Journal of the Senate

FRIDAY, MAY 8, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with commemorative posters:

Brooke Angell of Randolph
Greg Asnis of Berlin
Rhea Costantino of Montpelier
Ashlynn Doyon of Hardwick
Renae M. Hall of Hardwick
Connor Herrick of South Hero
Louisa Jerome of Brandon
Benson May of Putney
Anna Pettee of Guildford
McKinley Pierce of Warren

House Requested to Return Bill to Custody of Senate

H. 438.

On motion of Senator Shumlin, the Senate requested the House to return to the custody of the Senate, House bill entitled:

An act relating to the state's transportation program.

Senate Resolution Adopted

S.R. 14.

Senate resolution entitled:

Senate resolution in opposition to the federal regulation or chartering of insurance companies

Having been placed on the Calendar for action, was taken up and adopted.

Joint Resolutions Adopted in Concurrence

Joint House resolutions entitled:

J.R.H. 10. Joint resolution recognizing the commitment to quality service of Vermont's locally owned banks.

J.R.H. 29. Joint resolution urging Congress to enact a new Homeowner and Bank Protection Act.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were adopted collectively in concurrence.

Bill Committed

H. 442.

House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up.

Thereupon, pending the question, Shall the Senate adopt and accept the report of the Committee of Conference?, on motion of Senator Shumlin, the bill was committed to the Committee on Finance.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 89.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to stabilization of prices paid to Vermont dairy farmers.

Was taken up for immediate consideration.

Senator Starr, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

S. 89. An act relating to stabilization of prices paid to Vermont dairy farmers.

Respectfully reports that it has met and considered the same and recommends that House recede from its proposal 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. VERMONT MILK COMMISSION; PRODUCER PRICE STABILIZATION

(a) The general assembly finds that the recent precipitous drop in producer prices is causing a tremendous burden on Vermont dairy producers and the industry at large and that this burden must be alleviated as quickly as possible.

(b) The general assembly followed the proceedings of the Vermont milk commission during the summer and fall of 2008 and finds that the commission has held public hearings and undertaken deliberations regarding the adoption of an over-order premium but did not reach a final disposition.

(c) Therefore, the milk commission shall resume deliberations on the commission's latest version of a "proposed order to establish a retail fluid milk premium" first issued on September 9, 2008.

Sec. 2. 6 V.S.A. § 2924 is amended to read:

§ 2924. POWERS AND DUTIES; PRICING AUTHORITY; PUBLIC HEARINGS

(a) Authority over milk prices. The commission may establish an equitable minimum or maximum price, or both, and the manner of payments, which shall be paid producers or associations of producers by handlers, and the prices charged consumers and others for milk used in dairy products by distributors or handlers. The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of monies collected under this section shall not exceed $100,000.00 annually and may be collected independently from any assessment imposed under this section. The commission may impose an assessment to cover the initial costs of establishing a pricing order as authorized by this section.

(b) Equitable minimum producer prices. The commission may establish by order after notice and hearing an equitable minimum price to be paid to dairy producers for milk produced in Vermont on the basis of the use thereof in the various classes, grades, and forms. Prices so established which exceed federal order prices shall be collected by the commission from the handlers for distribution to dairy producers as a blend price. The cost of the contracts and employment pursuant to section 2923 of this title and of administering the collection and distribution of these moneys shall be covered by such moneys, not to exceed $100,000.00.

(c) Public hearings. In order to be informed of the status of the state's dairy industry, the commission shall hold a public hearing~~:~~ at least annually, when directed by the general assembly, and whenever the chair deems it necessary.

~~(1) At least annually.~~

~~(2) Whenever the price paid to producers, including the federal market order price and any over-order premiums, on average, has been reduced by five percent or more over the last month or by 10 percent or more over the last three months.~~

~~(3) Whenever the retail price, on average, has increased by more than 10 percent per gallon within a three-month period or 15 percent per gallon within a 12-month period.~~

~~(4) Whenever the cost of production increases by 10 percent or more within a period of three to 12 months.~~

~~(5) Whenever a loss or substantial lessening of the supply of fluid dairy products of proper quality in a specified market has occurred or is likely to occur and that the public health is menaced, jeopardized, or likely to be impaired or deteriorated by the loss or substantial lessening of the supply of fluid dairy products of proper quality in a specified market.~~

* * *

Sec. 3. PREMIUM START-UP FUNDING

(a) The commission may impose an assessment to cover the administrative costs of its activities required by Sec. 1 of this act. An assessment under this section shall not exceed $35,000.00.

(b) The agency of agriculture, food and markets may borrow from its own general fund to cover these administrative expenses, and the milk commission shall reimburse the agency of agriculture, food and markets' general fund upon receipt of the proceeds of the assessment authorized by subsection (a) of this section.

Sec. 4. PRODUCER REFERENDUM

(a) If adopted pursuant to this act, a final order by the Vermont milk commission to establish a retail fluid milk premium shall be submitted by Vermont dairy producers to a producer referendum in accordance with part II, section 7 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order." Notwithstanding the provisions of part III, section 8 of this commission procedure, however, the referendum shall not be conducted as a

"qualified cooperative representative vote," but shall instead provide for individual ballot and vote by each Vermont producer.

(b) The referendum shall be carried out and certified not more than 30 days after the adoption of a final order.

(c) The commission shall file with the secretary of state and the legislative committee on administrative rules a letter explaining that a qualified cooperative representative vote pursuant to part III, section 8 of the "Vermont Milk Commission Procedure, Development and Issuance of an Order to Establish a Retail Fluid Milk Premium, Or Amendment of Such Order" will not apply to an order adopted under this act. The commission shall also submit a copy of this act to the secretary of state and the legislative committee on administrative rules.

Sec. 5. ANTI-TRUST INQUIRY; REPORTS BY THE ATTORNEY GENERAL AND MILK COMMISSION

(a) Findings. The general assembly is concerned that the highly concentrated market structure of the New England dairy industry, throughout all sectors, is operating to the disservice of Vermont dairy farmers and milk consumers alike. The raw milk sector of the industry is increasingly dominated by one large, nationally based dairy farm cooperative, and Vermont dairy farmers now have very few options for the initial marketing of their milk. The downstream processing sector is dominated by just two fluid milk processing concerns, which control both the procurement of raw milk from dairy farms and the sale of packaged milk to retail outlets. Finally, the dominant supermarket segment of the Vermont retail market is controlled by a few large firms, many of which are nationally based or multinational companies.

(b) Therefore, the attorney general shall undertake, in cooperation with attorneys general of other states when possible, a study of the Northeast fluid milk market and the Vermont segment of that market and further work with the United States Congress and the United States attorney general to investigate possible anticompetitive practices of dairy cooperatives, processors, and retail firms operating in the Vermont marketplace.

(c) The general assembly further finds that the Capper-Volstead Act of 1922 was enacted for the purpose of exempting agricultural producers, including dairy farmers, from anti-trust laws, thereby allowing farmers to organize into cooperative associations that could leverage higher farm-gate prices than can individual producers. The past decades have seen further conglomeration of dairy cooperatives, but this centralization of farm-gate dairy

purchasing has done nothing to stabilize prices or create more value for producers.

