon request of the agencies or departments.

(5) Any contract provisions or procedures designed to minimize instances of misclassification through enhanced reporting and greater transparency may be flexibly designed to account for the size of the contract, contractor, and subcontractor.

(b) The agencies shall require by rule or by procedure that any contractor that violates classification requirements shall be prohibited or restricted from bidding on future state contracts for a period of time that corresponds to the

seriousness of the classification violation. The rules or procedures shall also provide for an appeal process from any such prohibition or restriction consistent with existing law.

(c) The agencies shall assure that any state contract funded in whole or in part with American Recovery and Reinvestment Act of 2009 (ARRA) monies shall comply with the payment of Davis-Bacon wages when required by ARRA. However, in the event the applicable Davis-Bacon wages in any county have not been updated in the previous three years, the minimum state required wage for a state contract subject to Davis-Bacon wages under ARRA shall be that of the Vermont county that has most recently updated its applicable Davis-Bacon wages, provided this provision does not result in the loss of ARRA funds and is not otherwise contrary to federal law.

Sec. 33. ARRA AND UNEMPLOYMENT INSURANCE

(a) The American Recovery and Reinvestment Act of 2009 (ARRA), Pub.L. No. 111-5, authorizes the federal government to transfer up to \$13,918,000.00 into Vermont's unemployment insurance (UI) trust fund for UI modernization incentive payments.

(b) Vermont already qualifies for one-third of its allotted incentive payments because the state allows for the use of an alternative base period in determining UI eligibility. In order to qualify for the remaining two-thirds of its allotted incentive payments, Vermont's UI program must meet two of four expanded-coverage requirements.

(c) The state already meets one expanded-coverage requirement: namely, coverage of part-time workers. It is the intent of the general assembly to adopt one additional expanded-coverage requirement, namely the training program specified in Sec. 34 of this act, and to apply to the secretary of the United States Department of Labor for certification of UI modernization so that the state may receive its remaining allotment of incentive payments.

Sec. 34. 21 V.S.A. § 1423b is added to read:

§ 1423b. EXTENDED BENEFITS; APPROVED TRAINING PROGRAMS

(a) An individual who is otherwise eligible for benefits under this chapter, but who has exhausted his or her maximum benefit amount under section 1340 of this chapter shall be entitled to an additional 26 weeks of benefits in the same amount as the weekly benefit amount established in the individual's most recent benefit year if the individual is enrolled in and making satisfactory progress in a state-approved training program as defined in subsection (b) of this section.

(b) A state-approved training program is any training program or job training program that meets all of the following criteria:

(1) It is authorized by the Workforce Investment Act of 1998, Pub. L. No. 105-220.

(2) It is designed to assist individuals who have been separated from a declining occupation or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment.

(3) It is designed to train the individual for entry into a high-demand occupation.

Sec. 35. 10 V.S.A. § 330 is added to read:

§ 330. THE FARM-TO-PLATE INVESTMENT PROGRAM; CREATION;
GOALS; TASKS; METHODS

(a) Creation.

(1) The sustainable jobs fund program in consultation with the Vermont sustainable agriculture council shall establish the Vermont farm-to-plate investment program to fulfill the goals and carry out the tasks described in this section.

(2) If at least \$100,000.00 in funding is not made available for the purpose of this section, the sustainable jobs fund program is encouraged but no longer required to fulfill the provisions of this section.

(b) Goals. The goals of the farm-to-plate investment program are to:

(1) Increase economic development in Vermont's food and farm sector.

(2) Create jobs in the food and farm economy.

(3) Improve access to healthy local foods.

(c) Tasks.

(1) By June 30, 2010, the Vermont farm-to-plate investment program shall create a strategic plan for agricultural economic development, which may be periodically reviewed and updated, based upon the following:

(A) Inventory Vermont's food system infrastructure by gathering existing data, studies, and analysis about the components of Vermont's food system, including:

(i) The types of foods produced in Vermont, the number of producers of each type of food, the amount of each type of food produced, and the financial viability of each food-producing sector.

(ii) The types of food processors in Vermont, how much food produced in Vermont is purchased by Vermont processors, and the financial viability of the food processing sector in Vermont.

(iii) The current and potential markets in which Vermont food producers and processors can sell their products.

(iv) The extent of existing agricultural lands that could be expanded and the resources available to expand Vermont's food production.

(v) The potential for new farmers and food processors to enter the local food economy, the methods for new farmers to acquire land and other farm infrastructure, and the availability and barriers to farm and processing labor.

(vi) The potential for entirely new local products and the barriers to farmers and processors entering new markets.

(B) Identify gaps in the infrastructure and distribution systems and identify ways to address these gaps.

(2) The Vermont farm-to-plate investment program shall seek grant funding to support farm-to-table direct marketing, including farmers' markets and community-supported agriculture operations and to support regional community food hubs.

(3) As an ongoing task, the farm-to-plate investment program shall use the information gathered for the strategic plan to identify methods and the funding necessary to strengthen the links among producers, processors, and markets, including:

(A) Support of the work of existing farm-to-school programs to increase the purchase of local foods by Vermont schools, with a particular emphasis on procurement of nutrient-dense animal foods.

(B) Collaborating with the agency of agriculture, food and markets and the department of buildings and general services to increase procurement of local foods in accordance with 6 V.S.A. § 4601.

(C) Collaborating with the agency of agriculture, food and markets and the sustainable agriculture council to increase procurement of local foods by businesses and institutions.

(D) Supporting initiatives that improve direct marketing of foods from the farm to the consumer.

(E) Informing agricultural lenders of the information collected under subdivision (c)(1) of this subsection in order to facilitate availability of agricultural financing.

(d) Methods. To accomplish the goals and carry out the ongoing tasks stated in this section, the Vermont farm-to-plate investment program may:

(1) Create an advisory panel with representatives from the agricultural and business communities.

(2) Hire or assign staff.

(3) Seek and accept funds from private and public entities.

(4) Utilize technical assistance, loans, grants, or other means approved by the board.

(e) In fiscal year 2010, the amount of \$100,000.00 shall be appropriated from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, to the Vermont sustainable jobs fund program established in 10 V.S.A. § 328 to be used solely for the farm-to-plate investment program established under this section.

Sec. 36. 10 V.S.A. § 329 is amended to read:

§ 329. ANNUAL REPORT

Prior to January 31 of each year, the corporation formed under section 328 of this title shall submit a report concerning its activities to the governor and the legislative committees on commerce, general affairs, natural resources, ways and means, finance, institutions, and appropriations. The report shall include the following information:

* * *

(5) A summary of work completed in the farm-to-plate investment program, including progress toward meeting the program goals, information regarding any advisory panel meetings, an accounting of all revenues and expenses related to the program, and recommendations regarding future program activity. The report shall also include information regarding the status of state government procurement of local foods.

* * * Municipal Full Faith and Credit for Bonds * * *

Sec. 37. 24 V.S.A. § 1898(b) is amended to read:

(b) A municipality shall have power to issue from time to time general obligation ~~and bonds~~, revenue bonds ~~from time to time~~, or revenue bonds also backed by the municipality's full faith and credit in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one or more years from any net increase in the aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

Sec. 38. SMALL-SCALE HYDROELECTRIC; FINDINGS

The general assembly finds and declares that:

(1) The generation of renewable power within Vermont is critical to the economic development, energy independence, and financial security of the state.

(2) Section 401 of the federal Clean Water Act, 33 U.S.C. § 1341, requires any applicant for a federal permit that may involve a discharge to navigable waters to obtain certification from the state that the permitted activity does not violate the state's water quality standards.

(3) As set forth in 10 V.S.A. § 1004, the secretary of natural resources is

the agent that the U.S. Environmental Protection Agency delegated to conduct Clean Water Act § 401 certifications in the state of Vermont.

(4) The secretary of natural resources should be required to adopt procedures establishing an application process for certification of hydroelectric projects in a timely manner that allows for the predictable and affordable development of small-scale hydroelectric power projects.

Sec. 39. 10 V.S.A. § 1006 is added to read:

§ 1006. CERTIFICATION OF HYDROELECTRIC PROJECTS;

APPLICATION PROCESS

(a) As used in this section:

(1) “Bypass reach” means that area in a waterway between the initial point where water has been diverted through turbines or other mechanical means for the purpose of water-powered generation of electricity and the point at which water is released into the waterway below the turbines or other mechanical means of electricity generation.

(2) “Conduit” means any tunnel, canal, pipeline, aqueduct, flume, ditch, or similar constructed water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(3) “Hydroelectric project” means a facility, site, or conduit planned or operated for the generation of water-powered electricity that has a generation capacity of no more than 1 megawatt and does not create a new impoundment.

(4) “Impoundment” means “riverine impoundment” as defined in the Vermont water quality standards adopted pursuant to chapter 47 and section 6025(d)(3) of this title.

(b) On or before December 15, 2009, the agency of natural resources, after opportunity for public review and comment, shall adopt by procedure an application process for the certification of hydroelectric projects in Vermont under Section 401 of the federal Clean Water Act.

(c) The application process adopted by the agency of natural resources under subsection (b) of this section may include an application form for a federal Clean Water Act Section 401 certification for a hydroelectric project that meets the requirements of the Vermont water pollution control permit rules. The application form may require information addressing:

(1) a description of the proposed hydroelectric project and the impact of the project on the watershed;

(2) the preliminary terms and conditions that an applicant shall be subject to if a federal Clean Water Act Section 401 certification is issued for a proposed hydroelectric project; and

(3) time frames for the agency of natural resources review of and response to an application for a federal Clean Water Act Section 401 certification of a hydroelectric project.

(d) In adopting the Clean Water Act Section 401 certification application process required by subsection (b) of this section, the agency may, consistent with its authority to waive certifications under 33 U.S.C. § 1341(a)(1), adopt an expedited certification process for:

(1) hydroelectric projects when data provided by an applicant provide reasonable assurance that the project will comply with the state water quality standards;

(2) hydroelectric projects utilizing conduits; hydroelectric projects without a bypass reach; and hydroelectric projects with a de minimis bypass reach, as defined by the agency of natural resources; and

(3) previously certified hydroelectric projects operating in compliance with the terms of a Clean Water Act Section 401 certification as demonstrated by existing administrative, monitoring, reporting, or enforcement data.

Sec. 40. AGENCY OF NATURAL RESOURCES REPORT ON APPLICATION PROCESS FOR CERTIFICATIONS OF HYDROELECTRIC PROJECTS

On or before January 15, 2010, the agency of natural resources shall submit to the senate committee on economic development, housing and general affairs, the house committee on commerce and economic development, the house committee on fish, wildlife and water resources, and the house and senate committees on natural resources and energy a copy of the application process required under 10 V.S.A. § 1006 for the certification of hydroelectric projects.

Sec. 41. STORMWATER; IMPAIRED WATERS; EXTENSION OF SUNSET

Sec. 10 of No. 140 of the Acts of the 2003 Adj. Sess. (2004), as amended by Sec. 8 of No. 154 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 3 of No. 43 of the Acts of 2007, is further amended to read:

Sec. 10. SUNSET

(a) Sec. 2 of this act (interim permitting authority for regulated stormwater

runoff), except for subsection 1264a(e) of Title 10, shall be repealed on January 15, ~~2010~~ 2012.

(b) Sec. 4 of this act (local communities implementation fund) shall be repealed on September 30, 2012.

(c) Sec. 6 of this act (stormwater discharge permits during transition period) shall be repealed on January 15, ~~2010~~ 2012.

Sec. 42. [Omitted]

Sec. 43. ALTERNATIVE GUIDANCE FOR STORMWATER

PERMITTING; WIND FACILITIES

To facilitate responsible development of renewable energy projects in high-elevation settings, the Vermont department of environmental conservation shall consult with project developers and interested stakeholders and, by January 15, 2010 or in the process currently under way to update the Vermont stormwater management manual, whichever occurs first, amend its rules or the stormwater management manual, pursuant to chapter 25 of Title 3, to include alternative guidance for operational-phase stormwater permitting of renewable energy projects located in high-elevation settings. Such alternative guidance shall include consideration of measures that minimize the extent and footprint of stormwater-treatment practices so as to preserve vegetation and trees and limit disturbances; that reflect the fragile ecosystems, shallow soils, and sensitive streams found in high-elevation settings; and that reflect the temporary nature and infrequent use of construction and access roads to such projects.

* * * Telecommunications Permitting * * *

Sec. 44. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR ~~MULTIPLE~~

COMMUNICATIONS FACILITIES

(a) Notwithstanding any other provision of law, if the applicant ~~in a single application~~ seeks approval for the construction or installation ~~within three years of three or more~~ telecommunications facilities ~~as part of an interconnected network~~ that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the public service board under this section, which the board may grant if it finds that the facilities will promote the general good of the state consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities.

(b) For the purposes of this section:

(1) “Telecommunications facility” means ~~any~~ a communications facility that transmits and receives signals to and from a local, state, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or state purposes and any associated support structure extending more than 50 feet above the ground that is proposed for construction or installation which is primarily for communications purposes and which supports facilities that transmit and receive communications signals for commercial, industrial, municipal, county, or state purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure.

(2) ~~Telecommunications facilities are “part of an interconnected network” if those facilities would allow one or more communications services to be provided throughout a contiguous area of coverage created by means of the proposed facilities or by means of the proposed facilities in combination with other facilities already in existence~~ An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

(c) Before the public service board issues a certificate of public good under this section, it shall find that, ~~in the aggregate:~~

(1) ~~the~~ The ~~proposed facilities~~ facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, with due consideration having been given to the relevant criteria specified in subsection 1424a(d) and subdivisions 6086(a)(1) through (8) and (9)(K) of Title 10; ~~and.~~

(2) ~~unless~~ Unless there is good cause to find otherwise, substantial deference has been given to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located.

(d) When issuing a certificate of public good under this section, the board shall give due consideration to all conditions in an existing state or local permit and shall harmonize the conditions in the certificate of public good with the existing permit conditions to the extent feasible.

(e) No less than 45 days prior to filing a petition for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the secretary of the agency of natural resources; the commissioner of the department of public service and its director for public advocacy; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. Upon motion or otherwise, the public service board shall direct that further public or personal notice be provided if the board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(f) Unless the public service board identifies that an application raises a ~~substantial~~ significant issue, the board shall issue a final determination on an application filed pursuant to this section within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If the board rules that an application raises a ~~substantial~~ significant issue, it shall issue a final determination on an application filed pursuant to this section within 180 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 180 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(g) Nothing in this section shall be construed to prohibit an applicant from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(h) An applicant using the procedures provided in this section shall not be required to obtain a ~~local zoning~~ permit or a permit amendment or other approval under the provisions of chapter 117 of Title 24 or chapter 151 of Title 10 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. Ordinances adopted pursuant to subdivision 2291(19) of Title 24 or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section are preempted. Disputes over jurisdiction under this section shall be resolved by the public service board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or chapter 151 of Title 10 for the

construction of a telecommunications facility may not apply for approval from the board for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

(i) Effective July 1, ~~2010~~ 2011, no new applications for certificates of public good under this section may be considered by the board.

(j)(1) Minor applications. The board may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings required by any provision other than subdivision (2) of this subsection if the board finds that such facilities will be of limited size and scope, and the petition does not raise a significant issue with respect to the substantive criteria of this section. If an applicant requests approval of multiple telecommunications facilities in a single application under this section, the board may issue a certificate of public good in accordance with the provisions of this subsection for all or some of the telecommunications facilities described in the petition.

(2)(A) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition, and provide notice and a copy of the petition, proposed certificate of public good, and proposed findings of fact to the commissioner of the department of public service and its director for public advocacy, the secretary of the agency of natural resources, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. The applicant shall give written notice of the proposed certificate to the landowners of record of property adjoining the project site or sites unless the board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the board within 21 days of the notice on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the board finds that a petition raises a significant issue with respect to the substantive criteria of this section, the board shall hear evidence on any such issue.

(B) Any waiver or modification of notice to adjoining landowners under this subsection shall be based on a determination that the landowners subject to the waiver or modification could not reasonably be affected by one or more of the proposed facilities, and that notice to such landowners would constitute a significant administrative burden without corresponding public benefit.

