

Journal of the House

Friday, March 26, 2010

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Roy Hill from the Ecumenical Council and Bible Society.

Message from the Senate No. 25

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

Mr. Speaker:

I am directed to inform the House that:

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

S. 224. An act relating to the establishment of a paint stewardship program.

S. 237. An act relating to operational standards for salvage yards.

S. 239. An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter.

S. 293. An act relating to state standards for boilers and pressure vessels.

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

Bill Amended, Read Third Time and Passed

H. 783

House bill, entitled

An act relating to miscellaneous tax provisions

Was taken up and pending third reading of the bill, **Reps. Clark of Vergennes and Scheuermann of Stowe** moved to amend the bill as follows:

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

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

§ 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

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

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

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

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

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

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

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

Pending the question, Shall the bill be amended as offered by Reps. Clark of Vergennes et al? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Reps. Clark of Vergennes et al? was decided in the negative. Yeas, 34. Nays, 102.

Those who voted in the affirmative are:

Ainsworth of Royalton	Koch of Barre Town *	O'Donnell of Vernon
Brennan of Colchester	Komline of Dorset	Olsen of Jamaica
Canfield of Fair Haven	Krawczyk of Bennington	Peaslee of Guildhall
Clark of Vergennes	Larocque of Barnet	Reis of St. Johnsbury
Dickinson of St. Albans Town	Lawrence of Lyndon	Savage of Swanton
Donaghy of Poultney	Lewis of Derby	Scheuermann of Stowe
Fagan of Rutland City	Marcotte of Coventry	Shaw of Pittsford
Higley of Lowell	McAllister of Highgate	Toll of Danville
Howard of Cambridge	McDonald of Berlin	Turner of Milton
Hubert of Milton	McFaun of Barre Town	Winters of Williamstown
Kilmartin of Newport City	McNeil of Rutland Town	Wright of Burlington
	Myers of Essex	

Those who voted in the negative are:

Acinapura of Brandon	Atkins of Winooski	Branagan of Georgia
Ancl of Calais	Bissonnette of Winooski	Bray of New Haven
Andrews of Rutland City	Bohi of Hartford	Browning of Arlington
Aswad of Burlington	Botzow of Pownal	Burke of Brattleboro

Cheney of Norwich	Jerman of Essex	Nease of Johnson
Clarkson of Woodstock	Jewett of Ripton	Nuovo of Middlebury
Clerkin of Hartford	Johnson of South Hero	O'Brien of Richmond
Condon of Colchester	Johnson of Canaan	Obuchowski of Rockingham
Conquest of Newbury	Keenan of St. Albans City	Partridge of Windham
Consejo of Sheldon	Kitzmiller of Montpelier	Pellett of Chester
Copeland-Hanzas of Bradford	Klein of East Montpelier	Peltz of Woodbury
Corcoran of Bennington	Krebs of South Hero	Poirier of Barre City
Courcelle of Rutland City	Lanpher of Vergennes	Potter of Clarendon
Crawford of Burke	Larson of Burlington	Pugh of South Burlington
Davis of Washington	Lenes of Shelburne	Ram of Burlington
Deen of Westminster	Leriche of Hardwick	Rodgers of Glover
Devereux of Mount Holly	Lippert of Hinesburg	Shand of Weathersfield
Donovan of Burlington	Lorber of Burlington	Sharpe of Bristol
Edwards of Brattleboro	Macaig of Williston	Smith of Mendon
Emmons of Springfield	Maier of Middlebury	South of St. Johnsbury
Evans of Essex	Malcolm of Pawlet	Stevens of Waterbury
Fisher of Lincoln	Manwaring of Wilmington	Stevens of Shoreham
Frank of Underhill	Marek of Newfane *	Sweaney of Windsor
French of Shrewsbury	Martin of Springfield	Taylor of Barre City
French of Randolph	Martin of Wolcott	Till of Jericho
Geier of South Burlington	Masland of Thetford	Townsend of Randolph
Gilbert of Fairfax	McCullough of Williston	Waite-Simpson of Essex
Greshin of Warren	Milkey of Brattleboro	Webb of Shelburne
Haas of Rochester	Miller of Shaftsbury	Weston of Burlington
Heath of Westford	Minter of Waterbury	Wilson of Manchester
Helm of Castleton	Mitchell of Barnard	Young of St. Albans City
Hooper of Montpelier	Mook of Bennington	Zenie of Colchester
Howard of Rutland City	Moran of Wardsboro	Zuckerman of Burlington
Howrigan of Fairfield	Morrissey of Bennington	
	Mrowicki of Putney	