(d) Therefore, the milk commission is directed to work with other entities such as the Vermont attorney general, attorneys general from other states, milk regulatory entities from other states, the United States attorney general, and the Vermont congressional delegation to investigate why dairy cooperatives have not been able to use the Capper-Volstead Act to stabilize and raise dairy prices in the Northeast dairy market and to consider whether operation of the Capper-Volstead Act continues to serve its intended purpose and function in the public interest.

(e) By January 15, 2010, the attorney general and the milk commission shall report to the house and senate committees on agriculture with the findings and recommendations of the studies required by this section.

Sec. 6. 6 V.S.A. chapter 157 is amended to read:

CHAPTER 157. BONDS

§ 2881. CONDITIONS AND AMOUNT; FAILURE TO FILE

(a) Except as provided in section 2882 of this title, no handler shall purchase milk ~~or cream~~ from Vermont producers or milk cooperatives, and the secretary shall not issue a handler's license, unless the handler furnishes the secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this state in an amount ~~which, at the conclusion of five equal annual increases in bond coverage, is on January 1~~ equal to 50 percent for all species other than cattle, and 100 percent for cattle, of the maximum amount due all milk producers in the state who sell milk to the handler for a 41-day period during the previous 12 months. He or she may accept, in lieu of such bond, a guaranteed irrevocable letter of credit ~~in such sum as he or she deems sufficient~~. The bonds shall be taken for the ~~sole~~ benefit of milk producers ~~of such milk handlers~~ and milk cooperatives in this state. At any time in his or her discretion, the secretary may require such handlers to file detailed statements of the business transacted by them in this state, and at any time may require them to give such additional bonds as he or she deems necessary. If the handler refuses or neglects to file the detailed statements or to give bonds required by the secretary, the secretary may suspend the license of the handler until he or she complies with the secretary's orders. The secretary ~~shall~~ shall report to the attorney general the name of any handler doing business in this state without a license or after suspension of its license by the secretary and the attorney general shall forthwith bring injunction proceedings against the handler. Renewals of bonds specified in this section shall be furnished the secretary 60 days before the effective date of

the bond. If the handler fails to file the bonds as required, the secretary shall forthwith publish the name of the handler in four newspapers of general circulation in the state for a period of three consecutive days and notify, by registered mail, producers supplying such handler.

(b) ~~A handler shall be exempt from providing the financial security required by this section for payments the handler makes to a producer who is a member of a milk cooperative which guarantees its members' milk checks. To receive this exemption, a handler shall notify the secretary of each such producer and the secretary shall validate the cooperative membership of the producer.~~

§ 2882. EXEMPTIONS FROM FILING BOND

(a) A ~~handler who purchases or receives milk or cream from producers~~ milk cooperative or a nonprofit cooperative association organized under Vermont law or similar laws in other states shall not be required to furnish surety as provided in section 2881 of this title ~~if the handler is a nonprofit cooperative association organized under Vermont statutes or under similar laws in other states~~ for payments made to a milk cooperative or to a producer who is a member of a milk cooperative.

(b) A handler who does not purchase milk ~~or cream~~ from Vermont producers or milk cooperatives shall not be required to furnish surety as provided under section 2881 of this title.

(c) A handler who pays a milk cooperative for milk in advance or at the time of delivery shall not be required to furnish surety as provided under section 2881 of this title. Every milk cooperative selling milk to handlers who pay for milk in advance or at the time of delivery shall, on January 1 and July 1 of each year, notify the secretary in writing of the identity of each handler and shall promptly notify the secretary, in writing, of any changes to the most recent notification.

(d) A handler who purchases fewer than 150,000 pounds of milk per month from a milk cooperative shall not be required to furnish surety as provided under section 2881 of this title.

Sec. 7. 20 V.S.A. § 3541(9) is added to read:

(9) "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to subsection 3581(a) of this title.

Sec. 8. 20 V.S.A. § 3549 is amended to read:

§ 3549. DOMESTIC PETS OR WOLF-HYBRIDS, REGULATION BY TOWNS

The legislative body of a city or town by ordinance may regulate the keeping, leashing, muzzling, restraint, impoundment, and destruction of domestic pets or wolf-hybrids and their running at large except that a legislative body of a city or town shall not prohibit or regulate the barking or running at large of a working farm dog when it is on the property being farmed by the person who registered the working farm dog, pursuant to subsection 3581(a) of this title, in the following circumstances:

(1) If the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops.

(2) If the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Sec 9. 20 V.S.A. § 3581(a) is amended to read:

§ 3581. GENERAL REQUIREMENTS

(a) A person who is the owner of a dog or wolf-hybrid more than six months old shall annually on or before April 1 cause it to be registered, numbered, described, and licensed on a form approved by the secretary for one year from that day in the office of the clerk of the municipality wherein the dog or wolf-hybrid is kept. A person who owns a working farm dog and who intends to use that dog on a farm pursuant to the exemptions in section 3549 of this title shall cause the working farm dog to be registered as a working farm dog and shall, in addition to all other fees required by this section, pay $5.00 for a working farm dog license. The owner of a dog or wolf-hybrid shall cause it to wear a collar, and attach thereto a license tag issued by the municipal clerk. Dog or wolf-hybrid owners shall pay for the license $4.00 for each neutered dog or wolf-hybrid, and $8.00 for each unneutered dog or wolf-hybrid. If the license fee for any dog or wolf-hybrid is not paid by April 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of fifty percent in excess of that otherwise required.

Sec. 10. 6 V.S.A. § 2728 is added to read:

§ 2728. MANUFACTURING GRADE GOAT MILK

(a) "Manufacturing grade goat milk" is goat milk other than Grade A goat milk produced and distributed according to the Grade A Pasteurized Milk Ordinance.

(b) The maximum somatic cell count for manufacturing grade goat milk shall not exceed 1,500,000 per milliliter.

Sec. 11. SUNSET

6 V.S.A. § 2728 (manufacturing grade goat milk) shall be repealed when a National Conference on Interstate Milk Shipments amendment to the Grade A Pasteurized Milk Ordinance that raises the limit on somatic cell counts for goat milk to be equal to or higher than 1,500,000 per milliliter becomes effective.

Sec. 12. EFFECTIVE DATE

This act shall take effect upon passage.

ROBERT A. STARR
HAROLD GIARD
SARA BRANON KITTELL

Committee on the part of the Senate

CHRISTOPHER A. BRAY
CAROLYN W. PARTRIDGE
NORMAN H. MCALLISTER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment; Bill Committed

S. 136.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate bill entitled:

An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

Was taken up for immediate consideration.

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

* * * Policy * * *

Sec. 1. ONE HUNDRED PERCENT BY 2020 INITIATIVE; POLICY

It is a priority of the general assembly and the department of education to take all necessary measures to increase the Vermont secondary school completion rate to 100 percent by the year 2020.

* * * Early Identification of Students Who Require Additional Assistance to Successfully Complete Secondary School * * *

Sec. 2. 16 V.S.A. chapter 99 is amended to read:

CHAPTER 99. GENERAL POLICY

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL EDUCATION ENVIRONMENT

(a) It is the policy of the state that each local school district develop and maintain, in consultation with parents, a comprehensive system of education that will result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations ~~which~~ that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is disrupting the class or having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide quality services to that student or to ~~the~~ other ~~pupils~~ students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § 1401 et seq., Individuals with Disabilities Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act; and 42 U.S.C. § 12101 et seq., Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

§ 2902. EDUCATIONAL SUPPORT SYSTEM AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain an educational support system for ~~children~~ students who require additional assistance in order to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the educational support system either to the superintendent pursuant to a contract entered into under section 267 of this title~~,~~ or to the principal. The educational support system shall, at a minimum, include an educational support team and a range of support and remedial

services, including instructional and behavioral interventions and accommodations.