(C) If the board accepts a request to consider an application under the procedures of this subsection, then unless the public service board subsequently determines that an application raises a significant issue, the board shall issue a final determination on an application filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 45 days of the date on which the clerk of the board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection within 90 days of its filing or, if the original filing did not substantially comply with the public service board's rules, within 90 days of the date on which the clerk of the board notifies the applicant that the filing is complete.

(D) If the board denies a request to consider an application under the procedures of this subsection, a filing made under this subsection that the board has found to be complete shall be deemed to satisfy notice requirements of subsection (e) of this section, and the periods stated under subsection (f) of this section shall run from the date of the board's denial of such request.

(k) The public service board may issue rules or orders implementing and interpreting this section. In developing such rules and orders, the board shall seek to simplify the application and review process as appropriate and may by rule or order waive the requirements of this section that the board determines are not applicable to telecommunications facilities of limited size or scope. Determination by the board that a petition raises a substantial issue with regard to one or more substantive criteria of this section shall not prevent the board from waiving other substantive criteria that it has determined are not applicable to such a telecommunications facility.

Sec. 45. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation of antennae that are part of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal bylaw review approval under this chapter when and to the extent jurisdiction is assumed by the public service board according to the provisions of that section.

Sec. 46. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

* * *

(l) A district commission may reject an application under this chapter that misrepresents any material fact and may after notice and opportunity for hearing award reasonable attorney's fees and costs to any party or person who

may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 47. 24 V.S.A. § 4455 is added to read:

§ 4455. REVOCATION

On petition by the municipality and after notice and opportunity for hearing, the environmental court may revoke a municipal land use permit issued under this chapter, including a permit for a telecommunications facility, on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.

Sec. 48. 24 V.S.A. § 4470a is added to read:

§ 4470a. MISREPRESENTATION; MATERIAL FACT

An administrative officer or appropriate municipal panel may reject an application under this chapter, including an application for a telecommunications facility, that misrepresents any material fact. After notice and opportunity for hearing in compliance with section 809 of Title 3, an appropriate municipal panel may award reasonable attorney's fees and costs to any party or person who may have become a party but for the false or misleading information or who has incurred attorney's fees or costs in connection with the application.

Sec. 49. 30 V.S.A. § 202c is amended to read:

§ 202c. STATE TELECOMMUNICATIONS; POLICY AND PLANNING

(a) The general assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the state improved communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) Strengthen the state's role in telecommunications planning.

(2) Support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data.

(3) Support the availability of modern mobile wireless telecommunications services along the state's travel corridors and in the state's communities.

(4) Provide for high-quality, reliable telecommunications services for Vermont businesses and residents.

(5) Provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses.

(6) Support competitive choice for consumers among telecommunications service providers.

(7) Support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the state.

(8) Support, to the extent practical and cost-effective, deployment of broadband infrastructure that:

(A) Uses the best commercially available technology.

(B) Does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

Sec. 50. 30 V.S.A. § 8060 is amended to read:

§ 8060. LEGISLATIVE FINDINGS AND PURPOSE

(a) The general assembly finds that:

(1) The availability of mobile telecommunications and broadband services is essential for promoting the economic development of the state, the education of its young people and life-long learning, the delivery of cost-effective health care, the public safety, and the ability of citizens to participate fully in society and civic life.

(2) Private entities have brought mobile telecommunications and broadband services to many households, businesses and locations in the state, but significant gaps remain.

(3) A new level of creative and innovative strategies (including partnerships and collaborations among and between state entities, nonprofit organizations, municipalities, the federal government, and the private sector) is necessary to extend and complete broadband coverage in the state, and to ensure that Vermont maintains a telecommunications infrastructure that allows residents and businesses to compete fairly in the national and global economy.

(4) When such partnerships and collaborations fail to achieve the goal of providing high-quality broadband access and service to all areas and households, or when some areas of the state fall behind significantly in the

variety and quality of services readily available in the state, it is necessary for an authority of the state to support and facilitate the construction of infrastructure and access to broadband service through financial and other incentives.

(5) Small broadband enterprises now offering broadband service in Vermont have limited access to financial capital necessary for expansion of broadband service to unserved areas of the state. The general assembly recognizes these locally based broadband providers for their contributions to date in providing broadband service to unserved areas despite the limitations on their financial resources.

(6) The universal availability of adequate mobile telecommunications and broadband services promotes the general good of the state.

(7) Vermonters should be served by broadband infrastructure that, to the extent practical and cost-effective, uses the best commercially available technology and does not involve widespread installation of technology that becomes outmoded within a short period after installation.

(b) Therefore, it is the goal of the general assembly to ensure:

(1) that all residences and business in all regions of the state have access to affordable broadband services not later than the end of the year 2010; and that this goal be achieved in a manner that, to the extent practical and cost-effective, does not negatively affect the future installation of the best commercially available broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation.

(2) the ubiquitous availability of mobile telecommunication services including voice and high-speed data throughout the state by the end of the year 2010.

(3) the investment in telecommunications infrastructure in the state which will support the best available and economically feasible service capabilities.

(4) that telecommunications and broadband infrastructure in all areas of the state is continuously upgraded to reflect the rapid evolution in the capabilities of available mobile telecommunications and broadband technologies, and in the capabilities of mobile telecommunications and broadband services needed by persons, businesses, and institutions in the state.

(5) the most efficient use of both public and private resources through state policies by encouraging the development of open access

telecommunications infrastructure that can be shared by multiple service providers.

Sec. 51. 30 V.S.A. § 8077 is amended to read:

§ 8077. ESTABLISHMENT OF MINIMUM TECHNICAL SERVICE

CHARACTERISTIC OBJECTIVES

(a) The department of public service, shall, as part of the state telecommunications plan prepared pursuant to section 202d of this title, identify minimum technical service characteristics which ought to be available as part of broadband services commonly sold to residential and small business users throughout the state. For the purposes of this chapter, “broadband” means high speed Internet access. The department shall consider the performance characteristics of broadband services needed to support current and emerging applications of broadband services. The department shall review and update the minimum characteristics established under this section no less than every three years starting in 2009. In the event such review is conducted separately from an update of the state telecommunications plan pursuant to subsection 202d(f) of this title, the department shall issue revised minimum characteristics as an amendment to the plan.

(b) The authority shall give priority in its activities toward projects which expand the availability of broadband services that meet the minimum technical services characteristics established by the state telecommunications plan.

(c) ~~Until the department of public service adopts a revision to the state telecommunications plan~~ minimum service characteristics under subsection (a) of this section, the authority shall give priority to the expansion of broadband services which deploy equipment capable of a data transmission rate of not less than three megabits per second and offer a service plan with a data transmission rate of not less than 1.5 megabits per second in at least one direction to unserved areas.

* * * Act 250 * * *

Sec. 52. 10 V.S.A. § 6001(3)(D) is amended to read:

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging or forestry purposes below the elevation of 2,500 feet.

(ii) The construction of improvements for an electric generation or transmission facility that requires a certificate of public good under ~~section~~ 30 V.S.A. § 248 ~~or~~ a natural gas facility as defined in subdivision 30 V.S.A. § 248(a)(3), or a telecommunications facility issued a certificate of public good

under 30 V.S.A. § 248a.

(iii) [Repealed.]

(iv) The construction of improvements for agricultural fairs that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(v) The construction of improvements for the exhibition or showing of equines at events that are open to the public for 60 days per year, or fewer, provided that any improvements constructed do not include one or more buildings.

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

(I) (aa) A remedial or removal action for which the secretary of natural resources has authorized disbursement under section 1283 of this title.

(bb) Abating a release or threatened release, as directed by the secretary of natural resources under section 6615 of this title.

(cc) A remedial or removal action directed by the secretary of natural resources under section 6615 of this title.

(dd) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under section 6615b of this title.

(ee) A corrective action authorized in a corrective action plan approved by the secretary of natural resources under subchapter 3 of chapter 159 of this title.

(II) The exemption provided by this subdivision shall not apply to subsequent development.

Sec. 53. 10 V.S.A. § 6081(d) is amended to read:

(d) For purposes of this section, the following construction of improvements to preexisting municipal, county, or state projects shall not be considered to be substantial changes, ~~regardless of the acreage involved~~, and shall not require a permit as provided under subsection (a) of this section:

(1) ~~essential~~ municipal, county, or state wastewater treatment facility enhancements that do not expand the capacity of the facility by more than 40 25 percent, excluding the extension of a wastewater collection system or an expansion of the service-area boundaries of a wastewater treatment facility.

(2) ~~essential~~ municipal waterworks, county, or state water supply enhancements that do not expand the capacity of the facility by more than 40 ~~25~~ percent.

(3) ~~essential~~ public school reconstruction or expansion that does not expand the student capacity of the school by more than 40 ~~25~~ percent.

(4) ~~essential~~ municipal, county, or state building renovations or reconstruction or expansion that does not expand the floor space of the building by more than 40 ~~25~~ percent.

(5) construction of improvements to preexisting municipal, county, or state roads and bridges, provided such construction receives funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

Sec. 54. SUNSET

Effective July 1, 2011, each occurrence of "25" in 10 V.S.A. § 6081(d) and (e) is amended to "10". Also effective July 1, 2011, 10 V.S.A. § 6081(d)(5) (exemption for ARRA-funded road and bridge improvements) shall cease to be effective. However, the construction of improvements commenced prior to July 1, 2011 shall not require a permit by operation of this section if such construction was exempt under Sec. 53 of this act.

* * * Utility Relocations: ARRA * * *

Sec. 55. 19 V.S.A. § 1607 is added to read:

§ 1607. FEDERAL REIMBURSEMENT FOR CERTAIN UTILITY

RELOCATIONS

(a) As a result of appropriations for infrastructure enhancement and development contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, and other federal transportation-aid programs, significant highway construction projects are expected to be constructed in the near future.

(b) To ensure that projects are not delayed or canceled because of the inability of utilities and municipalities to pay for utility relocation costs and to ensure that available federal funds are utilized on shovel-worthy projects, it is the intent of the general assembly to reimburse utilities with infrastructure, including municipally owned drinking water facilities and municipally owned wastewater infrastructure, up to 80 percent of the approved relocation costs, if the relocation is necessitated by a highway construction project funded by ARRA or other federal transportation-aid programs.

(c) Eligible relocation costs under subsection (b) of this section shall be reimbursed by the state agency or other entity primarily responsible for managing or directing the construction project on the condition that federal stimulus funds or other federal funds are available and eligible to pay for the relocation costs.

(d) The state and municipalities shall not be obligated to pay to utilities the state or local share of a federally funded project.

(e) The state shall not be obligated to pay the state or local share to a municipality for the relocation of municipal drinking water and municipal wastewater infrastructure.

* * * Indirect Source Permits * * *

Sec. 56. 10 V.S.A. § 556(i) is added to read:

(i) Notwithstanding any provisions of this section, section 5-503 of the air pollution control regulations, as adopted through April 27, 2007 (indirect source permits) is hereby repealed.

Sec. 57. 10 V.S.A. § 8019 is added to read:

§ 8019. ENVIRONMENTAL TICKETING

(a) The secretary and the board each shall have the authority to adopt rules for the issuance of civil complaints for violations of their respective enabling statutes or rules adopted under those statutes that are enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4. Any proposed rule under this section shall include both the full and waiver penalty amounts for each violation. The maximum civil penalty for any violation brought under this section shall not exceed \$3,000.00 exclusive of court fees.

(b) A civil complaint issued under this section shall preclude the issuing entity from seeking an additional monetary penalty for the violation specified in the complaint when any one of the following occurs: the waiver penalty is paid, judgment is entered after trial or appeal, or a default judgment is entered. Notwithstanding this preclusion, the agency and the board may issue additional complaints or initiate an action under chapter 201 of this title, including a monetary penalty when a violation is continuing or is repeated, and may also bring an enforcement action to obtain injunctive relief or remediation and, in such additional action, may recover the costs of bringing the additional action and the amount of any economic benefit the respondent obtained as a result of the underlying violation in accordance with subdivisions 8010(b)(7) and (c)(1) of this title.

(c) The secretary or board chair and his or her duly authorized

representative shall have the authority to amend or dismiss a complaint by so marking the complaint and returning it to the judicial bureau or by notifying the hearing officer at the hearing.

(d) Subsequent to the issuance of a civil complaint under this section and the conclusion of any hearing and appeal regarding that complaint, the following shall be considered part of the respondent's record of compliance calculating a penalty under section 8010 of this title:

(1) The respondent's payment of the full or waiver penalty stated in the complaint.

(2) The respondent's commission of a violation after the hearing before the judicial bureau on the complaint.

(3) The respondent's failure to appear or answer the complaint resulting in the entry of a default judgment.

(4) A finding, after appeal, that the respondent committed a violation.

Sec. 58. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

(b) The judicial bureau shall have jurisdiction of the following matters:

* * *

(17) Violations of the statutes listed in 10 V.S.A. § 8003, any rules or permits issued under those statutes, and any assurances of discontinuance or orders issued under chapter 201 of Title 10, provided that a rule has been adopted and a civil complaint issued concerning such a violation under 10 V.S.A. § 8019.

* * *

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except ~~that~~:

(1) ~~m~~Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to section 1979 of Title 24. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall

indicate the appropriate full and waiver penalties on the complaint.

Sec. 59. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

* * *

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the state or municipality to prove the allegations by clear and convincing evidence. As used in this section, “clear and convincing evidence” means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the department of motor vehicles, the agency of natural resources, or the natural resources board and presented by the issuing officer or other person shall be admissible without testimony by a representative of the department of motor vehicles, the agency of natural resources, or the natural resources board.

* * *

(e) A state’s attorney may dismiss or amend a complaint, except that dismissal or amendment of a complaint subject to subdivision 1102(b)(17) of this title shall be governed by 10 V.S.A. § 8019(c).

(f) The supreme court shall establish rules for the conduct of hearings under this chapter.

Sec. 60. 4 V.S.A. § 1107 is amended to read:

§ 1107. APPEALS

(a) A decision of the hearing officer may be appealed to the district court, except for a decision in a proceeding under subdivision 1102(b)(17) of this title. The proceeding before the district court shall be on the record, or at the option of the defendant, de novo. The defendant shall have the right to trial by jury. An appeal shall stay payment of a penalty and the imposition of points.

~~(b) If a decision is appealed, the state’s attorney of the county in which the violation occurred shall represent the state and the state’s attorney, grand juror or municipal attorney shall represent the municipality~~ A decision of the hearing officer in a proceeding under subdivision 1102(b)(17) of this title may be appealed to the environmental court created under chapter 27 of this title. The proceedings before the environmental court shall be on the record. The defendant shall not have a right to a jury trial. An appeal shall stay the

payment of a penalty.

(c) If a decision is appealed, the state's attorney of the county in which the violation occurred shall represent the state, and the state's attorney, grand juror, or municipal attorney shall represent the municipality. In an appeal to the environmental court from a decision under subdivision 1102(b)(17) of this title, an attorney from the agency of natural resources or the natural resources board shall represent the state.

(d) No appeal as of right exists to the supreme court. On motion made to the supreme court by a party, the supreme court may allow an appeal to be taken to it from the district court or environmental court.

Sec. 61. 20 V.S.A. § 2063 is amended to read:

§ 2063. CRIMINAL HISTORY RECORD FEES; CRIMINAL HISTORY
RECORD CHECK FUND

* * *

(b) Requests made by criminal justice agencies for criminal justice purposes or other purposes authorized by state or federal law shall be exempt from all record check fees. The following types of requests shall be exempt from the Vermont criminal record check fee:

* * *

(5) Requests made by environmental enforcement officers employed by the agency of natural resources.

* * *

Sec. 62. PERMIT EXPEDITING; FEDERAL STIMULUS

(a) Notwithstanding any other provision of law, the following shall apply to an application for a permit, certificate, or other approval to the agency of natural resources, the agency of transportation, an appropriate municipal panel under 24 V.S.A. chapter 117, or a district environmental commission under 10 V.S.A. chapter 151 with respect to a project for municipal, county, or state purposes that will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5:

(1) The application shall be given priority over any other pending application.

(2) An appropriate municipal panel shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 45 days after the adjournment of the hearing, and failure of the panel to

issue a decision within this period shall be deemed approval and shall be effective on the 46th day.

(3) A district commission shall adjourn the hearing promptly after all parties have submitted evidence and argument and issue a decision within 90 days after the adjournment of the hearing, and failure of the commission to issue a decision within this period shall be deemed approval and shall be effective on the 91st day.