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

Adams of Hartland	Head of South Burlington	Spengler of Colchester
Audette of South Burlington	Morley of Barton	Wheeler of Derby
Baker of West Rutland	Orr of Charlotte	Wizowaty of Burlington
Donahue of Northfield	Pearce of Richford	
Grad of Moretown	Perley of Enosburg	

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

The evidence is clear. Vermonters are moving out of state to avoid the estate tax trap we have previously created for them. When they do that, we lose not only any estate taxes they may owe when they die, but also their income taxes while they are alive.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

This amendment would have created a special exemption just for a person with an estate of over \$2 million. Doing so would have created a new \$3 million budget hole to be balanced on the backs of average Vermonters. How much more do the rich really need to take from the poor before they say “enough”?”

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

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

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

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

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

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

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

(14) Secs. 36 and 37 (definition of prescription and tax on nonprescription dietary supplements) shall take effect on July 1, 2010.

Which was agreed to.

Pending third reading of the bill, **Reps. Wright of Burlington, Hubert of Milton and Turner of Milton**, moved to amend the bill as follows:

By adding Secs. 42–44 to read:

Sec. 42. HOMESTEAD PROPERTY TAX REFUND

(a) Any taxpayer who, in 2009 only, failed to file a homestead declaration by the statutory deadline may, prior to June 1, 2010, apply to the commissioner of taxes for a refund of amounts of property tax overpaid as a result of the misclassification of homestead or nonresidential property due to such failure; provided, however, that the taxpayer shall have the burden of proving to the commissioner that one of the following substantially contributed to such failure:

(1) The taxpayer suffered from a serious medical illness or disability lasting at least from April 1, 2009, through September 1, 2009; or

(2) The taxpayer was given inaccurate information by an official of the taxpayer's municipality regarding the taxpayer's homestead status.

(b) Upon such an adequate showing of proof, the taxpayer shall be entitled to a refund, without interest, which the commissioner shall make from the education fund. The commissioner's determination as to the adequacy of the taxpayer's proof required in subdivision (a)(1) or (2) of this section shall be final.

Sec. 43. USE OF EDUCATION FUNDS

In addition to the uses of education funds set forth in 16 V.S.A. § 4025(b), the commissioner of taxes is authorized for the period of June 1, 2010, through August 30, 2010, only, to use education funds to refund without interest, any overpayment of education property taxes received by the education fund and due to a taxpayer upon successful petition to the commissioner made pursuant to section (a) of Sec. 42 of this act.

Sec. 44. APPROPRIATION

There is appropriated in fiscal year 2011 from the education fund to the commissioner of taxes the sum of \$75,000.00 for pro rata payment of refunds related to 2009 property taxes and allowed under Secs. 42 and 43 of this act. The pro rata calculation under this section shall be on the basis of the amount of the taxpayer's refund as a portion of the total qualifying refund claims related to 2009 property taxes, but no pro rata portion distributed to a taxpayer shall exceed the actual refund amount due to the taxpayer. Any amount not distributed to taxpayers under this section shall revert to the education fund.

and renumbering the existing Sec. 42 to be Sec. 45

Which was agreed to.