(b) The educational support system shall:

(1) Be integrated to the extent appropriate with the general education curriculum.

(2) Be designed to increase the ability of the general education system to meet the needs of all students.

(3) Be designed to provide students the support needed regardless of eligibility for categorical programs.

(4) Provide clear procedures and methods for ~~handling a student who~~ addressing student behavior that is disruptive to the learning environment and ~~shall~~ include ~~provision of~~ educational options, support services, and consultation or training for staff where appropriate. Procedures may include ~~provision for~~ removal of ~~the~~ a student from the classroom or the school building for as long as appropriate, consistent with state and federal law and the school's policy on student discipline, ~~and~~ after reasonable effort has been made to support the student in the regular classroom environment.

(5) Ensure collaboration with families, community supports, and the system of health and human services.

(c) ~~Each educational support system shall include an~~ The educational support team ~~which~~ for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) ~~Provide a procedure for timely referral for evaluation for special education eligibility when warranted~~ Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the commissioner, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) ~~Be composed of staff from a variety of teaching and support services positions~~ Identify the classroom accommodations, remedial services, and other supports that have been provided to the identified student.

(3) ~~Screen referrals to determine what classroom accommodations and, remedial services have been tried.~~

~~(4)~~ Assist teachers ~~in planning and providing~~ to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

(6) Report no less than annually to the commissioner, in a form the commissioner prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).

(d) No individual entitlement or private right of action is created by this section.

(e) The commissioner shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section.

(f) It is the intent of the general assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the general assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

(a) Statement of policy. The ability to read is critical to success in learning. Children who fail to read by the end of the first grade will likely fall further behind in school. The personal and economic costs of reading failure are enormous both while the student remains in school and long afterward. All students need to receive systematic reading instruction in the early grades from a teacher who is skilled in teaching reading through a variety of instructional strategies that take into account the different learning styles and language backgrounds of the students. Some students may require intensive supplemental instruction tailored to the unique difficulties encountered.

(b) Foundation for literacy. The state board of education, in collaboration with the agency of human services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of

services for early education in the first three grades to ensure that all students learn to read by the end of the third grade. The plan shall be ~~submitted to the general assembly by January 15, 1998 and shall be~~ updated at least once every five years following its initial submission in 1998.

(c) Reading instruction. A public school ~~which~~ that offers instruction in grades one, two, or three shall provide highly effective, research-based reading instruction to all students. In addition, ~~for~~ a school shall provide:

(1) Supplemental reading instruction to any enrolled student in grade four whose reading ~~performance falls below the level expected in order to achieve third grade reading~~ proficiency falls below third grade reading expectations, as defined under subdivision 164(9) of this title~~, the school shall work to improve the student's reading skills by providing additional research-based reading instruction to the student, and by providing support~~.

(2) Supplemental reading instruction to any enrolled student in grades 5–12 whose reading proficiency creates a barrier to the student's success in school.

(3) Support and information to parents and ~~other family members~~ legal guardians.

§ 2904. REPORTS

Annually, each superintendent shall report to the commissioner in a form prescribed by the commissioner, on the status of the educational support systems in each school in the supervisory union. The report shall describe the services and supports that are a part of the education support system, how they are funded, and how building the capacity of the educational support system has been addressed in the school action plans, and shall be in addition to the report required of the educational support team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

* * * High School Completion Program * * *

Sec. 3. 16 V.S.A. § 1049a is amended to read:

§ 1049a. HIGH SCHOOL COMPLETION PROGRAM

(a) In this section:

(1) "Graduation education plan" means a written plan leading to a high school diploma for a person who is 16 to 22 years of age~~,~~ and has not received a high school diploma, ~~and is not~~ who may or may not be enrolled in a public

or approved independent school. The plan shall define the scope and rigor of services necessary for the student to attain a high school diploma, and may describe educational services to be provided by a public high school, an approved independent high school, an approved provider, or a combination of these.

(2) "Approved provider" means an ~~agency~~ entity approved by the commissioner to provide educational services which may be counted for credit toward a high school diploma.

(3) "Contracting agency" means an agency that has entered into a contract with the department of education to provide adult education services in Vermont.

(b) ~~The commissioner shall assign~~ If a ~~student~~ person who wishes to work on a graduation education plan is not enrolled in a public or approved independent school, then the commissioner shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. ~~Upon assignment, the~~ The school district in which a student is enrolled or to which an non-enrolled student is assigned shall work with ~~an agency which has entered into contract with the department of education to provide adult education services in Vermont~~ the contracting agency and the student to develop a graduation education plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The commissioner shall reimburse, and net cash payments where possible, a ~~town~~ school district~~, city school district, union school district, unified union school district, incorporated school district, or member school district of an interstate school district which~~ that has agreed to a graduation education plan in an amount:

(1) established by the commissioner for development of the graduation education plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in ~~co-curricular~~ cocurricular activities, and participation in academic or other courses, provided this amount shall not be available to a district that provides services under this section to an enrolled student; and

(2) negotiated by the commissioner and the contracting agency ~~which has entered into contract with the department of education to provide adult education services in Vermont~~, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the graduation education plan.

(d) On or before January 30 of each year~~, beginning in 2008~~, the commissioner shall report to the senate and house committees on education on the number of students participating in a graduation education plan, the number completing a plan, and the amount paid. The commissioner shall present the information organized by school district, approved independent school, and approved provider.

Sec. 4. HIGH SCHOOL COMPLETION PROGRAM; GRADUATION EDUCATION PLAN; GUIDELINES

(a) The graduation education plan for each 16- and 17-year-old student shall include services relevant to the student's goals, such as:

(1) Career exploration.

(2) Workforce training.

(3) Workplace readiness training.

(4) Preparation for postsecondary training or education and transitioning assistance.

(b) The graduation education plan for each student who is 18 years of age or older should include services relevant to the student's goals, such as those listed in subsection (a) of this section.

(c) The commissioner shall develop and publish guidelines to assist in the implementation of this section.

* * * Commissioner of Education * * *

Sec. 5. MEASURING SECONDARY SCHOOL COMPLETION RATES

(a) On or before December 31, 2009, the commissioner of education shall develop an accurate, uniform, and reliable method for defining and measuring secondary school completion rates on a school-by-school basis, including appropriate cohort identification, and shall set benchmarks for assessing individual school performance relative to the goal of increasing the secondary school completion rate to 100 percent by the year 2020.

(b) On or before January 15 of each year through January 2020, the commissioner shall report to the senate and house committees on education regarding the state's progress in achieving the goal of a 100 percent secondary school completion rate. At the time of the report, the commissioner shall also recommend other initiatives, if any, to improve both graduation rates and secondary school success for all Vermont students.

(c) Annually through 2020, each school district operating one or more secondary schools shall report to the taxpayers at the time school budgets are

presented for approval regarding the district's progress in achieving the goal of a 100 percent secondary school completion rate.