(b) This section shall be repealed on July 1, 2012.

Sec. 63. EXPIRED PERMITS; FEDERAL STIMULUS

A permit, certificate, or approval that, by operation of law or other means, has lapsed or expired because the project subject to the permit, certificate, or approval has not been constructed shall be deemed effective if all of the following apply:

(1) The project subject to the permit, certificate, or other approval will receive any of its funding through the federal American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5.

(2) The permit, certificate, or other approval was issued within the five-year period preceding the date this section is enacted by the agency of natural resources, the agency of transportation, a municipality or appropriate municipal panel under 24 V.S.A. chapter 117, a district commission under 10 V.S.A. chapter 151, or an appellate court or other tribunal on appeal from such an agency, municipality, panel, or commission.

(3) No change is proposed to the project as approved by the permit, certificate, or other approval.

Sec. 64. 32 V.S.A. § 5930a(a) is amended as follows:

(a) There is created ~~an economic incentive review board~~ a Vermont economic progress council which shall be attached to the department of economic development for administrative support, including an executive director who shall be appointed by the governor with the advice and consent of the senate, who shall be knowledgeable in subject areas of the ~~board's~~ council's jurisdiction, and hold the status of an exempt state employee, and administrative staff employed in the state classified service. The ~~board~~ council shall consist of 11 members, nine of whom shall be residents of the state appointed by the governor with the advice and consent of the senate. The governor shall appoint residents to the ~~board~~ council who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, state fiscal affairs,

property taxation, or entrepreneurial ventures, and shall make appointments to the ~~board~~ council insofar as possible as to provide representation to the various geographical areas of the state and municipalities of various sizes. Members of the ~~board~~ council appointed by the governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms. All ~~board~~ council members' terms shall be four-year terms upon the expiration of their initial terms and ~~board~~ council members may be reappointed to serve successive terms. All terms shall commence on April 1 of each odd-numbered year. The governor shall select a chair from among the ~~board's~~ council's members. In addition the ~~board~~ council shall include one member selected by the speaker of the house, who shall be a member of the house; and one member selected by the committee on committees of the senate, who shall be a member of the senate. Legislative members shall be voting members. There shall also be two regional members from each region of the state; one shall be designated by the regional development corporation of the region and one shall be designated by the regional planning commission of the region. Regional members shall be nonvoting members and shall serve during consideration by the ~~board~~ council of applications from their respective regions. For attendance at meetings and for other official duties, appointed members shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that members who are members of the legislature shall be entitled to compensation for services and reimbursement for expenses as provided in section 406 of Title 2. A regional member who does not otherwise receive compensation and reimbursement for expenses from his or her regional development or planning organization shall also be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

Sec. 65. ~~REPEAL AND~~ TRANSITION

(a) Sec. 64 of this act shall take effect upon passage, at which time the economic incentive review board shall be renamed the Vermont economic progress council. The council shall have the responsibilities and authority of the economic incentive review board with respect to administering and monitoring the Vermont employment growth incentives (VEGI) program and the tax increment financing program and property tax allocations under Secs. 2a through 2h of No. 184 of the Acts of the 2005 Adj. Sess.(2006). The legislative council is directed to make necessary revisions to the Vermont Statutes Annotated to reflect the changes made in Secs. 64 and 65 of this act.

Sec. 66. FINDINGS AND PURPOSE; VERMONT VILLAGE
GREEN RENEWABLE PILOT PROGRAM

The general assembly finds all of the following:

(1) The use of fossil fuels for heat and power contributes to emissions of greenhouse gases and climate change.

(2) Fossil fuel prices in recent years have been highly volatile, and significant potential exists for those prices to reach rates that are equal to or greater than the exceptionally high prices seen within the last few years.

(3) Payments for fossil fuels by Vermonters involve the movement of significant sums of money outside the state and the country to pay for heating fuel, draining Vermont's economy.

(4) The state of Vermont seeks to ensure that Vermonters obtain a greater measure of control over the environmental impacts of energy use and energy costs.

(5) The state of Vermont seeks to increase its efforts to limit its emissions of greenhouse gases.

(6) Community energy infrastructure that uses renewable fuels can reduce the environmental impacts of energy use and provide a community with the opportunity to obtain heat and potentially power at stable prices that reduce the economic risks associated with fossil fuels. Local energy purchases recirculate money in the Vermont economy and can provide businesses with competitive energy rates.

(7) The state of Vermont seeks to establish incentives for communities to host energy generation that is renewable and efficiently utilized and that provides heat and potentially power to groups of commercial, industrial, or residential uses, or combinations of such uses, within the community.

Sec. 67. 30 V.S.A. chapter 93 is added to read:

CHAPTER 93. VERMONT VILLAGE GREEN RENEWABLE

PILOT PROGRAM

§ 8100. DEFINITIONS

In this chapter:

(1) "Board" means the public service board created under section 3 of this title.

(2) "Certification" or "certified," except when part of the phrase "third party certified," refers to certification of a Vermont village green renewable project by the department under subsection 8101(b) of this title.

(3) “Combined heat and power “ or “CHP” shall have the meaning stated in 10 V.S.A. § 6523(b), except that:

(A) CHP excludes facilities using fossil fuel.

(B) CHP using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(4) “Department” means the department of public service created under section 1 of this title.

(5) “District heating” means a system for distributing heat generated in a centralized location within a host community to multiple residential, commercial, or industrial uses within that community or a combination of such uses. The source of heat may be a dedicated heat-only facility using renewable energy as a fuel or waste heat from electrical generation that uses renewable energy as a fuel to form a CHP system.

(6) “District power” means a system for distributing electricity generated in a centralized location within a host community to multiple residential, commercial, or industrial uses in that community or a combination of such uses. The electricity must be produced using renewable energy as a fuel source and may include CHP.

(7) “Host community” means the municipality in which a Vermont village green renewable project is to be located.

(8) “Renewable energy” shall have the meaning stated in 10 V.S.A. § 6523(b)(4), except that renewable energy using woody biomass as a fuel must achieve, for that fuel, no less than a 50-percent net annual efficiency of energy utilized and, during the heating season, a minimum energy conversion efficiency of 70 percent considering all energy inputs and outputs at normal load.

(9) “Vermont village green renewable project” means district heating, either with or without district power, to serve a downtown development district designated as such pursuant to 24 V.S.A. § 2793 or a growth center designated as such pursuant to 24 V.S.A. § 2793c. As long as the end uses served by the project are within such a district or center, the generation of heat and power may be outside the district or center.

§ 8101. PILOT PROGRAM; CERTIFICATION

(a) The Vermont village green renewable pilot program is created to consist of no more than two Vermont village green renewable projects, one each in the

city of Montpelier and in the town of Randolph. Another municipality may seek certification under this chapter in the event either the city of Montpelier or the town of Randolph or both decline to seek or are denied certification.

(b) On application of a host community, the department may certify a Vermont village green renewable project under this chapter on finding each of the following:

(1) The host community proposes a Vermont village green renewable project.

(2) The host community has submitted an application to the board that includes each of the following:

(A) A description and map of the proposed Vermont village green renewable project, showing its location within the host community.

(B) A complete description of the existing industrial, commercial, or residential uses to be served by the Vermont village green renewable project, of how the project will serve those uses, and of the billing, payment, and customer service arrangements.

(C) A letter submitted by the host community in support of the application and, if the host community has a town plan, the letter shall confirm that the proposed project is consistent with that plan.

(D) A letter issued by the appropriate regional planning commission indicating that the regional impacts of the proposed project and selected site have been considered and that the project conforms with the applicable regional plan.

(E) A letter from the Vermont downtown development board, as described under 24 V.S.A. § 2792(f), that the development board has been notified of the Vermont village green renewable project.

(3) The Vermont village green renewable project is consistent with the purposes of the clean energy development fund as established in 10 V.S.A. § 6523.

(4) The host community will invest in the Vermont village green renewable project the incentive created under section 8102 of this title and has provided a plan that demonstrates that such investment will be made.

(5) The Vermont village green renewable project, if it uses woody biomass as a fuel, will use procurement standards, management practices, and a supply chain that are third party certified using a performance-based audit.

(6) The Vermont village green renewable project will comply with all applicable national ambient air quality standards and air pollution control regulations of the agency of natural resources. If, during 2009, the U.S. Environmental Protection Agency proposes updated emissions standards applicable to wood-fueled boilers to be used in connection with the project, the project shall comply with such proposed standards.

(7) The Vermont village green renewable project meets all applicable requirements of this chapter.

(c) Notwithstanding any other provision of law, certification under this section shall not be subject to the provisions of 3 V.S.A. chapter 25 and shall not be subject to appeal.

(d) A host community does not need to obtain certification unless it seeks its Vermont village green renewable project to be eligible for incentives under section 8102 of this title or rates for electricity as provided under subsection 8104(b) of this title. Certification shall not be required to qualify for net metering under section 219a of this title.

§ 8102. INCENTIVES; CUSTOMER CONNECTIONS

Notwithstanding any other provision of law, the clean energy development fund created under 10 V.S.A. § 6523 shall provide at least \$100,000.00 in incentives to customers who will connect to a certified Vermont village green renewable project. Any such incentive shall be applied by the customer to the cost of constructing the customer's connection to the project.

§ 8103. HEAT AVAILABILITY

All of the heat generated by a Vermont village green renewable project shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

§ 8104. RATES FOR ELECTRICITY

(a) All or a portion of the electricity generated by a Vermont village green renewable project, if it includes district power, shall be made available to the commercial, industrial, and residential users identified in the host community's application to the board under subsection 8101(b) of this title.

(b) If a Vermont village green renewable project includes district power and does not qualify or opt for treatment as a net metering system under section 219a of this title:

(1) On petition of the host community, the board after notice and opportunity for hearing shall create a rate class for the commercial, industrial,

and residential uses served by the project, the rates for which class at a minimum shall be consistent with the following principle: An end user shall pay the same share of the distribution utility's fixed costs as a similar end user not served by the project.

(2) Excess electricity may be sold to the distribution utility at the market rate or by contract.

§ 8105. REPORTING

(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the board and the commissioner of public service by December 31 of each year following certification. The report shall contain such information as is required by the board and the commissioner. The report shall include at a minimum sufficient information for the commissioner of public service to submit the report required by subsection (b) of this section.

(b) Beginning March 1, 2010, and annually thereafter, the commissioner of public service shall submit a report to the senate committees on economic development, housing and general affairs, on finance, and on natural resources and energy, the house committees on ways and means, on commerce and economic development, and on natural resources and energy, and the governor which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter.

Sec. 68. LETTER OF INTENT; VERMONT VILLAGE GREEN

RENEWABLE PILOT PROGRAM

No later than July 1, 2010, the City of Montpelier and the Town of Randolph shall each issue a letter of intent to the department of public service stating whether or not the city or the town, respectively, intends to seek certification under 30 V.S.A. § 8101.

* * * VOSHA Service of Process * * *

Sec. 69. 21 V.S.A. § 225(a) is amended to read:

(a) If, upon inspection or investigation the commissioner or the director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the superior court. Each citation shall be in writing and shall describe with particularity the nature of the violation,

including a reference to the provisions of the statute, standard, rule or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. By rule the commissioner shall prescribe procedures for issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

* * * Workers' Comp. Info. Sharing * * *

Sec. 69a. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The commissioner may also make information available to colleges, universities, and public agencies of the state for use in connection with research projects of a public service nature, and to the Vermont economic progress council with regard to the administration of subchapter 11E of chapter 151 of Title 32; but no person associated with those institutions or agencies may disclose that information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commissioner.

* * *

Sec. 70. STUDY; SPECIAL COMMITTEE ON MOBILE HOME RENT-TO-OWN AGREEMENTS

(a) There is created a special committee on mobile home rent-to-own agreements, the organization of which shall be as follows:

(1) The committee shall hold its first meeting no later than June 30, 2009 at a place and time agreed to by a majority of the members. The commissioner of the department of housing and community affairs, or his or her designee, shall chair the first meeting, at which the committee shall elect a chair and vice chair and shall establish a schedule for accomplishing its duties under this act.

(2) Following its first meeting, the committee shall provide bi-monthly progress reports to the chairs of the house committee on general, housing and military affairs and the senate committee on economic development, housing

and general affairs, and shall submit its final report to those committees on or before January 15, 2010.

(3) The staff of the legislative council shall provide technical and clerical support to the committee. Legislative member shall be entitled to a per diem and expenses as provided in 2 V.S.A. § 406.

(b) The committee shall consist of the following individuals:

(1) The commissioner of the department of housing and community affairs or designee.

(2) The commissioner of the department of banking, insurance, securities, and health care administration or designee.

(3) A representative of the banking industry with experience in real estate transactions recommended by the Vermont Bankers Association, Inc.

(4) A member representing the interests of Vermont town clerks who shall be appointed collaboratively by the Vermont League of Cities and Towns, Inc. and the Vermont Municipal Clerks' & Treasurers' Association.

(5) Two members representing the interests of mobile home tenants, one of whom shall be appointed by Vermont Legal Aid, and one of whom shall be appointed by the Champlain valley office of economic opportunity.

(6) A member representing the interests of mobile home park owners who shall be appointed by the Vermont Apartment Owners Association, LLC.

(7) The chair of the house committee on general, housing and military affairs, or designee, and the senate committee on economic development, housing and general affairs, or designee.

(c) The committee shall take such testimony and review such reports or other information to examine and develop proposals to address the following issues, and any additional issues it deems necessary, to accomplish its duties under this act:

(1) The historical and current practice of mobile home purchases on a "rent-to-own" basis, including:

(A) The prevalence of purchases on a rent-to-own basis.

(B) Whether rent-to-own purchases occur pursuant to written agreement, the form and content of those agreements, whether those agreements comply with current law, and whether a standard agreement unique to rent-to-own purchases of mobile homes should be adopted.

(C) The extent to which rent-to-own sellers and purchasers are aware of, and follow, notice and documentation requirements, including bills of sale, UCC filings, tax filings, and related recording requirements, and whether these requirements are sufficient to create an adequate public record of ownership.

(D) The extent to which rent-to-own purchasers utilize counsel or other resources when entering into agreements to purchase a mobile home.

(2) The current framework regulating foreclosure of interests in mobile homes and whether and how that framework sufficiently addresses rent-to-own purchases.

(3) The treatment of mobile homes as personal property, with emphasis on whether such treatment causes legal, financial, or other uncertainty with respect to ownership, and any potential resolution of these issues.

* * * Necessity Proceedings * * *

Sec. 71. 19 V.S.A. § 507 is amended to read:

§ 507. HEARING AND ORDER OF NECESSITY

~~(a) At the time and place appointed for the hearing, the court, consisting of the superior judge signing the order or the other superior judge as may be assigned and, if available within the meaning of 4 V.S.A. § 112, the assistant judges of the county in which the hearing is held~~ board shall hear all persons interested and wishing to be heard. If any person owning or having an interest in the land to be taken or affected appears and objects to the necessity of taking the land included within the survey or any part of the survey, then the ~~court~~ board shall require the agency of transportation to proceed with the introduction of evidence of the necessity of the taking. The burden of proof of the necessity of the taking shall be upon the agency of transportation and shall be established by a fair preponderance of the evidence, and the exercise of reasonable discretion upon the part of the agency shall not be presumed. The ~~court~~ board may cite in additional parties including other property owners whose interest may be concerned or affected and shall cause to be notified, the legislative body of all adjoining cities, towns, villages, or other municipal corporations affected by any taking of land or interest in land based on any ultimate order of the ~~court~~ board. The ~~court~~ board shall make findings of fact and ~~file them and any party in interest may appeal under the rules of appellate procedure adopted by the supreme court~~ conclusions of law. The ~~court~~ board shall, by its order, determine whether the necessity of the state requires the ~~taking~~ acquisition of the land and rights as set forth in the petition and may find from the evidence that another route or routes are preferable in which case the agency shall proceed in accordance with section 502 of this title and this

section and may modify or alter the proposed ~~taking~~ acquisitions in such respects as to the ~~court~~ board may seem proper.