Pending third reading of the bill, **Reps. Wright of Burlington, Hubert of Milton and Turner of Milton** moved to amend the bill as follows:

By inserting a new Sec. 42 to read as follows:

Sec. 42. 32 V.S.A. § 5410(b) and (g) are amended to read:

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

of the previous year. The declaration of homestead shall remain in effect until the earlier of:

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

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

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

* * *

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, or fails to file a notice of transfer or change in qualification pursuant to subdivisions (b)(1)(A) and (B) of this section, the commissioner shall notify the municipality and the municipality shall issue a corrected tax bill that includes a penalty in an amount equal to three percent of the education tax on the property if the municipality's nonresidential tax rate is higher than the municipality's homestead tax rate for the tax year to which the declaration or failure pertains, or in any other case shall assess the taxpayer a penalty in an amount equal to eight percent of the education tax on the property. ~~The municipality shall also assess the taxpayer a penalty in an amount equal to one percent of the education tax on the property; or if~~ If the commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

and by renumbering Sec. 41 to be Sec. 42 and adding at the end of the section the following:

(18) Sec. 42 (homestead declaration) shall apply to homestead declarations filed for property tax year 2010 and after.

Which was agreed to.

Pending third reading of the bill, **Reps. Scheuermann of Stowe and Clark of Vergennes** moved to amend the bill as follows:

First: By inserting a new Sec. 29 to read:

Sec. 29. 32 V.S.A. § 5811(21) is amended to read:

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

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

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

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

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

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

(i) income from United States government obligations;

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

~~(I) if the taxpayer is aged 70 or older as of the last day of the tax year or for adjusted net capital gain income from the sale of a farm or from the sale of standing timber, each as defined in subdivision (26) of this section, 40 percent of adjusted net capital gain income but the total amount of decrease under this subdivision (ii)(I) shall not exceed 40 percent of federal taxable income; provided, however, that a taxpayer aged 70 or older as of the last day of the tax year may elect to subtract his or her adjusted net capital gains pursuant to subdivision (21)(B)(ii)(II) of this section.~~

~~(II) for taxpayers aged 70 or older as of the last day of the tax year who so elect and for all other capital gain income, the first \$2,500.00 \$5,000.00 of adjusted net capital gain income; and~~

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

Second: By renumbering the remaining Secs. to be numerically correct.

Third: In Sec. 42, by inserting a new subdivision (10) to read:

(9) Sec. 29 (treatment of capital gains) shall apply to tax years beginning on and after January 1, 2011.

and renumbering the remaining subdivisions and cross-references of Sec. 42 to be numerically correct

Rep. Deen of Westminster raised a Point of Order that this amendment substantially negates action previously taken this Biennium, which Point of Order the Speaker ruled well taken.

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

First: By striking Sec. 20 in its entirety and inserting in lieu thereof the following:

Sec. 20. 32 V.S.A. § 6066(a) is amended to read:

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of \$90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of \$200,000.00.

(B) For a claimant with household income of less than \$90,000.00 but more than \$47,000.00;

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, ~~minus the applicable percentage of household income for the taxable year.~~

(ii) minus (if less) the sum of:

(I) the applicable percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of the maximum adjustment value.

(C) For a claimant whose household income does not exceed \$47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the sum of the applicable percentage of household income for the taxable year plus the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of maximum adjustment value; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by \$15,000.00.

~~(D) A claimant whose household income does not exceed \$90,000.00 shall also be entitled to an additional adjustment amount under this section of \$10.00 per acre, up to a maximum of five acres, for each additional acre of homestead property in excess of the two-acre housesite. The adjustment amount under this section shall be shown separately on the notice of property tax adjustment to the claimant.~~

(2) “Applicable percentage” in this section means two percent, multiplied by the district spending adjustment under subdivision 5401(13) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than two percent.