Sec. 6. FLEXIBLE PATHWAYS TO GRADUATION

On or before January 15, 2010,

(1) The commissioner of education shall evaluate the prevalence and efficacy of flexible practices and programs currently used by Vermont schools to identify and support students who require additional assistance or alternative methods to be successful in school or to complete secondary school and shall identify schools that need assistance to begin or enhance their practices.

(2) The commissioner of education shall develop and publish guidelines to assist school districts to identify and support elementary and secondary students who require additional assistance to succeed in school or who would benefit from flexible pathways to graduation. Such guidelines may include strategies such as:

(A) Targeted assistance, including individual tutoring, evidence-based literacy instruction, alternative and extended scheduling, and opportunities to earn necessary credits necessary to obtain a high school diploma.

(B) Flexible programs designed to provide each student identified under 16 V.S.A. § 2902(c) in Sec. 2 of this act with the supports and accommodations necessary to succeed in school and to complete secondary school with the education and skills critical for success after graduation. Examples of flexible program components include:

(i) The assignment of one or more adults from within the school community to provide continuity to the student.

(ii) The development of a personalized education plan or strategy by the student, the assigned adult or adults or another representative of the district, and the student's parents or legal guardian.

(iii) The opportunity to acquire knowledge and skills through applied or work-based learning opportunities.

(iv) The opportunity to participate in dual enrollment courses with tutorial support provided as needed.

(v) Assessments that allow the student to demonstrate proficiency by applying his or her knowledge and skills to tasks that are of interest to that student.

(3) The commissioner of education shall report to the senate and house committees on education regarding implementation of this section and recommend additional legislation, if any, necessary to ensure effective implementation by all school districts in Vermont.

* * * Truancy * * *

Sec. 7. TRUANCY

(a) On or before September 30, 2009, and in consultation and coordination with the executive director of the department of state's attorneys and sheriffs, interested judges of the Vermont district courts, and school district personnel, the commissioner of education shall develop and publish on the department of education's website comprehensive model truancy protocols consistent with the provisions of 16 V.S.A. chapter 25, subchapter 3, that confront truancy on a statewide, countywide, and supervisory unionwide basis and include the post-complaint involvement of both state's attorneys and the court system under 16 V.S.A. § 1127.

(b) On or before December 15, 2009, the commissioner shall propose to the house and senate committees on education any legislative amendments or additions necessary to implement the purposes of this section.

(c) The commissioner shall ensure that, on or before July 1, 2010, the supervisory unions in each county adopt truancy policies that are consistent with and carry forward the purposes of this section.

(d) On or before January 15, 2011, the commissioner shall report to the house and senate committees on education regarding implementation of this section.

Sec. 8. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

The board of each supervisory union shall:

* * *

(11) on or before June 30 of each year, adopt a budget for the ensuing school year; and

(12) adopt supervisory unionwide truancy policies consistent with the model protocols developed by the commissioner.

* * * Teen Parent Education Programs * * *

Sec. 9. 16 V.S.A. § 11(a)(28)(C) is amended to read:

~~(C) a pregnant or postpartum pupil attending school at an approved education program in a residential facility or outside the school district of residence pursuant to subsection 1073(b) of this title.~~

Sec. 10. 16 V.S.A. § 11(a)(33), (34), and (35) are added to read:

(33)(A) "Pregnant or parenting pupil" means a legal pupil of any age who is not a high school graduate and who:

(i) is pregnant; or

(ii) has given birth, has placed a child for adoption, or has experienced a miscarriage, if any of these has occurred within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance; or

(iii) is the parent of a child.

(B) "Pregnant or parenting pupil" does not include a person whose parental rights have been terminated, except if the pupil has placed the child for adoption or has voluntarily relinquished parental rights, within one year before the public or approved independent school or the approved education program receives a request for enrollment or attendance.

(34) "Approved education program" means a program that is evaluated and approved by the state board pursuant to written standards, that is neither an approved independent school nor a public school, and that provides educational services to one or more pupils in collaboration with the pupil's or pupils' school district of residence. An "approved education program" includes an "approved teen parent education program."

(35) "Teen parent education program" means a program designed to provide educational and other services to pregnant pupils or parenting pupils or both.

Sec. 11. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS, AGE, APPEAL

A school district shall not pay the tuition of a pupil except to a public ~~or~~ school, an approved independent school ~~or~~, an independent school meeting school quality standards, a tutorial program approved by the state board, an approved education program, or an independent school in another state or country approved under the laws of that state or country, nor shall payment of tuition on behalf of a person be denied on account of age. Unless otherwise

provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the state board and its decision shall be final.

Sec. 12. 16 V.S.A. § 1073(b) is amended to read:

(b) Access to school.

(1) Right to a public education. No legal pupil attending school at public expense, including a married, pregnant, or ~~postpartum~~ parenting pupil, shall be deprived of or denied the opportunity to participate in or complete ~~an elementary and secondary~~ a public school education.

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, ~~for reasons related to the pregnancy or birth,~~ a pregnant or ~~postpartum~~ parenting pupil may ~~attend~~ enroll in any approved public school in Vermont or an adjacent state, any approved independent school in Vermont, or any other educational program approved by the state board in which any other legal pupil in Vermont may enroll.

(3) Teen parent education program.

(A) Residential teen parent education programs. The commissioner shall pay the educational costs for a pregnant or ~~postpartum~~ parenting pupil attending a state board approved ~~educational~~ teen parent education program in a 24-hour residential facility for up to eight months after the birth of the child. The commissioner may approve extension of payment of educational costs based on a plan for reintegration of the student into the community or for exceptional circumstances as determined by the commissioner. The district of residence of a pupil in a 24-hour residential facility shall remain responsible for coordination of the pupil's educational program and for planning and facilitating her subsequent educational program.

(B) Nonresidential teen parent education programs.

(i) The pregnant or parenting pupil's district of residence or the approved independent or public school to which that district pays tuition for its students ("the enrolling school") shall be responsible for planning, coordinating, and assessing the enrolled pupil's education plan while attending a teen parent education program and for planning, assessing, and facilitating the pupil's subsequent education plan, including the pupil's transition back to the public or approved independent school. As determined by the district of residence or the enrolling school, as appropriate, the pupil's educational plan while attending a teen parent education program shall include learning experiences that are the substantial equivalent of the learning experiences

required by the district of residence or the enrolling school to obtain a high school diploma.

(ii) A pregnant or parenting pupil may attend a nonresidential teen parent education program for a length of time to be determined by agreement of the pupil's district of residence, the enrolling school, the teen parent education program, and the pupil.

(iii) In the event of a dispute regarding any aspect of this subdivision (B), the district of residence, the enrolling school, the teen parent education program, or the pupil or any combination of these may request a determination from the commissioner whose decision shall be final; any determination by the commissioner regarding "substantial equivalency" pursuant to subdivision (i) of this subdivision (b)(3)(B) shall be based on the commissioner's analysis of the course syllabus or the course description provided by the district of residence or enrolling school.