~~(b) By its order, the court may also direct the agency of transportation to install passes under the highway as specified in this chapter for the benefit of the large modern farm properties, the fee title of which is owned by any party to the proceedings, where a reasonable need is shown by the owner. The court may consider evidence relative to present and anticipated future highway traffic volume, future land development in the area, and the amount and type of acreage separated by the highway in determining the need for an underpass of larger dimensions than a standard cattle pass of reinforced concrete, metal or other suitable material which provides usable dimensions five feet wide by six feet three inches high. Where a herd of greater than fifty milking cows is consistently maintained on the property, the court may direct that the dimensions of the larger underpass shall be eight feet in width and six feet three inches in height to be constructed of reinforced concrete, and the owner of the farm property shall pay one fourth of the difference in overall cost between the standard cattle pass and the larger underpass. Where the owner of the farm property desires an underpass of dimensions greater than eight feet in width and six feet three inches in height, the underpass may be constructed if feasible and in accordance with acceptable design standards, and the total additional costs over the dimensions specified shall be paid by the owner. The provisions of this section shall not be interpreted to prohibit the agency of transportation and the property owner from determining the specifications of a cattle pass or underpass by mutual agreement at any time, either prior or subsequent to the date of the court's order. The owner of a fee title shall be interpreted to include lessees of so called lease land.~~

Sec. 72. 19 V.S.A. § 508 is amended to read:

§ 508. STIPULATION OF NECESSITY

(a) A person or municipality owning or having an interest in lands or rights to be taken or affected, a municipality in which the land is to be taken or affected, and other interested persons may stipulate as to the necessity of the taking.

(b)(1) The stipulation shall be an affidavit sworn to before a person authorized to take acknowledgments, and, in the case of a municipality, shall be executed by a majority of its legislative body. The stipulation shall be in a form approved by the attorney general and shall include but not be limited to the following:

(1)(A) a recital that the person or persons executing the stipulation have examined the applicable plan and survey of the lands or rights to be taken;

~~(2)(B)~~ an explanation of the legal and property rights affected; and

~~(3)(C)~~ that the right of the person to adequate compensation is not affected by executing the stipulation.

(2) The stipulation shall be invalid unless within two years of the date of the stipulation an order of necessity is granted.

Sec. 73. 19 V.S.A. § 509 is amended to read:

§ 509. PROCEDURE

(a) The stipulation shall be filed with the ~~appropriate superior court board~~, together with the petition for an order of necessity. Notice of the hearing on the petition shall be published in accordance with section 506 of this title. Other interested persons who have not stipulated to necessity shall be notified and served in accordance with section 506 of this title. The ~~court board~~ may also cite in additional parties in accordance with section 507 of this title.

(b) If a person claiming to be affected or concerned files a notice of objection to a proposed finding of necessity prior to the date of the hearing, the ~~court board~~ shall at the hearing determine if the person has an interest in lands or rights to be ~~taken~~ acquired such as to be entitled to object to the proposed finding of necessity, and, if ~~he~~ the person is so affected or concerned, whether there is necessity for the ~~taking~~ proposed acquisitions, in accordance with section 507 of this title. Nothing in this section shall prohibit an interested person from consenting to necessity. The ~~court board~~ may continue the hearing to allow proper preparation by the agency of transportation and interested parties.

(c) If all interested persons and municipalities stipulate as to the necessity of the taking, the ~~court board~~ may immediately issue an order of necessity.

(d) Interested persons or municipalities who do not consent to necessity are entitled to a necessity hearing in accordance with the provisions of this chapter.

(e) A copy of the order finding necessity shall be mailed by the agency to each person and municipality who consented by stipulation to necessity, by certified mail, return receipt requested.

(f) The stipulation of necessity shall not affect the rights of the person with regard to fixing the amount of compensation to be paid in accordance with sections 511-514 of this title. However, the agency of transportation board may enter into an agreement for purchase of lands or rights affected, provided the agreement is conditioned upon the issuance of an order of necessity.

Sec. 74. 19 V.S.A. § 510 is amended to read:

§ 510. ~~APPEAL FROM ORDER OF NECESSITY~~ JUDICIAL REVIEW

(a) If the state, municipal corporation or any owner affected by the order of the ~~court~~ board is aggrieved by the order, an appeal may be taken to the ~~supreme~~ superior court pursuant to subsection 5(c) of this title. In the event an appeal is taken according to these provisions from an order of necessity, its effect may be stayed by the superior court or the supreme court where the person requesting the stay establishes:

- (1) that he or she has a likelihood of success on the merits;
- (2) that he or she will suffer irreparable harm in the absence of the requested stay;
- (3) that other interested parties will not be substantially harmed if a stay is granted; and
- (4) that the public interest supports a grant of the proposed stay.

(b) If no stay is granted or, if a stay is granted, upon final disposition of the appeal, a copy of the order of the court shall be recorded within 30 days in the office of the clerk of each town in which the land affected lies.

(c) Thereafter for a period of one year, the agency of transportation may request the transportation board to institute proceedings for the condemnation of the land included in the survey as finally approved by the ~~court~~ board without further hearing or consideration of any question of the necessity of the taking. ~~In no event shall title to or possession of the appealing landowner's property pass to the state until there is a final adjudication of the issue of the necessity and propriety of the proposed taking.~~

~~(b)~~(d) If the agency of transportation is delayed in requesting the transportation board to institute condemnation proceedings within the one-year period by court actions or federal procedural actions, the time lost pending final determination shall not be counted as part of the one-year necessity period.

Sec. 75. 19 V.S.A. § 520 is added to read:

§ 520. MUNICIPALITIES; USE OF CHAPTER 5 PROCEDURES

When the construction, reconstruction, alteration, or repair of a town highway involves the acquisition of private lands or rights in private land, the legislative body of the municipality may elect to follow the procedures outlined in chapter 5 of this title to acquire private lands or rights in land for

state highways. In such event, the legislative body of the municipality shall carry out the functions of the agency and the board.

* * * Miscellaneous Tax Amendments * * *

Sec. 76. INCREASING THE NUMBER OF COMPLIANCE

PERSONNEL IN THE DEPARTMENT OF TAXES

(a) In addition to any other funds appropriated to the department of taxes in fiscal year 2010, there is appropriated from the general fund to the department \$535,000.00 in fiscal year 2010 for the purpose of hiring nine full-time limited service employees to augment the department's compliance division. The department shall use the funds so appropriated to hire four tax field examiners, two desk audit examiners, one collector, one desk audit supervisor, and either one attorney or a second collector.

(b) In addition to any other funds appropriated to the department of taxes in fiscal year 2011, there is appropriated from the general fund to the department \$935,000.00 in fiscal year 2011 for the purpose of retaining the nine full-time limited service employees hired pursuant to subsection (a) of this section and hiring six additional full-time limited service employees to further augment the department's compliance division. The department shall use the additional funds so appropriated to hire four tax field examiners and two desk audit examiners.

(c) It is the intent of the legislature to further augment the department's compliance efforts in fiscal year 2012 by appropriating additional funds for fiscal year 2012 for the purpose of retaining the 15 full-time limited service employees hired pursuant to subsections (a) and (b) of this section and hiring five additional limited service employees.

(d) The positions created pursuant to subsections (a) and (b) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(e) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

Sec. 77. 20 V.S.A. § 3815(c) is added to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING PROGRAM

* * *

(c) The agency of agriculture, food and markets is authorized to promulgate an emergency administrative rule by August 1, 2009, the purpose of which shall be that only a dog, cat, or wolf-hybrid acquired for no compensation shall be eligible for funding from the animal spaying and neutering program established under this section. The rule shall provide consideration for the financial ability of the funding applicant to pay for the requested service. For the purposes of this subsection, a nominal fee or donation required for adoption of a dog, cat, or wolf-hybrid shall not constitute compensation paid for the animal.

* * * Increased Penalties for Misclassification * * *

Sec. 78. 8 V.S.A. § 3661(c) is added to read:

(c) An employer who makes a false statement or representation that results in a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner, may be assessed an administrative penalty of not more than \$20,000.00 in addition to any other appropriate penalty.

Sec. 79. 21 V.S.A. § 708(b) is amended to read:

~~(b) Action by the commissioner of banking, insurance, securities, and health care administration. An employer who willfully makes a false statement or representation for the purpose of obtaining a lower workers' compensation premium, after notice and opportunity for hearing before the commissioner of banking, insurance, securities, and health care administration may be assessed an administrative penalty of not more than \$5,000.00 in addition to any other appropriate penalty. In addition to any other remedy provided by law, the commissioner of banking, insurance, securities, and health care administration may pursue the collection of the administrative penalty imposed by this section in Washington superior court.~~ When the department of labor has sufficient reason to believe that an employer has made a false statement or representation for the purpose of obtaining a lower workers' compensation premium, the department shall refer the alleged violation to the commissioner of banking, insurance, securities, and health care administration for enforcement pursuant to 8 V.S.A. § 3661(c).

* * * Compliance Statements * * *

Sec. 80. 21 V.S.A. § 690 is amended to read:

§ 690. CERTIFICATE, FORM; COPY OF POLICY

(a) An employer subject to the provisions of this chapter who has workers' compensation insurance coverage pursuant to section 687 or 689 of this title

shall file with the commissioner a certificate of the insurance in a form prescribed by the commissioner. The certificate shall include the policy number, effective date, date of expiration, operations covered and such other information the commissioner requests. The certificate shall be signed by a duly authorized representative of the insurance or guarantee company that issued the insurance coverage. Upon request, the insurance or guarantee company shall file with the commissioner a copy of the contract or policy of insurance issued.

(b)(1) In addition to any other authority provided to the commissioner pursuant to this chapter, the commissioner may issue a written request to a ~~contractor engaged in the business of nonresidential building or construction~~ an employer subject to the provisions of this chapter to provide a workers' compensation compliance statement on a form provided by the commissioner. For the purposes of this subsection, a ~~contractor~~ an employer includes subcontractors and independent contractors. The form shall require all the following information sorted by job site:

(A) The number of employees employed during the entire current workers' compensation policy term or the previous year if no policy was in effect or partially in effect prior to the request and the effective dates of the term of any policies in effect.

(B) The total number of hours for which compensation was paid.

(C) ~~Designation of the hours that were the basis of the appropriate National Council on Compensation Insurance (NCCI) classification code~~ A list of all subcontractors and 1099 workers and their function on the job site for the period in question.

(D) The name of the workers' compensation insurance carrier, the policy number, and the agent, if any.

(E) As an attachment, the insurance policy declaration pages, including how much payroll the policy is covering and a designation of the hours that provide the basis of the appropriate National Council on Compensation Insurance classification code.

(2) Any ~~contractor~~ employer who fails to comply with this subsection or falsifies information on the compliance statement may be assessed an administrative penalty of not more than \$5,000.00 for each week during which the noncompliance or falsification occurred and any costs and attorney fees required to enforce this subsection. The commissioner may also seek injunctive relief in Washington superior court.

(3) A compliance statement shall be a public record, and the commissioner shall provide a copy of a compliance statement to any person on request. An insurance company provided with a compliance statement may investigate the information in the statement. Based on evidence that a ~~contractor~~ an employer is not in compliance with this chapter, the commissioner shall request a compliance statement or an amended compliance statement from the ~~contractor~~ employer, investigate further, and take appropriate enforcement action. ~~No contractor shall be required to provide more than one workers' compensation compliance statement per year, unless the commissioner explains the need for each additional statement.~~

(4) In the event the commissioner receives a request for an employer to provide a compliance statement but finds no evidence of noncompliance with this chapter, the commissioner shall provide timely notification of the findings to the requesting party.

Sec. 81. CURRENT USE FOR FISCAL YEAR 2011

In response to current economic conditions, there is a need in the fiscal year 2011 budget to adjust the use value appraisal program to achieve \$1,600,000.00 in savings or in increased revenues. Multiple strategies will be considered to achieve this goal, with recommendations to be discussed by the joint fiscal committee at their November 2009 meeting.

* * * Tax Increment Financing * * *

Sec. 82. MILTON; TAX INCREMENT FINANCING DISTRICT

(a) For purposes of the tax increment financing district created in Milton:

(1) The following types of financing, in addition to those included in 24 V.S.A. § 1891(7), shall include conventional bank loans; certificates of participation, approved by the state treasurer; lease-purchase, approved by the state treasurer; and revenue-anticipation notes, approved by the state treasurer.

(2) The education tax increment may be retained for up to 20 years beginning with the initial date of the creation of the district or on the date of the first debt incurred, at the discretion of Milton. The assessed valuation of all taxable real property within the district, as defined in 24 V.S.A. § 1895, shall be recertified if Milton chooses to begin retaining the education tax increment more than five years beyond the initial creation of the district.

(3) The legal voters of Milton may authorize the selectboard to pledge the credit of Milton for all debt obligations pursuant to 24 V.S.A. § 1897(a) in more than one vote.

(b) The provisions of this section shall be retroactive to July 1, 2008.

Sec. 83. BURLINGTON TAX INCREMENT FINANCING

(a) The authority of the City of Burlington to incur indebtedness for its currently-existing tax increment financing district is hereby extended for five years beginning January 1, 2010.

(b) The City of Burlington shall submit to the joint fiscal committee at least ten days prior to its September 2009 meeting a business plan and projection of new incremental education property tax revenue growth to be financed by any indebtedness authorized under subsection (a) of this section, and a proposal for implementation of a payment to the education fund in lieu of tax increment which would approximate 25 percent of the new incremental education property tax revenue and the mechanism for payment by the City to the education fund, including payment dates.

(c) If the joint fiscal committee approves a formula for implementation of a payment to the education fund in lieu of tax increment (the increased revenue generated by the incremental grand list value), and if the City of Burlington incurs new indebtedness under subsection (a) of this section for its currently-existing tax increment financing district, then the city shall pay to the education fund the approved payment in lieu of tax increment as required under the plan approved by the joint fiscal committee.

Sec. 84. VERMONT OPPORTUNITY REDEVELOPMENT SITE IN SPRINGFIELD

(a) The town of Springfield may apply to the secretary of commerce and community development for certification of a redevelopment area known as the "J&L site," which shall include the J&L building and the portion of the underlying parcel allocable to the building site, and the secretary, upon certification, shall also certify the "redevelopment period," which shall be the seven years beginning with the year of certification of the site.

(b) The site certified under subsection (a) of this section shall be deemed approved by the Vermont Economic Progress Council (VEPC), and subject to such reporting as VEPC shall require, for education property tax stabilization; and the education property tax liability of the site shall remain at its 2009 level for the redevelopment period.

(c) During the redevelopment period, a qualified business or a qualified redeveloper who pays wages and salaries for services performed within the certified site shall be eligible for an income tax credit equal to three percent of the total wages and salaries paid during the taxable year for services performed within the certified site.

(d) Materials and trade fixtures purchased for incorporation into redevelopment of the certified site by the qualified redeveloper during the redevelopment period shall be exempt from sales and use tax, and a purchaser shall apply to the commissioner of taxes for a sales tax exemption certificate, which shall be presented to vendors in order to obtain the tax exemption.

(e) For purposes of this section:

(1) "Qualified business" means any business that intends to locate in or expand into the redevelopment area and will employ at least 10 new full-time employees in positions that are not retail sales within a year of approval; and will pay wages and benefits to all full-time employees that meet or exceed the prevailing compensation level for that particular employment.

(2) "Qualified redeveloper" means any taxpayer that purchases and redevelops the certified site for sale or lease to a qualified business.

(f) Beginning January 15, 2011, the secretary of commerce and community development shall report to the senate committee on economic development, housing and general affairs and the house committee on commerce and economic development the status of the Springfield redevelopment site.

Sec. 85. 10 V.S.A. § 1974(3) is added to read:

(3) An existing building, structure, or campground located on a subdivided lot when the building, structure, or campground is located 500 feet or more from the closest point of the new property boundary line, unless the wastewater system or potable water supply is a failed system or a failed supply at the time of subdivision.

Sec. 86. 13 V.S.A. § 4014 is amended to read:

§ 4014. PURCHASE OF FIREARMS IN ~~CONTIGUOUS~~ OTHER STATES

Residents of the state of Vermont may purchase rifles and shotguns in a another state, ~~contiguous to the state of Vermont~~ provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the ~~contiguous~~ state in which the purchase is made.