(3) a claimant whose household income does not exceed \$47,000.00 shall also be entitled to an additional adjustment amount equal to the amount by which the property taxes for the municipal fiscal year which began in the taxable year upon the claimant’s housesite, reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection, exceeds a percentage of the claimant’s household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in excess of this percent of that income:
\$0 – 9,999.00	2.0
\$10,000.00 – 24,999.00	4.5
\$25,000.00 – 47,000.00	5.0

(4) Credit limitation. In no event shall the credit provided for in subdivision (3) of this subsection exceed the amount of the reduced property tax.

(5) “Maximum adjustment value” in this section means the median housesite value of a claimant’s municipality, as determined annually by the commissioner.

Thereupon, **Rep. Scheuermann of Stowe** asked and was granted leave of the House to withdraw her amendment.

Recess

At eleven o'clock and sixteen minutes in the forenoon, the Speaker declared a recess until eleven o'clock and thirty minutes in the forenoon.

At eleven o'clock and forty-five in the forenoon, the Speaker called the House to order.

Pending third reading of the bill, **Reps. Howard of Cambridge, Clark of Vergennes and McDonald of Berlin** moved to amend the bill as follows:

First: In Sec. 35, in subsection (b), by striking subdivision (3) and inserting a new subdivision (3) to read:

(3) Proposals.

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

(B) In developing its proposals, the commission shall analyze alternative means of maintaining the appropriate balance in education funding from education property taxes on the one hand, and from the general fund and other sources on the other hand. Currently that balance is 31.8 percent of education funding from education property tax revenues, and 68.2 percent of education funding from the general fund and other education funding sources.

(C) The commission shall report its proposals by July 1, 2011.

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

Recess

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

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

Pending third reading of the bill, **Reps. Olsen of Jamaica, Morrissey of Bennington, Baker of West Rutland, Adams of Hartland, Bohi of**

Hartford, Branagan of Georgia, Clarkson of Woodstock, Condon of Colchester, Crawford of Burke, Davis of Washington, Donaghy of Poultney, Edwards of Brattleboro, Fagan of Rutland City, Greshin of Warren, Haas of Rochester, Head of South Burlington, Helm of Castleton, Hubert of Milton, Koch of Barre Town, Komline of Dorset, Krawczyk of Bennington, Marcotte of Coventry, Moran of Wardsboro, Morley of Barton, O'Donnell of Vernon, Poirier of Barre City, Potter of Clarendon, Ram of Burlington, Savage of Swanton, Shaw of Pittsford, South of St. Johnsbury, Stevens of Waterbury, Sweaney of Windsor and Turner of Milton and Zenie of Colchester moved to amend the bill as follows:

By adding Secs. 35a and 35b and amending Sec. 36 to read:

Sec. 35a. 20 V.S.A. § 1606 is added to read:

§ 1606. VERMONT VETERANS' FUND

(a) There is created a special fund to be known as the Vermont veterans' fund. This fund shall be administered by the state treasurer and shall be paid out in grants on the recommendations of a five-member committee of the governor's veterans' advisory council. The governor's veterans' advisory council shall choose the membership of the committee from among its members. The purpose of this fund shall be to provide grants or other support to individuals and organizations:

(1) For the long-term care of veterans.

(2) To aid homeless veterans.

(3) For transportation services for veterans.

(4) To fund veterans' service programs.

(5) For activities recognizing veterans, including creating monuments and memorials.

(b) The Vermont veteran's fund shall consist of revenues paid into it from the Vermont veteran's fund check off established in 32 V.S.A. § 5862e and from any other source.

(c) For purposes of this section, "veteran" means a resident of Vermont who served on active duty in the United States armed forces or the Vermont national guard or Vermont air national guard and who received an honorable discharge.

Sec. 35b. 32 V.S.A. § 5862e is added to read:

§ 5862e. VERMONT VETERANS' FUND CHECKOFF

(a) Returns filed by individuals shall include, on a form prescribed by the commissioner of taxes, an opportunity for the taxpayer to designate funds to the Vermont veterans' fund.