Sec. 13. 16 V.S.A. § 1121 is amended to read:

§ 1121. ATTENDANCE BY CHILDREN OF SCHOOL AGE REQUIRED

A person having the control of a child between the ages of six and 16 years shall cause the child to attend a public school, an approved or recognized independent school, an approved education program, or a home study program for the full number of days for which that school is held, unless the child:

* * *

Sec. 14. CONFORMING LANGUAGE

To ensure consistency of No. 192 of the Acts of the 2007 Adj. Sess. (2008) with Secs. 9 through 13 of this act, the following amendments shall be made to Sec. 5.304.1 of that act:

(1) In subdivision (a)(2), by striking the word "coordinating" and inserting in lieu thereof the following: "planning, coordinating, and assessing".

(2) In subdivision (a)(2), after the word "planning" and before the words "and facilitating" by adding the following: ", assessing,".

(3) In subdivision (b)(3), by striking the final sentence.

Sec. 15. TRANSITIONAL PROVISION

It is the intent of the general assembly that until July 1, 2010, a teen parent education program that has been recognized by the department for children and families shall be considered "an approved education program" for the purposes of Secs. 9 through 13 of this act.

* * * Prekindergarten Education Programs * * *

Sec. 16. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION; RULES

(a) The commissioner of education and the commissioner for children and families shall jointly develop and agree to rules and present them to the state board of education for adoption under chapter 25 of Title 3 as follows:

* * *

(b) Each component of a prekindergarten education program, whether operated by a school district or by a licensed center through a school district, shall be supervised by an early education teacher licensed and endorsed pursuant to chapter 51 of this title; provided a superintendent of a school district that either has contracted with a licensed center to provide a prekindergarten education program or is in the process of entering into such a contract may request an emergency license or endorsement or both on behalf of the licensed center in accordance with rules 5360–5364 adopted by the Vermont standards board for professional educators.

Sec. 17. 16 V.S.A. § 4001(1)(C) is amended to read:

(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's average daily membership. ~~Although there is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services, the total number of prekindergarten children that a district may include within its average daily membership shall be limited as follows:~~

~~(i) All children receiving essential early education services may be included.~~

~~(ii) Of the children enrolled in prekindergarten education offered by or through a school district who are not receiving essential early education services, the greater of the following may be included:~~

~~(I) ten children; or~~

~~(II) the number resulting from: (aa) one plus the average annual percentage increase or decrease in the district's first grade average daily membership as counted in the census period of the previous five years; multiplied by (bb) the most immediately previous year's first grade average daily membership; or~~

~~(III) the total number of children residing in the district who are enrolled in the prekindergarten program or programs and who are eligible to enter kindergarten in the district in the following academic year; or~~

~~(IV) one-fifth of the total number of children in grades 1-5 who were included in the district's average daily membership for the previous year.~~

After passage, the title of the bill is to be amended to read:

AN ACT RELATING TO INCREASING THE GRADUATION RATE IN VERMONT SECONDARY SCHOOLS TO 100 PERCENT BY THE YEAR 2020.

Thereupon, pending the question Shall the Senate concur in the House proposal of amendment?, Senator Shumlin moved that the bill be committed to the Committee on Education,

Which was agreed to.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In

S. 47.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to salvage yards.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendment thereto:

In Sec. 26 by striking out the following: "subsection (d) of this section, subdivision (h)(3)(A) or subdivision (h)(3)(B) of this section" where it appears and inserting in lieu thereof the following: subsection (d) or (i) of this section

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 192.

Appearing on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and House bill entitled:

An act relating to electronic benefit machines for farmers' markets.

Was taken up for immediate consideration.

Senator Kittell, for the Committee on Agriculture, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by adding three new sections to be numbered Secs. 2, 3 and 4 read as follows:

Sec. 2. MILK AND MEAT PILOT PROGRAM

(a) The commissioner of education, the secretary of agriculture, food and markets, and the secretary of human services shall work with Vermont's congressional delegation to design the reauthorization of the federal Child Nutrition Act to create a milk and meat pilot program in Vermont. The pilot program should be designed to:

(1) test the feasibility of and options for centralized statewide purchasing of local milk and meat for school meals; and

(2) offer technical assistance and training to school staff regarding sourcing, use, storage, and preparation of local foods.

(b) On or before January 15, 2010, the commissioner and secretaries shall report to the senate and house committees on agriculture on the success of their negotiations with the congressional delegation.

Sec. 3. FRESH FRUIT AND VEGETABLE GRANT PROGRAM; TECHNICAL ASSISTANCE

(a) The department of education has received funding through the federal fresh fruit and vegetable grant program to increase the consumption of fresh fruit and vegetables and promote the nutritional health of schoolchildren. However, some of the schools receiving these funds have been unable to maximize their use due to lack of storage equipment, staff to administer the programs, staff to process the foods, or knowledge about how to optimize consumption of the fresh foods by young children. Therefore, the general assembly hereby directs the department of education to examine ARRA funds

it will receive in fiscal year 2010 to determine if any may be used to provide the resources or technical assistance to schools that will help them maximize the purchase and use of local fruits and vegetables under the fresh fruit and vegetable grant program.

(b) On or before January 15, 2010, the commissioner of education shall report to the senate and house committees on agriculture on the success of finding and using funds to help to implement the fresh fruit and vegetable grant program.

Sec. 4. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(12) Directional signs, subject to regulations adopted by the Federal Highway Administration with a total surface area not to exceed ~~four~~ six square feet providing directions to places of business offering for sale agricultural products harvested or produced on the premises where the sale is taking place, or to farmers' markets that are members of the Vermont Farmers Market Inc. selling Vermont agricultural products.

* * *

(15) Municipal informational and guidance signs. A municipality may provide alternative signs of a guidance or informational nature and creative design to assist persons in reaching destinations that are transportation centers, geographic districts, historic monuments and significant or unique educational, recreational or cultural landmarks, including farmers markets that are members of the Vermont Farmers Market Inc. selling Vermont agricultural products, provided that such destinations are not private, for-profit enterprises. A proposal to provide alternative signs shall contain color, shape and sign placement requirements that shall be of a uniform nature within the municipality. The surface area of alternative signs shall not exceed 12 square feet, and the height of such signs shall not exceed 12 feet in height. The proposal shall be approved by the municipal planning commission for submission to and adoption by the local legislative body. Alternative signs shall be responsive to the particular needs of the municipality and to the values expressed in this chapter. These proposals shall be subject to and consistent with any plan duly adopted pursuant to chapter 117 of Title 24, shall be enforced under the provisions of 24 V.S.A. §§ 4444 and 4445 and may emphasize each municipality's special characteristics. No fees shall be

assessed against a municipality that provides signs under this section and, upon issuance of permits under section 1111 of Title 19, such signs may be placed in any public right-of-way other than interstates. This section shall take effect upon the travel information council securing permission for alternative municipal signs in accordance with section 1029 of Title 23.