Sec. 87. 13 V.S.A. § 4015 is amended to read:

§ 4015. PURCHASE OF FIREARMS BY NONRESIDENTS

Residents of a state ~~contiguous to other than~~ the state of Vermont may purchase rifles and shotguns in the state of Vermont, provided that such residents conform to the applicable provisions of the Gun Control Act of 1968, and regulations thereunder, as administered by the United States ~~Secretary of the Treasury~~ Bureau of Alcohol, Tobacco, Firearms and Explosives, and provided further that such residents conform to the provisions of law applicable to such purchase in the state of Vermont and in the state in which such persons reside.

* * * Professional Regulation * * *

Sec. 88. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(9) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * General Permitting * * *

Sec. 89. GENERAL PERMITS; INTENT

It is the intent of the general assembly that general permitting authority of the agency of natural resources be used for classes or categories of discharges, emissions, disposal, facilities, or activities that present low risk to the environment and public health.

Sec. 90. 10 V.S.A. chapter 165 is added to read:

CHAPTER 165. GENERAL PERMIT AUTHORITY

§ 7500. PURPOSE AND DEFINITIONS

(a) This chapter is intended to provide for the protection of human health and the environment while allowing the secretary to utilize general permits as appropriate to streamline permitting processes and gain administrative efficiencies.

(b) When used in this chapter:

(1) “Agency” means the agency of natural resources.

(2) “Commissioner” means the commissioner of the department or the commissioner’s duly authorized representative.

(3) “Department” means the department of environmental conservation.

(4) “General permit” means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire state or a region of the state. For a class or category to be eligible to be placed under a general permit under this chapter, the class or category must meet each of the following:

(A) The discharges, emissions, disposal, facilities, or activities must share the same or substantially similar qualities.

(B) Those qualities must be such that the requirements of statute and rule applicable to the discharges, emissions, disposal, facilities, or activities can be met and human health and the environment protected by imposition of the same or substantially similar permit conditions on the class or category.

(5) “Individual permit” means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(6) “Secretary” means the secretary of the agency or the secretary’s duly authorized representative.

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; chapter 56 (public water supply) for construction permits; and chapter 159 (waste management) for solid waste transfer station and recycling certifications and categorical certifications.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and

conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

§ 7502. ISSUANCE OF GENERAL PERMITS; PUBLIC PARTICIPATION

(a) When, under section 7501 of this title, the secretary determines to issue a general permit, the secretary shall prepare a proposed general permit and shall provide for public notice of the permit in a manner designed to inform interested and potentially interested persons of the proposed general permit.

(1) Notice of the proposed general permit shall be circulated within each geographic area to which the permit would apply and shall include at least all of the following:

(A) Written notice to the clerk of each municipality within the geographic area.

(B) Written notice to each affected Vermont state agency and such other government agencies as the secretary deems appropriate.

(C) Publication of notice of the proposed permit in a newspaper or newspapers that circulate generally within each geographic area to which the permit would apply.

(D) Posting of notice and a copy of the proposed general permit prominently on the web page of the department.

(E) Mailing of notice and a copy of the proposed general permit to any individual, group, or organization upon request.

(F) Mailing of notice and a copy of the proposed general permit to the chairs of the house committees on commerce and economic development, on fish, wildlife and water resources, and on natural resources and energy, and the senate committees on economic development, housing and general affairs and on natural resources and energy. With this mailing, the secretary shall also include a brief summary of any scientific information on which the proposed rule is based. If the secretary proposes to amend a general permit previously issued under this chapter, the secretary further shall include an annotated text showing changes from the existing permit.

(G) The inclusion in any notice issued under this subsection of a

summary of the proposed general permit, including a summary of the activities to which it would apply and its terms and conditions; the deadlines by which comments are to be submitted and a public information meeting requested; the procedure for submitting comments and requesting a public information meeting; the contact information for the agency or department concerning the proposed permit; and a statement of how a copy of the proposed general permit may be obtained.

(2) The secretary shall provide a period of not less than 30 days following the date of publication in a newspaper or newspapers of general circulation during which any person may submit written comments on the proposed general permit.

(b) The secretary shall provide an opportunity for any person, state, province, or country potentially affected by the proposed general permit to request a public informational meeting with respect to the proposed permit.

(1) The deadline for any request under this subsection shall be no earlier than the deadline for submitting written comments set under subdivision (a)(2) of this section. The secretary shall hold an informational meeting if there is a significant public interest in holding a meeting.

(2) The secretary shall provide public notice of any informational meeting in at least the same manner as public notice of the proposed general permit was given under subsection (a) of this section, except that the secretary need not set a new comment deadline or provide, with the notice of the meeting, a copy of the proposed general permit to any person or entity to which the secretary has already provided a copy.

(3) Any person shall be permitted to submit oral or written statements and data concerning the proposed general permit at the informational meeting.

(4) All statements, comments, and data presented at the meeting shall be retained by the secretary and considered in the formulation of the secretary's determinations regarding the final general permit.

(c) Whether or not requested, the secretary may hold a public informational meeting on a proposed general permit at any time prior to final decision on and issuance of the general permit. The provisions of subdivisions (b)(2) through (4) of this section shall apply to such a meeting.

(d) The secretary may finally adopt a general permit following consideration of any written comments submitted on the general permit and any statements, comments, and data presented at a public information meeting on the permit. Where the secretary decides, in finally adopting a proposed general permit, to overrule substantial arguments and considerations raised for

or against the original proposal, the secretary's final adoption of the general permit shall include a responsiveness summary stating the reasons for the secretary's decision.

(e) On final adoption of a general permit, the secretary shall provide notice of the permit's final adoption and an accompanying responsiveness summary in at least the same manner as notice of the proposed general permit was issued under subdivision (a)(1) of this section, except that the secretary need not set or include further deadlines for comment or requesting an informational meeting.

§ 7503. AUTHORIZATION UNDER A GENERAL PERMIT

(a) Any person wishing to discharge, emit, dispose, or operate a facility or engage in activity subject to a general permit under this chapter shall file an application for authorization under the general permit on a form provided by the secretary. Each application shall be accompanied by a fee as specified by section 2822 of Title 3.

(b) For each application under this section, the applicant shall provide notice, on a form provided by the secretary, to the clerk of the municipality in which the discharge, emission, disposal, facility, or activity is located, to the local and regional planning commissions, and to the owners of land adjoining the site of the proposed discharge, emission, disposition, or facility operation. The applicant shall provide a copy of this notice to the secretary, with such confirmation as the secretary deems adequate to demonstrate that the clerk, planning commissions, and adjoining landowners have received the notice. Following receipt of that confirmation, the secretary shall provide an opportunity of at least ten working days for written comment regarding whether the application complies with the terms and conditions of the general permit under which coverage is sought.

(c) The secretary may grant an application for authorization to discharge, emit, dispose, operate a facility, or engage in activity to which a general permit under this chapter applies only after determining that each of the following applies:

(1) The filings required in subsections (a) and (b) of this section are complete.

(2) The discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit.

(d) The secretary may:

(1) Allow a transfer from one person or entity to another of an authorization to discharge, emit, dispose, operate a facility, or engage in

activity under a general permit issued under this chapter.

(2) Require notification to the secretary for changes to a discharge, emission, disposal, facility, or activity for which authorization has been issued under a general permit under this chapter.

(3) Under the procedures specified in subsection 814(c) of Title 3, revoke or suspend authorization to discharge, emit, dispose, operate a facility, or engage in activity under a general permit issued under this chapter.

§ 7504. REQUIRING AN INDIVIDUAL PERMIT

The secretary may require any applicant for or permittee authorized under a general permit issued under this chapter to apply for an individual permit. Any interested person may petition the secretary to take action under this section. The secretary may require an individual permit if any one of the following applies:

(1) The discharge, emission, disposal, facility, or activity is a significant contributor of pollution as determined by consideration of each of the following factors:

(A) The location of the discharge with respect to waters of the state of Vermont.

(B) The size and scope of the applicant's or permittee's activities or operation.

(C) The quantity and nature of the pollutants.

(D) Other relevant factors.

(2) The permittee is not in compliance with the terms and conditions of a general permit issued under this chapter.

(3) The application does not qualify for a general permit issued under this chapter.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of wastes or pollutants applicable to the discharge, emission, disposal, facility, or activity.

(5) Federal requirements have been adopted that conflict with one or more provisions of a general permit issued under this chapter.

§ 7505. REQUIRING AUTHORIZATION UNDER A GENERAL PERMIT

The secretary may require that a discharge, emission, disposal, facility, or activity for which issuance or reissuance of an individual permit is sought be subject to a general permit issued under this chapter if the secretary finds that

the discharge, emission, disposal, facility, or activity is eligible for coverage under and will meet the terms and conditions of the general permit and that authorization of the discharge, emission, disposal, facility, or activity under a general permit will protect human health and the environment.

Sec. 91. REPORT AND SUNSET

(a) On April 1, 2011, and again on April 1, 2014, the secretary of natural resources shall submit a report to the senate committees on natural resources and energy and on economic development, housing and general affairs, the house committees on natural resources and energy and on commerce and economic development, and the governor regarding the implementation, compliance, and enforcement of general permits under chapter 165 of Title 10. The secretary's report shall include at least each of the following:

(1) The number of persons seeking coverage under each general permit issued under this chapter.

(2) The number of site visits completed by agency of natural resources personnel to review applications for coverage under and compliance with a general permit issued under this chapter.

(3) The number of and disposition of enforcement actions brought by the agency of natural resources to enforce the requirements of a general permit issued under this chapter.

(b) Chapter 165 of Title 10 shall sunset on July 1, 2014; however, the sunset shall not affect any permit granted prior to July 1, 2014 under chapter 165 of Title 10.

Sec. 92. APPROPRIATION; ARRA; STATE ENERGY PROGRAM,

ENERGY EFFICIENCY, AND CONSERVATION BLOCK GRANTS

In fiscal year 2010, funds under the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, consisting of \$21,999,000.00 state energy program funds and \$9,593,500.00 energy efficiency and conservation block grant (EECBG) program funds are appropriated to the department of public service in Sec.B.235 of H.441 (2009). These funds shall be transferred and deposited into the clean energy development fund created under 10 V.S.A. § 6523. These funds shall be administered and disbursed as set forth in 10 V.S.A. § 6523 with respect to ARRA funds received by the clean energy development fund.

* * * Clean Energy Development Fund * * *

Sec. 93. 10 V.S.A. § 6523 is hereby amended to read:

§ 6523. VERMONT CLEAN ENERGY DEVELOPMENT FUND

(a) Creation of fund.

(1) There is established the Vermont clean energy development fund to consist of all of the following:

(A) ~~the~~ The proceeds due the state under the terms of the memorandum of understanding between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc. that was entered under public service board docket 6812; together with the proceeds due the state under the terms of any subsequent memoranda of understanding entered before July 1, 2005 between the department of public service and Entergy Nuclear VY and Entergy Nuclear Operations, Inc.; ~~and~~

(B) \$21,999,000.00 in funds received by the state under the appropriation contained in the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. No. 111-5, to the state energy program authorized under 42 U.S.C. § 6321 et seq.

(C) \$9,593,500.00 received by the state under ARRA from the United States Department of Energy through the energy efficiency and conservation block grant (EECBG) program.

(D) ~~any~~ Any other monies that may be appropriated to or deposited into the fund.

(2) Balances in the fund ~~shall be held for the benefit of ratepayers,~~ shall be expended solely for the purposes set forth in this subchapter, and shall not be used for the general obligations of government. All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited in the fund. This fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32.

(b) Definitions. For purposes of this section, the following definitions shall apply:

(1) “Clean energy resources” means electric power supply and demand-side resources, or thermal energy or geothermal resources, that are ~~either~~ “combined heat and power facilities,” “cost-effective energy efficiency resources,” or “renewable energy” resources.

* * *

(4) “Emerging energy-efficient technologies” means technologies that are both precommercial but near commercialization and that have already

entered the market but have less than five percent of current market share; that use less energy than existing technologies and practices to produce the same product or otherwise conserve energy and resources, regardless of whether or not they are connected to the grid; and that have additional non-energy benefits such as reduced environmental impact, improved productivity and worker safety, or reduced capital costs.

(5) "Renewable energy" has the meaning established under 30 V.S.A. § 8002(2), and shall include the following: solar photovoltaic and solar thermal energy; wind energy; geothermal heat pumps; farm, landfill, and sewer methane recovery; low emission, advanced biomass power, and combined heat and power technologies using biomass fuels such as wood, agricultural or food wastes, energy crops, and organic refuse-derived waste, but not municipal solid waste; advanced biomass heating technologies and technologies using biomass-derived fluid fuels such as biodiesel, bio-oil, and bio-gas.

(c) Purposes of fund. The purposes of the fund shall be to promote the development and deployment of cost-effective and environmentally sustainable electric power and thermal energy or geothermal resources, and emerging energy-efficient technologies, for the long-term benefit of Vermont ~~electric customers~~ consumers, primarily with respect to renewable energy resources, and the use of combined heat and power technologies. The general assembly expects and intends that the public service board, public service department, and the state's power and efficiency utilities will actively implement the authority granted in Title 30 to acquire all reasonably available cost-effective energy efficiency resources and for the benefit of Vermont ratepayers and the power system.

(d) Expenditures authorized.

~~(1) This fund shall be administered by the department of public service to facilitate the development and implementation of clean energy resources.~~

~~(2) The department shall assure an open public process in the administration of the fund for the purposes established in this subchapter.~~

~~(3) By January 15 of each year, commencing in 2007, the department of public service shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce a report detailing the revenues collected and the expenditures made under this subchapter, together with recommended principles to be followed in the allocation of funds and a proposed five year plan for future expenditures from the fund. (4) Projects for funding may include, and in the case of subdivision (2)(E)(ii) of this subsection shall include continuous funding for as long as funds are available, the following:~~

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) small scale renewable energy in Vermont residences, institutions, and businesses;

(i) generally; and

(ii) through the small-scale renewable energy incentive program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings; ~~and~~

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies; and

(J) effective projects that are not likely to be established in the absence of funding under the program.

~~(5)(2)~~ If during a particular year, the ~~department~~ clean energy development board determines that there is a lack of high value projects eligible for funding, as identified in the five-year plan, or as otherwise identified, the ~~department~~ clean energy development board may consult with the public service board, and shall consider transferring funds to the energy efficiency fund established under the provisions of 30 V.S.A. § 209(d). Such a transfer may take place only in response to an opportunity for a particularly cost-effective investment in energy efficiency, and only as a temporary supplement to funds collected under that subsection, not as replacement funding.

~~(6) (3)~~ The A sum of \$20,000.00 equal to the cost of the business solar energy income tax credits authorized in subsections 5822(d) and 5930z(a) of Title 32 shall be transferred annually from the clean energy development fund to the general fund to support the cost of the solar energy income tax credits.

(e) Management of fund.

~~(1)(A) There is created the clean energy development fund advisory committee board, which shall consist of the commissioner of public service, or a designee, and the chairs of the house and senate committees on natural resources and energy, or their designees. the following nine directors:~~

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

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

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

(D) The state treasurer, ex officio.

~~(B) There is created the clean energy development fund investment committee, which shall consist of seven persons appointed by the clean energy development fund advisory committee.~~

~~(2) The commissioner of public service shall:~~

~~(A) by no later than October 30, 2006:~~

~~(i) develop a five year strategic plan and an annual program plan, both of which shall be developed with input from a public stakeholder process;~~

~~(ii) develop an annual operating budget;~~

~~(iii) develop proposed program designs to facilitate clean energy market and project development (including use of financial assistance, investments, competitive solicitations, technical assistance, and other incentive programs and strategies); and~~

~~(iv) submit the plans, budget, and program designs to the clean energy development fund advisory committee for review and to the clean energy development fund investment committee for approval;~~

~~(B) adopt rules by no later than January 1, 2007 to carry out the program approved under this subdivision;~~

~~(C) explore pursuing joint investments in clean energy projects with other state funds and private investors to increase the effectiveness of the clean energy development fund;~~

~~(D) acting jointly with the members of the clean energy development fund investment committee, make decisions with respect to specific grants and investments, after the plans, budget, and program designs have been approved by the clean energy development fund investment committee. This subdivision (D) shall be repealed upon the effective date of rules adopted under~~

~~subdivision (2)(B) of this subsection.~~

~~(3) During fiscal years after FY 2006, up to five percent of amounts appropriated to the public service department from the fund may be used for administrative costs related to the clean energy development fund and after FY 2007, another five percent of amounts appropriated to the public service department from the fund not to exceed \$300,000.00 in any fiscal year shall be transferred to the secretary of the agency of agriculture, food, and markets for agricultural and farm-based energy project development activities.~~

(3) A quorum of the clean energy development board shall consist of five directors. The directors of the board shall select a chair and vice chair.