(b) Amounts designated under subsection (a) of this section shall be deducted from refund due to, or overpayment made by, the designating taxpayer. All amounts so designated and deducted shall be deposited in an account by the commissioner of taxes for payment to the Vermont veterans' fund. If at any time after the payment of amounts so designated to the account it is determined that the taxpayer was not entitled to all or any part of the amount so designated, the commissioner may assess, and the account shall then pay to the commissioner, the amount received, together with interest at the rate prescribed by section 3108 of this title, from the date the payment was made until the date of repayment.

(c) The commissioner of taxes shall explain to taxpayers the purpose of the account and how to contribute to it. The commissioner shall provide notice in the instructions for the state individual income tax return as to how to obtain a copy of the annual income and expense report of the Vermont veterans' fund.

(d) If amounts paid with respect to a return are insufficient to cover both the amount owed on the return under this chapter and the amount designated as a contribution to the Vermont veterans' fund, the payment shall first be applied to the amount owed on the return under this chapter and the balance, if any, shall be deposited in the fund.

(e) Nothing in this section shall be construed to require the commissioner to collect any amount designated as a contribution to the Vermont veterans' fund.

Sec. 36. EFFECTIVE DATES

* * *

(14) Sec. 35b of this act (income tax return checkoff for Vermont veterans' fund) shall apply to income tax returns for taxable years 2010 and after.

Thereupon, **Rep. Branagan of Georgia** moved to amend the recommendation of amendment offered by Rep. Olsen of Jamaica as follows:

In Sec. 35a, by adding a new subdivision (a)(6) to read:

(6) Offer bonuses, scholarships, and other financial opportunities, as provided by the council.

Which was agreed to.

Pending the question, Shall the bill be amended as offered by Rep. Olsen of Jamaica, as amended? **Rep. South of St. Johnsbury** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Olsen of Jamaica, as amended? was decided in the affirmative. Yeas, 142. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Donahue of Northfield	Larson of Burlington
Adams of Hartland	Donovan of Burlington	Lawrence of Lyndon
Ainsworth of Royalton	Edwards of Brattleboro	Lenes of Shelburne
Ancel of Calais	Emmons of Springfield	Leriche of Hardwick
Andrews of Rutland City	Evans of Essex	Lewis of Derby
Aswad of Burlington	Fagan of Rutland City	Lippert of Hinesburg
Atkins of Winooski	Fisher of Lincoln	Lorber of Burlington
Baker of West Rutland	Frank of Underhill	Macaig of Williston
Bissonnette of Winooski	French of Shrewsbury	Maier of Middlebury
Bohi of Hartford	French of Randolph	Malcolm of Pawlet
Botzow of Pownal	Geier of South Burlington	Manwaring of Wilmington
Branagan of Georgia	Gilbert of Fairfax	Marcotte of Coventry
Bray of New Haven	Greshin of Warren	Marek of Newfane
Brennan of Colchester	Haas of Rochester	Martin of Springfield
Browning of Arlington	Heath of Westford	Martin of Wolcott
Burke of Brattleboro	Helm of Castleton	Masland of Thetford
Canfield of Fair Haven	Higley of Lowell	McAllister of Highgate
Cheney of Norwich	Hooper of Montpelier	McCullough of Williston
Clark of Vergennes	Howard of Cambridge	McDonald of Berlin
Clarkson of Woodstock	Howard of Rutland City	McFaun of Barre Town
Clerkin of Hartford	Howrigan of Fairfield	McNeil of Rutland Town
Condon of Colchester	Hubert of Milton	Milkey of Brattleboro
Conquest of Newbury	Jerman of Essex	Miller of Shaftsbury
Consejo of Sheldon	Jewett of Ripton	Minter of Waterbury
Copeland-Hanzas of Bradford	Johnson of South Hero	Mitchell of Barnard
Corcoran of Bennington	Johnson of Canaan	Mook of Bennington
Courcelle of Rutland City	Keenan of St. Albans City	Moran of Wardsboro
Crawford of Burke	Kilmartin of Newport City	Morley of Barton
Davis of Washington	Kitzmiller of Montpelier	Morrissey of Bennington
Deen of Westminster	Klein of East Montpelier	Mrowicki of Putney
Devereux of Mount Holly	Koch of Barre Town	Myers of Essex
Dickinson of St. Albans Town	Krawczyk of Bennington	Nease of Johnson
Donaghy of Poultney	Krebs of South Hero	Nuovo of Middlebury
	Lanpher of Vergennes	O'Brien of Richmond
	Larocque of Barnet	Obuchowski of Rockingham