* * *

(17) Within a downtown district designated under the provisions of 24 V.S.A. chapter 76A, municipal information and guidance signs. A municipality may erect alternative signs to provide guidance or information to assist persons in reaching destinations that are transportation centers, geographic districts, and significant or unique educational, recreational, historic or cultural landmarks, including farmers markets that are members of the Vermont Farmers Market Inc. selling Vermont agricultural products. A proposal to provide alternative signs shall contain color, shape and sign placement requirements that shall be uniform within the municipality. The surface area of alternative signs shall not exceed 12 square feet, and the highest point of such signs shall not exceed 12 feet above the ground, road surface or sidewalk. The proposal shall be approved by the municipal planning commission for submission to and adoption by the local legislative body. The sign proposal then shall be submitted to the travel information council for final approval. Denial may be based only on safety considerations. Reasons for denial shall be stated in writing. Alternative signs shall be responsive to the particular needs of the municipality and to the values expressed in this chapter. These proposals shall be subject to and consistent with any municipal plan duly adopted pursuant to chapter 117 of Title 24, shall be enforced under the provisions of 24 V.S.A. §§ 4444 and 4445 and may emphasize each municipality's special characteristics. No fees shall be assessed against a municipality that provides signs under this section and upon issuance of permits under section 1111 of Title 19, such signs may be placed in any public right-of-way other than an interstate highway. Notwithstanding subdivision 495(a)(7) or any other provision of this title or of section 1029 of Title 23, alternative signs permitted under this subsection shall not be required to comply with any nationally recognized standard.

The Committee further recommends that after passage of the bill the title be amended to read as follows:

AN ACT RELATING TO ENCOURAGING USE OF LOCAL FOODS IN VERMONT'S FOOD SYSTEM.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Snelling, for the Committee on Agriculture, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 3, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The department of education has received funding through the federal fresh fruit and vegetable grant program to increase the consumption of fresh fruit and vegetables and promote the nutritional health of schoolchildren. However, some of the schools receiving these funds have been unable to maximize their use due to lack of storage equipment, staff to administer the programs, staff to process the foods, or knowledge about how to optimize consumption of the fresh foods by young children. Therefore, the general assembly hereby directs the department of education to work with school districts and supervisory unions to identify ARRA funds they or the department will receive in fiscal year 2010 to determine if any may be used to provide the resources or technical assistance to schools that will help them maximize the purchase and use of local fruits and vegetables under the fresh fruit and vegetable grant program.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Agriculture, as amended?, Senator Kittell moved to amend the proposal of amendment as follows:

In Sec. 4, 10 V.S.A. §494(12), (15) and (17), after the words: "Vermont farmers' market" by striking out the word "Inc." and inserting in lieu thereof: the word association

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Rules Suspended; Bill Messaged

On motion of Senator Shumlin, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

H. 192.

Rules Suspended; Bills Delivered

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 47, S. 89.

Recess

On motion of Senator Shumlin the Senate recessed until three o'clock and thirty minutes.

Called to Order

At three o'clock and forty-five minutes the Senate was called to order by the President.

Message from the House No. 84

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 121. An act relating to miscellaneous election laws.

And has passed the same in concurrence.

Pursuant to Senate request, the House returns custody of a bill originating in the House of the following title:

H. 438. An act relating to the state’s transportation program.

Message from the House No. 85

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 83. An act relating to underground storage tanks and the petroleum cleanup fund.

And has adopted the same on its part.

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

H. 427. An act relating to making miscellaneous amendments to education law.

And has adopted the same on its part.

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

H. 445. An act relating to capital construction and state bonding.

And has adopted the same on its part.

Action Reconsidered; Action Reconsidered; Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

H. 438.

On motion of Senator Shumlin the rules were suspended, and H. 438 was taken up for immediate consideration.

Thereupon, on motion of Senator Shumlin the rules were further suspended to permit the making of a motion to reconsider its vote of May 7, notwithstanding the provisions of Senate Rule 73.

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Shumlin moved that the Senate reconsider its action on House bill entitled:

An act relating to the state’s transportation program.

Which was agreed to.

Thereupon, the question, Shall the Senate reconsider its action in adoption of the report of the Committee of conference, was decided in the affirmative.

Thereupon, pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and the report of the Committee of Conference was taken up for immediate consideration.

Upon motion by Senator Kitchel the question, Shall the original report of the Committee of Conference considered by the Senate on May 7 be substituted for by the report of the Committee of Conference as submitted today (May 8)?, was decided in the affirmative.

Senator Mazza, for the Committee of Conference, submitted the following substitute 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:

H. 438. An act relating to the state's transportation program..

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

Sec. 1. TRANSPORTATION PROGRAM

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

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

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

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

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

(4) the term "bonding" refers to the net proceeds of transportation bonds which were included in the agency's proposed fiscal year 2010 transportation program;

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

(6) the term "TIB funds" refers to monies deposited in the transportation infrastructure bond fund in accordance with 19 V.S.A. § 11f.

* * * TIB Funds * * *

Sec. 2. TIB FUNDS

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

* * * ARRA Funds * * *

Sec. 3. 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 secretary of transportation is authorized to obligate and expend ARRA funds:

(1) to projects as indicated in the document titled "VT Agency of Transportation – Proposed ARRA Project Plan" dated May 6, 2009.

(2) Up to $5,000,000 to additional town highway paving projects that meet federal eligibility and readiness criteria. Individual projects shall not exceed $750,000 in federal funds, unless approved by the secretary of transportation. Any exceptions shall be reported to the joint transportation oversight committee.

(3) Up to $5,000,000 to additional town highway structures projects that meet federal eligibility and readiness criteria. Individual projects shall not exceed $750,000 in federal funds, unless approved by the secretary of transportation. Any exceptions shall be reported to the joint transportation oversight committee.

(b) Any proposed obligation and expenditure of ARRA funds other than as authorized under subsection (a) of this section shall be subject to the approval of the joint transportation oversight committee.

(c) The agency shall report on the obligation and expenditure of ARRA funds to the joint transportation oversight committee at the committee's regular and specially scheduled 2009 meetings.

(d) 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.

* * * Paving * * *

Sec. 4. PROGRAM DEVELOPMENT – PAVING

(1) Spending authority in the paving statewide preventive maintenance program is amended to read:

FY10	As Proposed	As Amended	Change
PE	0	0	0
ROW	0	0	0
Construction	500,000	0	-500,000
Total	500,000	0	-500,000
Source of funds			
State	500,000	0	-500,000
Total	500,000	0	-500,000

(2) Under Sec. 3(a)(3) of this act, a new project is added to authorize the expenditure of up to $5,000,000 in ARRA funds on additional town highway paving projects that meet federal eligibility and readiness criteria for the use of ARRA funds.

(3) Including the changes in subsections (1) and (2) of this section, total spending authority in the paving program is amended to read:

FY10	As Proposed	As Amended	Change
PE	2,405,000	2,405,000	0
Row	0	0	0
Construction	66,229,802	116,019,718	49,789,916
Total	68,634,802	118,424,718	49,789,916
Source of funds			
State	13,018,034	3,912,806	-9,105,228
TIB funds	0	2,592,739	2,592,739
Federal	55,616,768	27,247,723	-28,369,045
ARRA funds	0	84,671,450	84,671,450
Total	68,634,802	118,424,718	49,789,916

* * * Roadway * * *

Sec. 5. PROGRAM DEVELOPMENT – ROADWAY

(1) Spending authority for the Cabot-Danville US 2 FEGC F 028-3(26)C/1 roadway project is amended to read:

FY10	As Proposed	As Amended	Change
PE	0	0	0
ROW	0	0	0
Construction	4,000,000	2,500,000	-1,500,000
Other	0	0	0
Total	4,000,000	2,500,000	-1,500,000
Source of funds			
State	200,000	0	-200,000
TIB funds	0	125,000	125,000
Federal	3,800,000	2,375,000	-1,425,000
Total	4,000,000	2,500,000	-1,500,000

(2) Spending authority for the Morristown VT 100 STP F 029-1(2) roadway project is amended to read:

FY10	As Proposed	As Amended	Change
PE	200,000	200,000	0
ROW	500,000	2,000,000	1,500,000
Construction	0	0	0
Other	200,000	200,000	0
Total	900,000	2,400,000	1,500,000
Source of funds			
State	182,440	0	-182,440
TIB funds	0	482,440	482,440
Federal	717,560	1,917,560	1,200,000
Total	900,000	2,400,000	1,500,000

(3) Spending authority for the Winooski NH 089-3(65) roadway project is amended to read:

FY10	As Proposed	As Amended	Change
PE	100,000	100,000	0
ROW	0	0	0
Construction	1,000,000	1,000,000	0
Other	0	0	0
Total	1,100,000	1,100,000	0
Source of funds			
State	110,000	0	-110,000

TIB funds	0	10,000	10,000
Federal	990,000	1,090,000	100,000
Total	1,100,000	1,100,000	0

(4) Spending authority for the Derby IM 091-3(45) roadway border crossing project is amended to read:

FY10	As Proposed	As Amended	Change
Other	287,500	0	-287,500
Total	287,500	0	-287,500
Source of funds			
State	287,500	0	-287,500
Federal	0	0	0
Total	287,500	0	-287,500

(5) Including the changes made in subsections (1) through (4) of this section, total spending authority in the roadway program is amended to read:

FY10	As Proposed	As Amended	Change
PE	5,446,892	5,446,892	0
Row	7,115,000	8,615,000	1,500,000
Construction	43,752,270	45,561,882	1,809,612
Other	1,087,500	800,000	-287,500
Total	57,401,662	60,423,774	3,022,112
Source of funds			
State	2,749,362	641,762	-2,107,600
Bonding	4,390,980	0	-4,390,980
TIB funds	0	6,477,842	6,477,842
Federal	48,710,890	50,353,740	1,642,850
ARRA funds	0	1,400,000	1,400,000
Local	1,550,430	1,550,430	0
Total	57,401,662	60,423,774	3,022,112

* * * Bridge Programs * * *

Sec. 6. PROGRAM DEVELOPMENT – STATE BRIDGE

Spending authority in the state bridge program is amended to read:

FY10	As Proposed	As Amended	Change
PE	3,550,576	3,550,576	0
Row	1,181,202	1,181,202	0
Construction	19,002,022	21,610,522	2,608,500
Other	0	0	0
Total	23,733,800	26,342,300	2,608,500
Source of funds			

State	500,000	3,529,579	3,029,579
Bonding	4,686,420	0	-4,686,420
TIB funds	0	1,385,241	1,385,241
Federal	18,547,380	17,460,980	-1,086,400
ARRA funds	0	3,966,500	3,966,500
Total	23,733,800	26,342,300	2,608,500

Sec. 7. PROGRAM DEVELOPMENT – INTERSTATE BRIDGE

(1) Spending authority in the Brattleboro I-91 IM 091-1(50) project is amended to read:

FY10	As Proposed	As Amended	Change
PE	50,000	50,000	0
Row	1,000	1,000	0
Construction	0	1,500,000	1,500,000
Other	0	0	0
Total	51,000	1,551,000	1,500,000
Source of funds			
State	5,100	5,100	0
Federal	45,900	45,900	0
ARRA funds	0	1,500,000	1,500,000
Total	51,000	1,551,000	1,500,000

(2) Including the change made in subsection (1) of this section, total spending authority in the interstate bridge program is amended to read:

FY10	As Proposed	As Amended	Change
PE	607,500	607,500	0
Row	26,000	26,000	0
Construction	5,315,000	6,815,000	1,500,000
Other	0	0	
Total	5,948,500	7,448,500	1,500,000
Source of funds			
State	100,000	594,850	494,850
Bonding	494,850	0	-494,850
TIB funds	0	0	0
Federal	5,353,650	5,353,650	0
ARRA funds	0	1,500,000	1,500,000
Total	5,948,500	7,448,500	1,500,000

Sec. 8. TOWN HIGHWAY BRIDGE

(1) Under Sec. 3(a)(3) of this act, a new project is added to authorize the expenditure of up to $5,000,000 in ARRA funds on additional town highway

bridge and culvert projects that meet federal eligibility and readiness criteria for the use of ARRA funds.

(2) Including the change made in subsection (1) of this section, total spending authority in the town bridge program is amended to read:

FY10	As Proposed	As Amended	Change
PE	1,663,952	1,663,952	0
Row	588,278	588,278	0
Construction	18,418,870	23,817,186	5,398,316
Total	20,671,100	26,069,416	5,398,316
Source of funds			
State	1,540,899	500,000	-1,040,899
Bonding	1,500,000	0	-1,500,000
TIB funds	0	1,875,976	1,875,976
Federal	16,273,728	12,858,036	-3,415,692
ARRA funds	0	9,442,034	9,442,034
Local	1,356,473	1,393,370	36,897
Total	20,671,100	26,069,416	5,398,316

Sec. 9. BRIDGE MAINTENANCE

Spending authority in the bridge maintenance program is amended to read:

FY10	As Proposed	As Amended	Change
PE	410,000	410,000	0
Row	21,500	21,500	0
Construction	17,192,200	33,619,840	16,427,640
Total	17,623,700	34,051,340	16,427,640
Source of funds			
State	6,844,140	4,011,751	-2,832,389
TIB funds	0	234,020	234,020
Federal	10,779,560	23,561,522	12,781,962
ARRA funds	0	6,244,047	6,244,047
Total	17,623,700	34,051,340	16,427,640

* * * Safety and Traffic Operations * * *

Sec. 10. SAFETY AND TRAFFIC OPERATIONS

Spending authority in the safety and traffic operations program is amended to read:

FY10	As Proposed	As Amended	Change
Other	4,900,000	4,900,000	0
PE	1,170,316	1,170,316	0

ROW	563,750	563,750	0
Construction	9,833,278	17,201,278	7,368,000
Total	16,467,344	23,835,344	7,368,000
Source of funds			
State	407,343	407,343	0
Federal	16,010,001	23,378,001	7,368,000
Local	50,000	50,000	0
ARRA funds	0	0	0
Total	16,467,344	23,835,344	7,368,000

* * * Bike and Pedestrian Facilities * * *

Sec. 11. BIKE AND PEDESTRIAN FACILITIES

(1) A new project is added for the rehabilitation of rail trails STP NWRT() with the following spending authority:

FY10	As Proposed	As Amended	Change
Construction	0	694,194	694,194
Total	0	694,194	694,194
Source of funds			
ARRA	0	694,194	694,194
Total	0	694,194	694,194

(2) A new project is added for curb ramp modifications STP RAMP() with the following spending authority:

FY10	As Proposed	As Amended	Change
Construction	0	552,500	552,500
Total	0	552,500	552,500
Source of funds			
ARRA	0	552,500	552,500
Total	0	552,500	552,500

* * * Transportation Buildings * * *

Sec. 12. TRANSPORTATION BUILDINGS

(1) Spending authority for the transportation buildings Berlin project is amended to read:

FY10	As Proposed	As Amended	Change
PE	100,000	0	-100,000
ROW	200,000	0	-200,000
Construction	650,000	0	-650,000
Total	950,000	0	-950,000
Source of funds			

State	190,000	0	-190,000
Federal	760,000	0	-760,000
Total	950,000	0	-950,000

(2) The agency shall study alternatives for the siting of the materials testing lab and report to the house and senate committees on transportation by January 15, 2010.