(4) In making appointments of at-large directors to the clean energy development board, the appointing authorities shall give consideration to citizens of the state with knowledge of relevant technology, regulatory law, infrastructure, finance, and environmental permitting. The at-large directors of the board shall serve terms of four years beginning July 1 of the year of appointment. However, one at-large director appointed by the speaker and one at-large director appointed by the president pro tempore shall serve an initial term of two years. Any vacancy occurring among the at-large directors shall be filled by the respective appointing authority and shall be filled for the balance of the unexpired term. A director may be reappointed.

(5) Except for those directors of the clean energy development board otherwise regularly employed by the state, the compensation of the directors shall be the same as that provided by subsection 1010(a) of Title 32. All directors of the clean energy development board, including those directors otherwise regularly employed by the state, shall receive their actual and necessary expenses when away from home or office upon their official duties.

(6) At least every three years, the clean energy development board shall commission a detailed financial audit by an independent third party of the fund and the activities of the fund manager, which shall make available to the auditor its books, records, and any other information reasonably requested by the board or the auditor for the purpose of the audit.

(7) In performing its duties, the clean energy development board may utilize the legal and technical resources of the department of public service or, alternatively, may utilize reasonable amounts from the clean energy development fund to retain qualified private legal and technical service providers. The department of public service shall provide the clean energy development board and its fund manager with administrative services.

(8) By January 15 of each year, commencing in 2010, the clean energy

development board shall provide to the house and senate committees on natural resources and energy, the senate committee on finance, and the house committee on commerce and economic development a report detailing the revenues collected and the expenditures made under this subchapter.

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

(10) At least quarterly, the clean energy development board shall hold a public meeting to review and discuss the status of the fund, fund projects, the performance of the fund manager, any reports, information, or inquiries submitted by the fund manager or the public, and any additional matters the clean energy development board deems necessary to fulfill its obligations under this section.

(f) Clean energy development fund manager. The clean energy development fund shall have a fund manager who shall be a state employee retained and supervised by the board and housed within the office of the treasurer.

(g) Bonds. The clean energy development board may explore use of the fund to establish one or more loan-loss reserve funds to back issuance of bonds by the state treasurer otherwise authorized by law, including clean renewable energy bonds, that support the purposes of the fund.

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

(1) The Vermont small-scale renewable energy incentive program currently administered by the renewable energy resource center, for use in residential and business installations. These funds may be used by the program for all forms of renewable energy as defined by 30 V.S.A. § 8002(2), including biomass and geothermal heating. The disbursement to this program shall seek

to promote continuous funding for as long as funds are available.

(2) Grant and loan programs for renewable energy resources, including thermal resources such as district biomass heating that may not involve the generation of electricity.

(3) Grants and loans to thermal energy efficiency incentive programs, community-scale renewable energy financing programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(4) \$2 million for a public-serving institution efficiency and renewable energy program that may include grants and loans and create a revolving loan fund. For the purpose of this subsection, "public-serving institution" means government buildings and nonprofit public and private universities, colleges, and hospitals. In this program, awards shall be made through a competitive bid process. On or before January 15, 2011, the treasurer shall report to the general assembly on the status of this program, including each award made and, for each such award, the expected energy savings or generation and the actual energy savings or generation achieved.

(5) \$2 million to the Vermont housing and conservation board (VHCB) to make grants and deferred loans to nonprofit organizations for weatherization and renewable energy activities allowed by federal law, including assistance for nonprofit owners and occupants of permanently affordable housing.

(6) \$2 million to the Vermont telecommunications authority (VTA) to make grants for installation of small-scale wind turbines and associated towers on which telecommunications equipment is to be collocated and which are developed in association with the VTA.

(7) \$880,000.00 to the 11 regional planning commissions (\$80,000.00 to each such commission) to conduct energy efficiency and energy conservation activities that are eligible under the EECBG program.

(8) Of the funds authorized for use in subdivisions (5)-(7) of this subsection, to the extent permissible under ARRA, up to five percent may be spent for administration of the funds received.

(9) The clean energy development board is authorized, to the extent allowable under ARRA, to utilize up to 10 percent ARRA funds received for the purpose of administration. One-half of this amount shall be allocated to the

treasurer to retain permanent, temporary, or limited service positions or contractors to administer such funds, and the other half of this amount shall be allocated to the oversight of specific projects receiving ARRA funding through the clean energy development fund.

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

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

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

(3) The rules shall provide reasonable opportunities for small businesses to participate in competitive or other funding opportunities.

(j) The governor shall have the authority within 30 days of approval or adoption to disapprove a project, program, or other activity approved by the clean energy development board to be funded by the clean energy development fund if the source of the funds is ARRA; and any rules adopted under subsection (i) of this section. The governor may at any time waive his or her authority to disapprove any project, program, or other activity or rule under this subsection.

Sec. 94. APPLICATION

Sec. 93 of this act shall supersede and replace any other provisions of law enacted in this legislative session to amend 10 V.S.A. § 6523.

Sec. 95. TRANSITION; POSITION TRANSFER

(a) It is the intent of the general assembly that the seven members of the clean energy development fund investment committee appointed prior to the effective date of this act shall be eligible for appointment as directors of the clean energy development fund board for a full term or until the terms of their original appointments expire.

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

(c) Upon the effective date of this act, the fund manager currently retained for the clean energy development fund shall be deemed the fund manager retained by the clean energy development board pursuant to 10 V.S.A. § 6523(f). Upon assumption of supervision of the fund by the clean energy development board pursuant to subsection (b) of this section, the position occupied by that fund manager shall be transferred to the board and become subject to the board's supervision.

Sec. 96. GENERAL OBLIGATION BONDS FOR CLEAN RENEWABLE ENERGY PROJECTS

(a) The capital debt affordability advisory committee (CDAAC), in addition to submitting its fiscal year 2010 recommendation pursuant to 32 V.S.A. § 1001(c), shall consider, in the context of the size and affordability of net state tax-supported indebtedness and the receipt of federal funds under the American Recovery and Reinvestment Act of 2009 (ARRA) which may be used for tax-exempt renewable energy bonds, the issuance of additional general obligation bonds for clean renewable energy projects. The proceeds from these additional bonds, if any, shall be used to pay for projects authorized pursuant to 10 V.S.A. § 6523.

(b) By September 30, 2009, the CDAAC shall submit to the governor, the members of the joint fiscal committee, and the chairs of the house committee on corrections and institutions and the senate committee on institutions an estimate of the amount of additional long-term net tax-supported debt, in addition to the \$69,995,000.00 in general obligation debt previously recommended for fiscal year 2010 for debt issuance to support the state's capital budget, that prudently may be authorized for additional bonds to support clean renewable energy projects.

(c) The general assembly hereby authorizes for fiscal year 2010 the issuance of general obligation bonds to be dedicated to projects that meet the requirements of 10 V.S.A. § 6523, provided that the total amount issued does not exceed the CDAAC recommendation to be submitted by September 30,

2009, and provided that the total amount is approved by the joint fiscal committee and the governor.

(d) The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized in accordance with this section consistent with the underlying nature of the projects to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the department of public service pursuant to 32 V.S.A. § 954(b).

(e) There is hereby created a clean energy bond fund which shall be a subfund of the clean energy development fund established in 10 V.S.A. § 6523. Monies in the clean energy bond fund shall be used to support projects in accordance with 10 V.S.A. § 6523. It is the intent of the general assembly that debt service for bonds authorized by this section shall be paid from principal and interest paid into the clean energy bond fund by entities receiving loans from the fund. It is also the intent of the general assembly that the treasurer may establish a loan-loss reserve fund to support the bond issuance.

(f) There is appropriated in fiscal year 2010 from the general fund to the treasurer for deposit into the Vermont clean energy bond fund the additional amount recommended by CDAAC and approved by the joint fiscal committee and the governor pursuant to subsection (c) of this section.

Sec. 97. 32 V.S.A. § 5822(d) is amended to read:

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits. A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that, for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project. Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

Sec. 98. 32 V.S.A. § 5930z is amended to read:

§ 5930z. PASS-THROUGH OF FEDERAL ENERGY CREDIT FOR CORPORATIONS

(a) A taxpayer of this state shall be eligible for a credit against the tax imposed under section 5832 of this title in an amount equal to 100 percent of the Vermont-property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from the clean energy development fund created under 10 V.S.A. § 6523 is not eligible to claim the business solar energy tax credit for that project; and provided, further that for investments made on or after October 1, 2009, the tax credit will only apply to project costs not covered by any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project.

Sec. 99. 32 V.S.A. § 5822(d) is amended to read:

(d) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: elderly and permanently totally disabled credit, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits. ~~A taxpayer shall also be entitled to a credit against the tax imposed under this section of 76 percent of the Vermont property portion of the business solar energy investment tax credit component of the federal investment tax credit allowed against the taxpayer's federal income tax for the taxable year under Section 48 of the Internal Revenue Code; provided, however, that a taxpayer who receives any grants or similar funding from any public or private program that assists in providing capital investment for a renewable energy project is not eligible to claim the business solar energy tax credit for that project.~~ Any unused business solar energy investment tax credit under this section may be carried forward for no more than five years following the first year in which the credit is claimed.

Sec. 100. REPEAL

32 V.S.A. § 5930z (related to business solar energy investment tax credits for corporations) is repealed for investments made on or after January 1, 2011.

Sec. 101. TRANSITION RULES

(a) A taxpayer who claimed the 76-percent business solar energy investment tax credit component of the federal investment tax credit pursuant

to 32 V.S.A. § 5822(d) prior to January 1, 2011 shall be entitled to carry forward the unused portion of the credit for up to five years.

(b) A taxpayer who claimed the business solar energy investment tax credit pursuant to 32 V.S.A § 5930z prior to January 1, 2011 shall be entitled to carry forward the unused portion of the credit for up to five years.

Sec. 102. Sec. 29 of No. 92 of the Acts of the 2007 Adj. Sess. (2008) is amended to read:

Sec. 29. EFFECTIVE DATE OF BUSINESS ENERGY TAX CREDIT

Secs. 27 and 28 of this act (business energy tax credits) shall apply to ~~carry through and recapture of federal credits, including recapture,~~ related to taxable year 2008 and after.

Sec. 103. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, in addition to revenues from the sale of credits under the RGGI cap and trade program ~~established~~ as provided for under section 255 of this title.

* * *

Sec. 104. 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, such revenues from the sale of carbon credits under the cap and trade program as provided for in section 255 of this title shall be deposited into the electric efficiency fund established by this section.

Sec. 105. 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of

Vermont energy consumers. ~~Proceeds~~ Fifty percent of the net proceeds above costs from the sale of carbon credits shall be deposited into the fuel efficiency fund established under section 203a of this title. These funds shall be used to provide expanded fossil fuel energy efficiency services to residential consumers who have incomes up to and including 80 percent of the median income in the state. The remaining 50 percent of the net proceeds above costs shall be deposited into the electric efficiency fund established under subdivision 209(d)(3) of this title. These funds shall be used by the entity or entities appointed under subdivision 209(d)(2) of this title to help meet the building efficiency goals established under 10 V.S.A. § 581 by delivering fossil fuel energy efficiency services to Vermont heating and process-fuel consumers who are businesses or are residential consumers whose incomes exceed 80 percent of the median income in the state.

Sec. 106. ADDING COMPLIANCE PERSONNEL TO THE DEPARTMENT OF LABOR

(a) In addition to any other funds appropriated to the department of labor in fiscal year 2010, there is appropriated from the general fund to the department \$308,212.00 in fiscal year 2010 for the purpose of hiring four full-time limited service employees as workers' compensation fraud staff who will investigate the classification of workers as either contractors or employees and enforce compliance of the proper classification by businesses.

(b) The positions created pursuant to subsection (a) of this section shall not be new state employee positions but instead shall be transferred and converted from the vacant position pool as and only when such positions in the vacant position pool become available.

(c) Notwithstanding any other provision of law, the positions created by this section shall be created as limited service positions and shall not be funded for a period in excess of three years.

* * * Privatization Contract * * *

Sec. 107. 3 V.S.A. § 341(3) is amended to read:

(3) "Privatization contract" means a personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services, valued at \$20,000.00 or more per year, which are the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified state employees, and which result in ~~the a~~ reduction in force of at least one permanent, classified employee, ~~or the elimination of a vacant position of an employee covered by a collective bargaining agreement.~~

Sec. 108. STATE PLEDGE ON BEHALF OF SMALL BUSINESSES

An amount not to exceed \$1,000,000.00 of the full faith and credit of the state is pledged for the support of the activities of the Vermont economic development authority to be used solely for loss reserves for lending in the Vermont small business loan program and the TECH loan program, to be apportioned in a manner deemed appropriate by the authority and the state treasurer.

* * * Full Faith and Credit of the State * * *

Sec. 109. 10 V.S.A. § 221(a) is amended to read:

(a) Upon application of the proposed mortgagee, the authority may insure mortgage payments required to repay loans made by the mortgagee for the purpose of financing the costs of a project, upon such terms and conditions as the authority may prescribe; provided, however, that the total principal obligations of all mortgages insured under this subsection and under subsection (c) of this section outstanding at any one time shall not exceed ~~\$15,000,000.00~~ \$9,000,000.00. Before insuring any mortgage payments hereunder, the authority shall determine and incorporate each of the findings established by this subsection in its minutes. Such findings, when adopted by the authority shall be conclusive:

* * *

Sec. 110. 10 V.S.A. § 223 is amended to read:

§ 223. CREDIT OF THE STATE PLEDGED

The full faith and credit of the state is pledged to the support of the activities of the authority under this subchapter. In furtherance of the pledge, the state treasurer is authorized and directed to transfer to the fund, without further approval, first from the indemnification fund and then from available cash in the treasury or from the proceeds of bonds or notes issued under this section, such additional amounts as may be requested from time to time by the authority to enable it to perform all insurance contracts punctually and in accordance with their terms. The authority shall request such transfers from time to time as additional amounts are required for such purposes. The treasurer is authorized and directed, without further approval, to issue full faith and credit bonds of the state, from time to time, in amounts necessary to support the activities of the authority under this subchapter and subchapter 8 of this chapter, but not to exceed an aggregate of ~~\$35,000,000.00~~ \$10,000,000.00 at any one time outstanding, and to borrow upon notes of the state in anticipation of the proceeds of such bonds. Any bonds under this subchapter shall be issued pursuant to the provisions of chapter 13 of Title 32, except that

the approval of the governor shall not be required previous to their issuance by the treasurer.

Sec. 111. 10 V.S.A. § 279b(a) is amended to read:

(a) Upon registration by the authority of an eligible loan, the full faith and credit of the state shall be pledged in an amount equal to the reserve premium payment deposited to the fund by the participating bank in connection with such loan. The aggregate amount of the credit of the state which may be pledged pursuant to the provisions of this subchapter shall not exceed ~~\$2,000,000.00~~ \$1,000,000.00 at any time.

Sec. 112. ARRA APPROPRIATIONS; FULL FAITH AND CREDIT

(a) In fiscal year 2010, of the funds appropriated in Sec. B.1101(b)(1) of H.441 (2009), \$3,400,000.00 from the state fiscal stabilization funds available under the American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, shall be disbursed as follows:

(1) \$2,150,000.00 to the entrepreneurs' seed capital fund.

(2) \$1,000,000.00 to the Vermont economic development authority to provide interest-rate subsidies in the Vermont jobs fund.

(3) \$100,000.00 to the Vermont sustainable jobs fund program for the farm-to-plate investment program as provided in Sec. 35 of this act.

(4) \$150,000.00 to the Vermont sustainable jobs fund for start-up capital in the flexible capital fund program.

(b) An amount not to exceed \$1,000,000.00 of the full faith and credit of the state is pledged for the support of the activities of the Vermont economic development authority to be used for loss reserves for lending in the Vermont small business loan program and the TECH loan program, to be apportioned in a manner deemed appropriate by the authority and the state treasurer.