O'Donnell of Vernon	Savage of Swanton	Toll of Danville
Olsen of Jamaica	Scheuermann of Stowe	Townsend of Randolph
Orr of Charlotte	Shand of Weathersfield	Turner of Milton
Partridge of Windham	Sharpe of Bristol	Waite-Simpson of Essex
Peaslee of Guildhall	Shaw of Pittsford	Webb of Shelburne
Pellett of Chester	Smith of Mendon	Weston of Burlington
Peltz of Woodbury	South of St. Johnsbury	Wheeler of Derby
Poirier of Barre City	Spengler of Colchester	Wilson of Manchester
Potter of Clarendon	Stevens of Waterbury	Winters of Williamstown
Pugh of South Burlington	Stevens of Shoreham	Wright of Burlington
Ram of Burlington	Sweaney of Windsor	Young of St. Albans City
Reis of St. Johnsbury	Taylor of Barre City	Zenie of Colchester
Rodgers of Glover	Till of Jericho	Zuckerman of Burlington

Those who voted in the negative are:

none

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

Audette of South Burlington	Komline of Dorset	Wizowaty of Burlington
Grad of Moretown	Pearce of Richford	
Head of South Burlington	Perley of Enosburg	

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Ancel of Calais** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 107. Nays, 33.

Those who voted in the affirmative are:

Acinapura of Brandon	Copeland-Hanzas of	Gilbert of Fairfax
Adams of Hartland	Bradford	Greshin of Warren
Ancel of Calais	Corcoran of Bennington	Haas of Rochester
Andrews of Rutland City	Courcelle of Rutland City	Heath of Westford
Aswad of Burlington	Crawford of Burke	Helm of Castleton
Atkins of Winooski	Davis of Washington	Hooper of Montpelier
Bissonnette of Winooski	Deen of Westminster	Howard of Rutland City
Bohi of Hartford	Devereux of Mount Holly	Howrigan of Fairfield
Botzow of Pownal	Donovan of Burlington	Jerman of Essex
Branagan of Georgia	Edwards of Brattleboro	Jewett of Ripton
Bray of New Haven	Emmons of Springfield	Johnson of South Hero
Burke of Brattleboro	Evans of Essex	Johnson of Canaan
Clarkson of Woodstock	Fagan of Rutland City	Keenan of St. Albans City
Condon of Colchester	Fisher of Lincoln	Kitzmiller of Montpelier
Conquest of Newbury	Frank of Underhill	Klein of East Montpelier
Consejo of Sheldon	French of Shrewsbury	Krawczyk of Bennington
	French of Randolph	Krebs of South Hero

Lanpher of Vergennes	Mitchell of Barnard	Sharpe of Bristol
Larocque of Barnet	Mook of Bennington	Smith of Mendon
Larson of Burlington	Moran of Wardsboro	South of St. Johnsbury
Lenes of Shelburne	Morrissey of Bennington	Stevens of Waterbury
Leriche of Hardwick	Mrowicki of Putney	Stevens of Shoreham
Lewis of Derby	Nease of Johnson	Sweaney of Windsor
Lippert of Hinesburg	Nuovo of Middlebury	Taylor of Barre City
Macaig of Williston	O'Brien of Richmond	Till of Jericho
Maier of Middlebury	Obuchowski of Rockingham	Toll of Danville
Malcolm of Pawlet	Olsen of Jamaica	Townsend of Randolph
Manwaring of Wilmington	Orr of Charlotte	Waite-Simpson of Essex
Marek of Newfane *	Partridge of Windham	Webb of Shelburne
Martin of Springfield	Pellett of Chester	Wheeler of Derby
Martin of Wolcott	Peltz of Woodbury	Wilson of Manchester
Masland of Thetford	Poirier of Barre City	Winters of Williamstown
McCullough of Williston	Potter of Clarendon	Wright of Burlington
McDonald of Berlin	Pugh of South Burlington	Young of St. Albans City
Milkey of Brattleboro	Reis of St. Johnsbury	Zenie of Colchester
Miller of Shaftsbury	Rodgers of Glover	
Minter of Waterbury	Shand of Weathersfield	

Those who voted in the negative are:

Ainsworth of Royalton	Howard of Cambridge	O'Donnell of Vernon
Brennan of Colchester	Hubert of Milton	Peaslee of Guildhall
Browning of Arlington	Kilmartin of Newport City *	Ram of Burlington
Canfield of Fair Haven	Koch of Barre Town	Savage of Swanton
Cheney of Norwich	Lawrence of Lyndon	Scheuermann of Stowe
Clerkin of Hartford	Lorber of Burlington	Shaw of Pittsford
Dickinson of St. Albans Town	Marcotte of Coventry	Spengler of Colchester
Donaghy of Poultney	McAllister of Highgate	Turner of Milton
Donahue of Northfield	McFaun of Barre Town	Weston of Burlington
Geier of South Burlington	McNeil of Rutland Town	Zuckerman of Burlington
Higley of Lowell	Morley of Barton	
	Myers of Essex	

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

Audette of South Burlington	Grad of Moretown	Pearce of Richford
Baker of West Rutland	Head of South Burlington	Perley of Enosburg
Clark of Vergennes	Komline of Dorset	Wizowaty of Burlington

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

“Mr. Speaker:

I vote no. The tax rate claims are political smoke and mirrors. Tax bills continue to climb because we do not have the courage to address the real cost drivers. We should have repealed the capital gains increases we enacted last year. We should be attacking the false premises of Brigham, which through Acts 60 and 68, along with our other tax burdens are driving our most

productive population, the 25-45 year olds, out of Vermont. They cannot continue, with their children, to survive here, much less flourish.

As a wise old Morgan farmer said to Marselis Parsons during Vermont's Bi-Centennial, "Marselis, a cup of hot soup in February goes a lot further than the view!"

Our problem is many Vermonters no longer can afford the cup of hot soup while we keep raising the price. Shame, shame, shame on us!."

Rep. Marek of Newfane explained his vote as follows:

"Mr. Speaker:

This bill provides lower taxes for many average Vermonters. That it fails to provide special advantages for the capital gains and estates of high income Vermonters is a strength of this bill, not a weakness."

Recess

At one o'clock in the afternoon, the Speaker declared a recess until one o'clock and forty-five minutes in the afternoon.

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

Bill Amended, Read Third Time and Passed

H. 789

House bill, entitled

An act making appropriations for the support of government

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

By adding section E.701.3 to read as follows:

Sec. E.701.3. POSITION OF COMMISSIONER OF FISH AND WILDLIFE

(a) Beginning with fiscal year 2011, the position of commissioner of fish and wildlife shall be abolished, and the duties and authorities of the commissioner of fish and wildlife set forth in the Vermont Statutes Annotated shall be transferred to the commissioner of forests, parks and recreation. Funding appropriated to the agency of natural resources under this bill for the position of the commissioner of fish and wildlife shall be retained and reinvested by the agency of natural resources.

(b) Legislative council is directed through statutory revision to codify this section by replacing all references to the commissioner of fish and wildlife in

the Vermont Statutes Annotated with references to the commissioner of forests, parks and recreation.