(c) In FY 2010, \$500,000.00 of ARRA funds are appropriated to the department of tourism and marketing pursuant to Sec. B.1101(b)(3) of H.441 (2009).

(d) In FY 2010, \$120,000.00 to the department of tourism and marketing, of which \$100,000.00 shall be for a grant to the Vermont convention bureau and \$20,000.00 to the Shires of Vermont, pursuant to Sec. B.1101(a)(6) of H.441 (2009).

(e) Legislative intent. Notwithstanding any provision of law to the contrary, in the event no funding from ARRA is appropriated to Sterling College in any act of the 2009 general assembly, then in fiscal year 2010, the

amount of \$350,000.00 shall be transferred from the general fund to the department of economic development for a grant to Sterling College for student residency and program center costs, as provided in Sec. B.1101(a)(8) of H.441 (2009).

Sec. 113. EFFECTIVE DATE

This act shall take effect upon passage with the following exceptions:

(1) Secs. 97 and 98 (relating to business solar energy tax credits) shall apply to credits related to investments made on or after January 1, 2009; and

(2) Sec. 99 (relating to the repeal of the 76-percent portion of the business solar energy tax credit) shall apply to credits related to investments made on or after January 1, 2011.

Committee on the part of the Senate Committee on the part of the House

Sen. Vincent Illuzzi

Rep. Warren F. Kitzmiller

Sen. Robert M. Hartwell

Rep. David Deen

Sen. Hinda Miller

Rep. Michael J. Obuchowski

Which was considered and adopted on the part of the House.

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

Message from the Senate 67

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 adopted joint resolution of the following title:

J.R.S. 35. Joint resolution relating to final adjournment of the general assembly in 2009.

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

Joint Resolution Adopted in Concurrence

J.R.S. 35

Assembly in 2009.

Resolved by the Senate and House of Representatives

That when the President of the Senate and the Speaker of the House of Representatives adjourn their respective houses on the ninth day of May, 2009 they shall do so to reconvene no later than the fifth day of January, 2010.

Was taken up read and adopted in concurrence.

Message from the Senate No. 68

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 completed the business of the session and is ready to adjourn until January 5, 2010, pursuant to the provisions of J.R.S. 35.

Senate Notified of Completion of House Business

Rep. Nease of Johnson moved that the House direct the Clerk of inform the Senate that the House has completed the business of the first half of the Biennial session and is ready to adjourn pursuant to the provisions of J.R.S. 35, which was agreed to.

Governor Notified of Completion of House Business

Rep. Nease of Johnson moved that the Speaker appoint a committee of six to inform the Governor that the House has completed the business of the first half of the Biennial session and is ready to adjourn pursuant to the provisions of J.R.S. 35 , which was agreed to.

Rep. Nease of Johnson
Rep. Komline of Dorset
Rep. Haas of Rochester
Rep. Jewett of Ripton
Rep. Flory of Pittsford
Rep. Botzow of Pownal

Governor Presented at the Bar of the House

The committee appointed to wait upon the Governor retired to the Executive Chamber and returned with His Excellency, Governor James Douglas, and presented him at the bar of the House. The Governor addressed the House and, having completed his remarks, was escorted from the Hall by the Committee.

Adjournment

Rep. Nease of Johnson moved that the House adjourn until January fifth, 2010, pursuant to J.R.S. 35, which was agree to. Thereupon, at ten o'clock and forty-seven minutes in the evening, the Speaker adjourned the House of Representatives pursuant to the provisions of J.R.S. 35.

FINAL MESSAGES AND COMMUNICATIONS**Message from the Senate No. 69**

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

Mr. Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on May 12, 2009, he approved and signed bills originating in the Senate of the following titles:

S. 69. An act relating to digital campaign finance filings.

S. 111. An act relating to legislative apportionment board appointments.

The Governor has informed the Senate that on May 14, 2009, he approved and signed bills originating in the Senate 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. 86. An act relating to the administration of trusts.

S. 94. An act relating to licensing state forest land for maple sugar production.

The Governor has informed the Senate that on May 15, 2009, he approved and signed bill originating in the Senate of the following title:

S. 70. An act relating to clarifying the procedure for reinstatement of a driver's license based on total abstinence from alcohol and drugs.

The Governor has informed the Senate that on May 19, 2009, he approved and signed bill originating in the Senate of the following title:

S. 2. An act relating to offenders with a mental illness or other functional impairment.

The Governor has informed the Senate that on May 21, 2009, he approved and signed bill originating in the Senate of the following title:

S. 91. An act relating to operation of vessels on public waters.

The Governor has informed the Senate that on May 26, 2009, he approved and signed bills originating in the Senate of the following titles:

S. 67. An act relating to motor vehicles.

S. 121. An act relating to miscellaneous election laws.

The Governor has informed the Senate that on May 27, 2009, he approved and signed bills originating in the Senate of the following titles:

S. 7. An act to prohibit the use of lighted tobacco products in the workplace.

S. 25. An act relating to the repeal or revision of certain state agency reporting requirements.

S. 42. An act relating to the Department of Banking, Insurance, Securities, and Health Care Administration.

The Governor has informed the Senate that on June 28, 2009, he approved and signed bills originating in the Senate of the following titles:

S. 89. An act relating to stabilization of prices paid to Vermont dairy farmers.

S. 129. An act relating to containing health care costs by decreasing variability in health care spending and utilization.

The Governor has informed the Senate that on June 1, 2009, he approved and signed bills originating in the Senate of the following titles:

S. 26. An act relating to recovery of profits from crime, the disposition of property upon death, transfer of interest in vehicle upon death, homestead exemption, unclaimed property, credit card fee disputes, and patient's privilege.

S. 47. An act relating to salvage yards.

S. 51. An act relating to Vermont's motor vehicle franchise laws.

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

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twelfth day of May, 2009, he approved and signed bills originating in the House of the following titles:

H. 6 An act relating to the sale of engine coolants and antifreeze

**H. 249 An act relating to volunteer nonprofit service organizations
 and casino nights**

Message from Governor

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

Mr. Speaker:

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

**H. 83 An act relating to underground storage tanks and the
 petroleum cleanup fund**

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the eighteenth day of May, 2009, he approved and signed bills originating in the House of the following titles:

**H. 297 An act relating to approval of the adoption of the charter of the
 Morristown Corners Water Corporation;**

**H. 431 An act relating to miscellaneous adjustments to the public
 retirement systems;**

H. 435 An act relating to palliative care;

**H. 448 An act relating to codification and approval of amendments to
 the charter of the village of Swanton;**

**H. 451 An act relating to the approval of amendments to the charter
 of the city of Burlington.**

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-first day of May, 2009, he approved and signed bills originating in the House of the following titles:

H. 80 An act relating to the use of chloramines as a disinfectant in public water systems;

H. 91 An act relating to technical corrections to the juvenile proceedings act of 2008;

H. 171 An act relating to home mortgage protection for Vermonters;

H. 447 An act relating to wetlands protection.

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-first day of May, 2009, he did not approve and *allowed to become law without his signature* a bill originating in the House of the following title:

H. 427 An act relating to making miscellaneous amendments to education law.

Message from the Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the twenty-second day of May, 2009, he returned without signature and *vetoed* a bill originating in the House of Representatives of the following title:

H. 436 An act relating to decommissioning funds of nuclear energy generation plants.

Communication from the Governor

“May 22, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.436, *An Act Relating To Decommissioning Funds of Nuclear Energy Generation Plants*, without my signature because of my objections described herein.

Many Vermonters are struggling as a result of the current recession and all are facing pressure from rising costs. While I do believe there are opportunities for operational improvements at Vermont Yankee, this legislation does nothing to increase protections for Vermonters, ratepayers or our state's economy. Rather, H.436 threatens our economic recovery by unnecessarily increasing electric rates for consumers and businesses. Further, this legislation substitutes an objective process with political calculations, it breaks a promise made by the state of Vermont to a private entity and it exposes taxpayers to certain litigation.

The safe and reliable operation of Vermont Yankee nuclear power station remains the most important issue surrounding the plant's future. To support that goal, my administration is working diligently with the Nuclear Regulatory Commission (NRC), stakeholders and the plant's owners to ensure the highest standards are achieved. Additionally, in the relicensing case currently underway, the Public Service Department (DPS) has filed a plan to provide funding into the decommissioning fund that adequately protects Vermont interests while not excessively penalizing the owners.

The NRC has completed a lengthy examination and review of the conditions in the plant, and concluded that, subject to some modifications in procedures, it meets the standards necessary to ensure safe operation moving forward.

Similarly, the State of Vermont recently completed a Comprehensive Reliability Assessment of the plant. With the help of consulting experts and under the scrutiny of a Public Oversight Panel, the plant's reliability has been deemed to meet the standards necessary for continued reliable service if the recommendations of the Comprehensive Reliability Assessment and Public Oversight Panel are carried out by Entergy Nuclear Vermont Yankee.

As we ensure the highest levels of safety and reliability at Vermont Yankee, we must also consider the conditions under which Vermont Yankee is allowed to conduct business. It is critical, therefore, that we consider the financial benefits that are provided by the plant's operations – namely, affordable

power, a favorable revenue sharing agreement, and economic support for the region and state.

Finally, we must not lose sight of the fact that Vermont Yankee provides a source of power with relatively low carbon emissions, thus helping to limit our greenhouse gas emissions. Now that the cost of carbon is a part of the price that consumers pay for electricity, losing this source of power from our regional portfolio would likely lead to higher costs for ratepayers.

Vernon, Vermont has been home to the Vermont Yankee nuclear power station since 1972, and it currently provides approximately one-third of the state's power. Initially owned by a consortium of Vermont utilities, Vermont Yankee was later sold to Entergy Corporation in 2002 during which time all the financial parameters of the plant's operation until March 21, 2012 in relation to the state were established by order of the Public Service Board (PSB). The plant was sold for \$180 million and the output of the plant was sold back to Vermont utilities under an economically favorable long-term power purchase agreement.

It was understood that Entergy, pursuant to an NRC finding of fund adequacy, would not make financial contributions to the decommissioning trust account and that the SAFSTOR method of extended decommissioning was permissible. The PSB ruled that there was significant value to ratepayers by getting a lower price for power as opposed to continued contributions to the fund and in transferring the risk of increased decommissioning costs away from ratepayers.

Beyond the sale and associated benefits to ratepayers, Vermont Yankee supports the region with over 600 high paying jobs, helping to infuse money into the local, state and regional economies, as well as additional tax revenue for the state. The Clean Energy Development Fund receives millions of dollars each year from Entergy to fund renewable projects throughout the state. In addition to local impacts, Vermont Yankee is responsible for providing power to neighboring states through the regional grid.

Our state has one of the greenest and cleanest energy portfolios in the nation. Our forested lands remove more carbon than we produce. Vermont is a leader in reducing carbon emissions because of our efforts in encouraging energy efficiency and renewable energy production, along with the power purchase agreements with Hydro Quebec and Vermont Yankee.

At the end of the last biennium, the general assembly passed S.373, *An Act Relating to Full Funding of Decommissioning Costs of a Nuclear Plant*, which called for the total funding for decommissioning of the Vermont Yankee nuclear power facility by 2012. At that time, I sent the legislation back without approval because the legislation was a substantial deviation from standards observed by nuclear power stations across the nation. It was clear that creating such a requirement for total decommissioning in 2012 would result in a significant increase in rates for consumers, and further threaten our already tenuous economic position.

Unfortunately, H.436 made little attempt to change the fundamental flaws in policy and substance in this iteration. Instead, it has aggravated the situation by creating unnecessarily burdensome financial pitfalls for electric ratepayers today and into the future and placing Vermont at great risk for civil liability. This legislation circumvents the existing quasi-judicial process and shortcuts an established fact-finding process, instead substituting legislative politics in their places.

Our reputation as a state is on the line. Our willingness to honor our agreements not only goes to our future business relationships, but speaks volumes of the ethical standard to which we ascribe. During my many years of public service I have seen the consequences when the state attempts to go back on its commitments. I speak of the past power purchase agreements our utilities had with Hydro Quebec, and the attempts to undo them. When all was said and done, the state was required to honor its agreement, but our relationship with a valuable trade partner was damaged, and our motives suspect. It appears the lessons learned from that experience have been forgotten, or worse – ignored. Now I need to step forward and defend the actions of a previous administration that agreed to the use of SAFSTOR as an acceptable decommissioning strategy in the name of honoring the State's commitments.

This legislation appears to have tried to avoid a breach of contract or franchise claim by making the full funding of the fund take place one day after the current license period ends. This attempt, however, is unlikely to be successful. Making the full funding provision date one day later, even if the plant shuts down, does not excuse the state from its obligations under the Memorandum of Understanding agreed to by preceding administrations. Attorneys for the State of Vermont have opined that the state will likely face litigation for breach of contract or breach of a franchise by Entergy if this legislation becomes law. Vermont Yankee's owners very likely would claim that, since the Memorandum of Understanding was breached, the current

power purchase agreement is no longer valid, which would cost ratepayers up to \$356 million.

The full funding language in this legislation, whether as a “balloon payment” or a “parental guarantee,” would require substantial financial resources, all at once. This is problematic because the amount Entergy is required to pay into the decommissioning fund may come out of the power price we will receive for consumers from a new power purchase agreement. In other words, ratepayers will get a much less favorable price on the power. The requirements of H.436 severely threaten our goal of retaining the option for Vermont consumers to get the best possible price for power generated by Vermont Yankee, subject of course to regulatory and legislative approval.

H.436 does not achieve a greater level of accountability for Entergy. Rather, it is the original sale order, the NRC, and the current case on continued operation now before the PSB that are the means to achieve accountability. This legislation’s approach is a direct threat to the Vermont ratepayer and our state’s prosperity.

The department’s plan currently before the PSB is a far more constructive approach that protects ratepayers. It calls for Entergy to make payments into the decommissioning fund over the course of 20 years instead of immediately. This approach preserves ratepayer benefits by lessening the effect on the power purchase agreement. Further, the department’s plan mandates fund review and adjustments every two and a half years, allowing the fund to grow in a steady fashion over the license renewal period.

In contrast to the department’s plan, this legislation has purposely removed the authority of the PSB to offer even a preliminary finding in this case. This approach appears designed to prevent the use of a venue that relies on objective fact-based proceedings, replacing it with biases and political consideration.

It is clear that Vermont Yankee will eventually be decommissioned, whether in 2012 or afterward. How it is decommissioned is a question of great importance. This legislation’s approach is to extract money in any way possible, creating a hostile business environment. I propose that we work together constructively, observe our own laws and procedures, and design a balanced solution that allows for all parties to benefit.

The question of Vermont Yankee's continued operation remains, and that should be decided by the regulatory process and legislative deliberation of the merits of an additional 20 years, not as an indirect result of ill-conceived legislation. Because this legislation threatens ratepayers, increases long-term electric rates, risks potential job losses, and creates unnecessary liability for the state – while failing to adopt a viable, workable solution – I cannot support this legislation and must return it without my signature.

Sincerely,
/s/James H. Douglas
Governor
JHD/hsw”

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-third day of May, 2009, he approved and signed bills originating in the House of the following titles:

- H. 24 An act relating to insurance coverage for colorectal cancer screening;**
- H. 86 An act relating to the regulation of professions and occupations;**
- H. 145 An act relating to composting;**
- H. 453 An act relating to receivership of long-term care facilities.**

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-seventh day of May, 2009, he approved and signed bills originating in the House of the following titles:

- H. 443 An act relating to approval of amendments to the charter of the city of South Burlington;**
- H. 445 An act relating to capital construction and state bonding.**

Message from the Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the twenty-seventh day of May, 2009, he did not approve and *allowed to become law without his signature* a bill originating in the House of Representatives of the following title:

H. 446 An act relating to renewable energy and energy efficiency.

Communication from the Governor

“May 27, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H. 446, *An Act Relating to Renewable Energy and Energy Efficiency*, to become law without my signature.

I fully support the development of renewable energy in Vermont and I have worked hard to encourage this industry. I believe this bill, however, fails to recognize the current viability of renewable energy in a competitive setting and will needlessly increase costs to Vermont consumers so as to subsidize this one favored business sector.

Vermont continues to lead the nation in virtually all aspects of energy market transformation. We are globally recognized for our green ethic and commitment to the environment. Our citizens pay more, per capita, than any other people in the nation for electric efficiency. The highly successful Clean Energy Development Fund provides incentives for renewable energy investments. And Vermont’s existing electric portfolio is one of the cleanest in the nation. I believe we can still carry the mantle of energy leadership without unnecessarily increasing rates on Vermonters.

As state government struggles to deal with new fiscal realities and tries to contain costs, we cannot lose sight of the fact that working Vermonters are experiencing the same difficulties. We should not add to the burdens of working families, especially when it can be avoided.

This legislation puts in place a so-called “standard offer,” that will establish minimum rates to be paid by electric customers for various renewable sources in long-term fixed price contracts. The rates set out in H. 446 are well beyond the current market price for electricity, and worse, also beyond the price that utilities in Vermont are paying for renewables in the competitive market. If we want additional renewables in our supply, that can be accomplished at a fraction of the prices set in H.446.

This sort of scheme was done before and we are still feeling the effects of it today. Under federal legislation known as PURPA, utilities were forced to purchase electricity from Independent Power Producers under long-term fixed prices. Vermont consumers to date have paid a premium of more than \$400 million for that electricity.

Furthermore, this legislation reverses a long-standing principle that electric rates pay for the cost of providing Vermonters with clean, reliable and affordable electricity at the lowest cost. In addition, any gains in the renewables sector brought about by this legislation may very well be offset by job losses in other sectors due to the increased cost of doing business from higher electric rates.

I remain committed to renewable energy development in Vermont, especially by building on what we have already done through the Clean Energy Development Fund (CEDF). Since it's inception in 2005, the program has distributed \$13.2 million in grants and \$2.2 million in low interest loans to 84 projects in Vermont, resulting in 9.6 MW of capacity for the state. Based on data from the most recent round of applications for CEDF funding, wholesale electricity produced from projects that get this initial funding will cost less than \$.06 per kilowatt hour - after taking into account all credits – almost a 25% reduction in price. This lower, close to the market energy price, demonstrates that the existing incentives can encourage renewable energy without burdening ratepayers.

And significantly, the American Recovery and Reinvestment Act of 2009 (ARRA) provides many exciting new opportunities to affordably develop renewable energy sources in our state. With \$30 million in ARRA energy funds available, leveraged with state funds, an estimated \$150 million of projects will be made possible. And this investment in renewables is made *without* adding to the electric energy prices paid by Vermonters.

While I have serious reservations about H. 446 as outlined above, I do not believe that the process will be well served by my veto of this legislation. This

bill does require that by September 15 of this year the Public Service Board open and complete a noncontested case docket to determine whether or not the standard offer prices constitute a reasonable approximation of the prices required to meet the bill's criteria. If the Board finds the prices are inadequate or excessive, it is required to establish new ones.

Further, no later than January 15 of next year, the Public Service Board is required to set prices for standard offers that take into full account the value of all economic incentives--state, federal, including ARRA funds, and other funds. I am confident that the Board will implement fair and balanced pricing for the benefit of Vermont's ratepayers.

Even though this bill does set statutory standard offer rates, which I believe is inappropriate, because the Public Service Board must revisit those rates within the next four months and periodically thereafter, I will allow this bill to become law without my signature.

Sincerely,
/s/James H. Douglas
Governor

JHD/sy”

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-eighth day of May, 2009, he approved and signed bills originating in the House of the following titles:

H. 15 An act relating to aquatic nuisance control;

H. 136 An act relating to executive branch fees.

Message from Governor

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

Mr. Speaker:

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

H. 438 An act relating to the state's transportation program.**Message from Governor**

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

Mr. Speaker:

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

H. 192 An act relating to encouraging use of local foods in Vermont's food system.**Message from the Governor**

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

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the first day of June, 2009, he returned without signature and *vetoed* a bill originating in the House of Representatives of the following title:

H. 441 An act making appropriations for the support of government.**Communication from the Governor**

"June 1, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633

Dear Mr. Milne:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.441, *An Act Making Appropriations for the Support of Government*, without my signature because of my objections described herein.

The task of building a balanced, responsible and sustainable budget that addresses the needs of Vermonters and their ability to afford their government is the most important duty of the General Assembly. Today, we find ourselves in the midst of a global recession making this task more difficult than in previous years. The path we choose will have a dramatic effect on future

years. We cannot and must not sacrifice fiscal prudence and long-term sustainability to patch together a budget that leaves Vermont and Vermonters exposed to the perils of this recession.

In a few short months my Administration will begin work on the fiscal 2011 budget and by this time next year, legislators will have again cast their votes on a spending plan. According to the Legislature's Joint Fiscal Office (JFO), H.441 will leave a \$67 million General Fund deficit that must be addressed at that time. Further, JFO estimates an even greater \$141 million deficit for fiscal 2012 – when federal stimulus dollars will no longer be available to help fill the hole. Together, the fiscal 2011 and fiscal 2012 deficits account for a staggering \$208 million shortfall if H.441 becomes law.

As early as January, when the American Recovery and Reinvestment Act (ARRA) was being debated in Washington, I warned of the risks of an over-reliance on federal recovery money. While these funds are intended to preserve services and avoid state and local tax increases, we cannot allow them to be an excuse to pass business-as-usual spending plans. Indeed, we are in unusual economic times.

I warned lawmakers that using federal money to pass a budget that keeps spending on an upward trajectory would lead to huge challenges when ARRA funds run out. Unfortunately, H.441 does just that. Under this budget, spending increases by over 3% – well above the current rate of inflation – using one-time federal stimulus money. Spending in human services grows by nearly \$150 million, or 5.6% – though we already have the most generous social safety net in the nation, according to a recent *New York Times* study.

I cannot support a budget that increases spending and, thereby, leaves such large shortfalls in future years, which Vermonters know will have to be filled by deeper cuts, higher taxes or a combination of both. And I cannot support a budget that shifts our challenges to tomorrow, when the consequences of our decisions will be even greater.

In addition to large deficits, the tax increases contained in H.441 compound the already significant struggles facing the people of our state. Vermonters are among the most heavily taxed people in the nation and it has often been observed that we have little capacity for higher taxes. Vermont native David Hale, a highly respected global economist, said in a recent news report that Vermont should, "... avoid tax increases that would undermine [the State's] ability to compete for jobs, compete for investment, compete for

business.” Yet, this budget asks Vermonters to contribute over \$26 million in higher taxes – \$9.3 million in higher income taxes on senior citizens, small business owners, farmers and loggers – from a combination of changes in how we tax capital gains, the elimination of the state and local tax deduction and other measures.

I support a change in our capital gains exemption to treat earned and unearned income the same for tax purposes. However, I have been clear that any proposal must be revenue neutral and used to lower our very high marginal income tax rates – not to support increased government spending. The Legislature’s plan fails to meet this test as it does not use every dollar from changes to the capital gains exemption to lower income tax rates. Further, it does not exclude seniors who depend on capital gains in their retirement or farmers and loggers who take capital gains as a course of business. And it makes these changes retroactively, with no advance notice or warning, changing our tax structure after Vermonters have already made decisions about their money.

What is so concerning about these tax proposals is that many of the changes did not receive a public hearing and will result in consequences that many lawmakers, and most Vermonters, do not fully understand. Changes to the capital gains exemption and the elimination of the state and local tax deduction will hit small businesses and farms particularly hard. In fact, more than 2,000 businesses will see an average income tax increase of more than \$3,000. At a time when small businesses are struggling to make ends meet, these taxes will be devastating for them and their employees.

Changes to the estate tax are also worrisome. This tax increase will have a dramatic impact on Vermont agriculture. Farmers seeking to pass their farms to their loved ones may be forced to sell a large portion of the farm to pay the higher death tax.

The tax increases in H.441 are counter to Vermont’s successful emergence from this recession. These increased taxes hurt those we depend on for a robust economic recovery – farmers, small businesses and working Vermonters. I will not support increased taxes on our people so that state government can grow at an unsustainable rate.

As Vermont seeks to emerge from this recession it is critical that we make serious investments in economic development. Unfortunately, the Legislature failed to act on important initiatives and investments that are needed to create jobs and ensure a quick and strong recovery. In this economic

crisis, there is no greater social welfare program than a good-paying job to give a struggling family hope and economic independence.

Through ARRA, \$17.1 million was made available to Vermont for flexible uses from the State Fiscal Stabilization Fund (SFSF). Earlier this year, I proposed spending these funds, over a two-year period, exclusively on economic development initiatives as part of a program called *SmartVermont*. I outlined a plan to spend the maximum amount available for fiscal 2010, \$11 million, and the remaining \$6 million in fiscal 2011. The SFSF dollars can leverage over \$150 million in economic activity and job creation. H.441 dedicates only \$4.1 million for job creation and, instead, uses \$4.4 million of this one-time money to fund ongoing expenditures of state government – building up base spending that will exacerbate our challenges in the coming years.

As we strive to bolster our economy and compete for jobs in the 21st century, we need a highly educated and trained workforce. In recent years we have made substantial investments to meet this objective. H.441, however, takes us backward in our efforts to provide workforce training and higher education opportunities to the people of our state. This budget reduces workforce training funds, jeopardizing up to \$7.2 million in federal stimulus funds, and zeroes out Next Generation scholarships for over 600 Vermont students – tomorrow's nurses, engineers, police officers and inventors. Approximately \$500,000 was cut from the Agency of Commerce and Community Development's Vermont Training Program, which will eliminate training opportunities for over 2,200 Vermonters and deny the state an important economic development tool.

H.441 also reduces funding for the Vermont Telecommunications Authority (VTA) by \$500,000 – effectively shutting down the VTA by September. I will not support a budget that leaves this important economic development work unfinished. To provide economic opportunities for Vermonters in every corner of our state, we must continue to work toward the goal of universal broadband and cell phone coverage by the end of next year.

This budget fails to address the significant deficits we face in our Unemployment Insurance (UI) Trust Fund. There is broad consensus that the need to address the downward trajectory of the fund is urgent. While employers are understandably concerned about increased unemployment insurance taxes, especially in these difficult economic times, they recognize

that a balanced approach that also makes reasonable adjustments to benefits is in the best long-term interest of all Vermonters. Failure to take action leaves a \$160 million deficit in the fund by the end of next year. Vermont will be forced to borrow more money from the federal government that will have to be paid back with interest from the General Fund – placing another burden on the backs of Vermonters and Vermont businesses.

Any plan to address UI must be balanced and comprehensive. It is not enough to raise taxes on businesses and not make a reduction in our incredibly generous benefits structure. While some have suggested that freezing the maximum weekly benefit is a good start, that will not be enough. We must ask benefit recipients to take a modest \$16 reduction in their maximum weekly benefit from \$425 to \$409, helping us begin to bend the curve and shore up this fund.

H.441 contains language that threatens the separation of powers among the branches of government and unduly burdens the Executive Branch as it carries out its constitutional responsibilities.

One of the most troubling language additions interferes with the relationship between the Administration and the Vermont State Employees Association (VSEA). Legislative micro-management impairs the State's ability to carry out the necessary work that Vermonters demand and deserve of their government.

H.441 prevents the Administration from implementing reductions in force without the approval of a legislative committee of 10, should negotiations be unsuccessful. It is the obligation of the Executive branch and its department heads to use their expertise and familiarity with their departments to manage the workforce and to make reductions in the least disruptive manner possible. The budget language impedes this responsibility to carry out the Executive's constitutionally-assigned function.

H.441 also requires the Administration to conduct an incredible 40 new studies and reports, more than double the 17 required last year. Each of these reports and studies requires hardworking state employees to take time away from the programs they administer and the people they serve. Additionally, there are 4 legislatively-led studies that will require a minimum of 15 legislators to continue their work into the summer. Not only do these reports and studies take staff away from more pressing work, but they will cost Vermonters tens of thousands of dollars.

In an effort to increase legislative control over the Vermont Housing and Conservation Board, language unrelated to the budget has been added that will change the composition of the board and eliminate economic development involvement. Such a policy change should be vetted through the normal committee process so that all legislators can understand the implications of this action.

Further, within these very sections is a provision that ostensibly became effective “upon passage by the house and senate.” This is either a blatant disregard for, or a fundamental misunderstanding of, the Vermont Constitution that requires, “[e]very bill which shall have passed the Senate and House of Representatives shall, before it becomes a law, be presented to the Governor....”

H.441 is a budget that fails the most basic test: it is not in the best interests of Vermonters. It needlessly increases taxes, it does not adequately address our economic development needs, and, perhaps most importantly, creates a more than \$200 million deficit in future years. For those reasons and others, I cannot allow H.441 to become law with or without my signature.

If this veto is overridden, legislative leaders shall carry the responsibility of this bill’s effects squarely on their shoulders. Because my Administration must begin work on the fiscal 2011 budget shortly and because we still must address a more than \$200 million deficit in the next two years, I will request from the Speaker of the House and the Senate President Pro Tempore their plan to address these shortfalls.

If this veto is sustained, I will continue to listen to the ideas and concerns of lawmakers so that we can find common ground to craft a compromise budget in the coming days that meets the very real needs of Vermonters.

Sincerely,
/s/James H. Douglas
Governor

JHD/dc”

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House that on the first day of June, 2009, he approved and signed bills originating in the House of the following titles:

H. 222 An act relating to senior protection and financial services;

H. 313 An act relating to the Vermont Recovery and Reinvestment Act of 2009;

H. 75 An act relating to interim budget and appropriation adjustment.

Message from Governor

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

Mr. Speaker:

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

H. 125 An act relating to the sale of unpasteurized milk.

Message from Governor

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

Mr. Speaker:

I am directed by the Governor to inform the House of Representatives that on the ninth day of June, 2009, he signed a bill originating in the House of the following title:

H. 442 An act relating to miscellaneous provisions

I am further directed by the Governor to inform the House of Representatives that on the ninth day of June, 2009, he signed a letter informing the House of Representatives of his objections to H. 0442 notwithstanding his signing of the bill.

Communication from the Governor

“June 9, 2009

The Honorable Donald G. Milne
Clerk of the House of Representatives
State House
Montpelier, VT 05633-5401

Dear Mr. Milne:

I am writing to explain my reasons for signing H. 442, *An Act Relating to Miscellaneous Provisions*, into law and to note my objections to certain provisions of the bill.

H. 442 contains many provisions that are important supplements to H. 441, the state budget as passed. H. 442 authorizes a sales tax holiday, creates a research and development tax credit and re-instates the 40% capital gains exclusion for farmers and loggers and persons over age 70. Next Generation scholarships so critical to our youth are restored and the Vermont Telecommunications Authority is funded so it may continue its work to bring services to underserved communities.

Regrettably, section 10 of H. 442 violates the constitutional separation of powers by abrogating powers reserved to the Executive and Judicial branches and providing the Legislative branch with final approval authority over how expenditures, particularly staffing decisions, will be made to meet the multi-million dollar reduction in expenditures necessitated by the budget.

Section 10 also constitutes an unconstitutional delegation of Legislative power to a Legislative committee. This is also true of a provision in section 13 of the bill that establishes a retirement incentive plan for state employees. That section expressly caps the total number of retirements at 300 but then authorizes the joint fiscal committee to “vote” to increase the number of individuals eligible and does so without any including any standards or criteria limiting the exercise of that authority. I have an obligation to the Office that I hold to protect its explicit and inherent powers and authorities from unconstitutional intrusion by a separate but co-equal branch of government.

H. 442 contains many priorities that will benefit Vermonters. Because the Legislature appears to have treated this bill as a bill released for introduction in the Special Session of 2009, and because there is some ambiguity in its adjournment resolution as to whether it has adjourned *sine die* within three days after the delivery

of the bill for my signature, I signed the bill to avoid any argument that by not affixing my signature I have effected a “pocket veto” under Chapter II, section 11 of the Vermont Constitution. This avoids any debate over whether the bill has gone into effect, clearly conveys my intent, and saves Vermonters the cost of convening a veto session.

Sincerely,
/s/James H. Douglas
Governor

c: David A. Gibson, Secretary of the Senate”

Message from the Senate No. 70

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

Mr. Speaker:

I am directed to inform the House that:

The Governor has informed the Senate that on June 8, 2009, he approved and signed a bill originating in the Senate of the following title:

S. 48. An act relating to the marketing of prescribed products.