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

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

First: In Sec. E.600, by adding a new subsection to be subsection (e) to read:

(e)(1) If undergraduate tuition established by the University of Vermont for the 2010–2011 academic year exceeds undergraduate tuition for the 2009–2010 academic year, then the general fund appropriation to the university under B.600 of this act shall be reduced by an amount equal to the sum of:

(A) the difference between the undergraduate tuition for out-of-state students in those academic years multiplied by the number of out-of-state undergraduate students enrolled in the university in the 2010–2011 academic year; and

(B) the difference between the undergraduate tuition for in-state students in those academic years multiplied by the number of in-state undergraduate students enrolled in the university in the 2010–2011 academic year.

(2) If the general fund appropriation to the University of Vermont is reduced pursuant to subdivision (1) of this subsection, then a sum equal to the amount of the reduction is appropriated to the Vermont higher education endowment trust fund created in 16 V.S.A. § 2885 from the fiscal year 2011 general fund.

Second: In Sec. E.602, by adding a new subsection to be subsection (c) to read:

(c)(1) If the tuition established by the Vermont state colleges for the 2010–2011 academic year exceeds the tuition for the 2009–2010 academic year, then the general fund appropriation to the Vermont state colleges under B.602 of this act shall be reduced by an amount equal to the sum of:

(A) the difference between the tuition for out-of-state students in those academic years multiplied by the full-time-equivalent number of out-of-state students enrolled in the Vermont state colleges in the 2010–2011 academic year; and

(B) the difference between the tuition for in-state students in those academic years multiplied by the full-time-equivalent number of in-state students enrolled in the Vermont state colleges in the 2010–2011 academic year.

(2) If the general fund appropriation to the Vermont state colleges is reduced pursuant to subdivision (1) of this subsection, then a sum equal to the amount of the reduction is appropriated to the Vermont higher education endowment trust fund created in 16 V.S.A. § 2885 from the fiscal year 2011 general fund.

Which was disagreed to.

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

By adding a new Sec. E.318 to read:

Sec. E.318. CHILD CARE ELIGIBILITY; PROCESSING

Until July 1, 2011, the department for children and families shall continue to contract with community agencies for the determination of eligibility for the child care services program established in 33 V.S.A. § 3212.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a Division vote. Yeas, 98. Nays, 18.

Bill Amended, Read Third Time and Passed

H. 784

House bill, entitled

An act relating to the state's transportation program

Was taken up and pending third reading of the bill, **Rep. Masland of Thetford and Cheney of Norwich** moved to amend the bill as follows:

By striking Sec. 43 in its entirety and by inserting in lieu thereof a new Sec. 43 to read:

Sec. 43. RELINQUISHMENT OF U.S. ROUTE 5 AND NORWICH
STATE HIGHWAY IN THE TOWN OF NORWICH

(a) Pursuant to 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the town of Norwich to relinquish to the town's jurisdiction a segment of the state highway known as VT Route 10A in the town of Norwich, beginning at the low-water mark of the

Connecticut River at a point in the center of VT Route 10A and continuing 2,756 feet (approximately 0.52 miles) westerly to mile marker 1.218 where VT Route 10A intersects with U.S. Route 5 (this point also is station 78+00 on the U.S. Route 5 centerline of Highway Project Hartford-Norwich I 91-2(5)). The relinquishment shall continue 6,496 feet (approximately 1.230 miles) northerly and easterly along the center of U.S. Route 5 (Church Street) to its intersection with the Norwich State Highway at approximately U.S. Route 5 mile marker 2.448.

(b) Control of the highways but not ownership of the lands or easements within the highway right-of-way shall be relinquished to the town of Norwich. The town of Norwich shall not sell or abandon any portion of the relinquishment areas or allow any encroachments within the relinquishment areas without written permission of the agency of transportation.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Favorable Report; Third Reading Ordered

H. 773

Rep. Hubert of Milton, for the committee on Government Operations, to which had been referred House bill, entitled

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

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Adjournment

At three o'clock and five minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, March 30, 2010, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 53.