* * * DMV * * *

Sec. 13. DEPARTMENT OF MOTOR VEHICLES

Spending authority for the department of motor vehicles is amended to read:

FY10	As Proposed	As Amended	Change
Personal Services	17,063,642	16,913,642	-150,000
Operating Expenses	8,176,673	8,116,673	-60,000
Grants	50,000	50,000	0
Total	25,290,315	25,080,315	-210,000
Source of funds			
State	23,807,821	23,597,821	-210,000
Federal	1,482,494	1,482,494	0
Total	25,290,315	25,080,315	-210,000

* * * Rail * * *

Sec. 14. RAIL

(a) Spending authority for passenger rail service (Amtrak contract) is amended to read:

FY10	As Proposed	As Amended	Change
Other	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000
Source of funds			
State	3,300,000	3,700,000	400,000
Total	3,300,000	3,700,000	400,000

(b) Spending authority for rail property lease and encroachment management is amended to read:

FY10	As Proposed	As Amended	Change
Other	300,000	212,761	-87,239
Total	300,000	212,761	-87,239
Source of funds			
State	300,000	212,761	-87,239
Federal	0	0	0

Total	300,000	212,761	-87,239

(c) In the event the July 2009 consensus forecast for fiscal year 2010 transportation fund revenue is increased by at least $800,000, $800,000 of transportation funds and $3,200,000 of western rail corridor federal earmark funds shall be used to purchase $4,000,000 of continuously welded rail for installation along the western corridor.

* * * Maintenance * * *

Sec. 15. MAINTENANCE

Total authorized spending in the maintenance program is amended as follows:

FY10	As Proposed	As Amended	Change
Personal Services	34,028,928	34,028,928	0
Operating Expenses	32,991,361	32,011,361	-980,000
Grants	278,020	278,020	0
Total	67,298,309	66,318,309	-980,000
Source of funds			
State	64,315,237	63,335,237	-980,000
Federal	2,883,072	2,883,072	0
Other	100,000	100,000	0
Total	67,298,309	66,318,309	-980,000

* * * Finance and Management * * *

Sec. 16. FINANCE AND MANAGEMENT

Spending authority for the finance and management division is amended to read:

FY10	As Proposed	As Amended	Change
Personal services	10,071,137	10,071,137	0
Operating expenses	2,538,262	2,438,262	-100,000
Total	12,609,399	12,509,399	-100,000
Source of funds			
State	12,109,399	12,009,399	-100,000
Federal	500,000	500,000	0
Total	12,609,399	12,509,399	-100,000

* * * Town Highway Class 2 * * *

Sec. 17. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

Spending authority for the town highway class 2 roadway program is amended to read:

FY10	As Proposed	As Amended	Change
Grants	6,448,750	5,748,750	-700,000
Total	6,448,750	5,748,750	-700,000
Source of funds			
TFunds	6,448,750	5,748,750	-700,000
ARRA	0		0
Total	6,448,750	5,748,750	-700,000

* * * Enhancements * * *

Sec. 18. ENHANCEMENTS

Spending authority for the enhancement program is amended to read:

FY10	As Proposed	As Amended	Change
Other	0	800,000	800,000
PE	533,005	533,005	0
ROW	512,650	512,650	0
Construction	2,162,402	2,162,402	0
Total	3,208,057	4,008,057	800,000
Source of funds			
State	73,000	73,000	0
Federal	2,566,446	2,566,446	0
ARRA	0	800,000	800,000
Local	568,611	568,611	0
Total	3,208,057	4,008,057	800,000

* * * Public Transit * * *

Sec. 19. PUBLIC TRANSIT

Spending authority for the public transit capital assistance program is amended to read:

FY10	As Proposed	As Amended	Change
Other	4,565,331	8,492,254	3,926,923
Total	4,565,331	8,492,254	3,926,923
Source of funds			
TFunds	1,129,273	629,273	-500,000
Fed	3,436,058	3,936,058	500,000
ARRA	0	3,926,923	3,926,923
Total	4,565,331	8,492,254	3,926,923

* * * Aviation * * *

Sec. 20. AVIATION

Spending authority for the Berlin Phase I parallel taxiway-terminal apron project is amended to read:

FY10	As Proposed	As Amended	Change
PE	0	0	0
Construction	250,000	4,000,000	3,750,000
Total	250,000	4,000,000	3,750,000
Source of funds			
TFunds	25,000	0	-25,000
Fed	225,000	0	-225,000
ARRA	0	4,000,000	4,000,000
Total	250,000	4,000,000	3,750,000

* * * Applying for ARRA funds * * *

Sec. 21. APPLYING FOR AMERICAN RECOVERY AND REINVESTMENT ACT FUNDS

The agency shall apply for a grant of rail infrastructure discretionary ARRA funds to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service to and from Burlington, Rutland, Bennington, Vermont and Albany, New York. In applying for a grant, the agency shall consider all possible sources of nonfederal match dollars which could be included in and would thereby strengthen the application. The grant application shall state that priority will be given to the purchase and installation of continuously welded rail for the western corridor.

* * * Motor Fuel Transportation Infrastructure Assessments * * *

Sec. 22. 23 V.S.A. § 3003(a) is amended to read:

(a) A tax of ~~25 cents per gallon and~~ $0.25, a fee of ~~one cent per gallon is imposed on each gallon of fuel~~ $0.01 established pursuant to the provisions of 10 V.S.A. § 1942, and a $0.03 motor fuel transportation infrastructure assessment, which for purposes of the International Fuel Tax Agreement only shall be deemed to be a surcharge, are imposed on each gallon of fuel:

(1) sold or delivered by a distributor; or

(2) used by a user.

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

(d)(1) For users, the following uses shall be exempt from ~~taxation~~ the tax and motor fuel transportation infrastructure assessment imposed under this

chapter and be entitled to a credit for any tax paid for such uses under section 3020 of this title:

Sec. 24. 23 V.S.A. § 3106(a) is amended to read:

(a) Except for sales of motor fuels between distributors licensed in this state, which sales shall be exempt from the tax and from the motor fuel transportation infrastructure assessment, in all cases not exempt from the tax under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the commissioner a tax of $0.19 ~~per~~ upon each gallon of motor fuel sold by the distributor, and a motor fuel transportation infrastructure assessment in the amount of two percent of the retail price exclusive of all federal and state taxes upon each gallon of motor fuel sold by the distributor. The retail price shall be based upon the average retail prices for regular gasoline determined and published by the department of public service. The retail price applicable for the January-March quarter shall be the average of the retail prices published by the department of public service the prior October, November, and December; and the retail price applicable in each succeeding calendar quarter shall be equal to the average of the retail prices published by the department of public service in the preceding quarter. The distributor shall also pay to the commissioner a tax and a motor fuel transportation infrastructure assessment in the same ~~amount~~ amounts upon each gallon of motor fuel used within the state by him or her.

Sec. 25. RETAIL PRICE FOR JUNE 2009

The retail price for purposes of the motor fuels transportation infrastructure assessment applicable for June 2009 shall be the average price for regular unleaded gasoline determined by the department of public service as of May 2009 of $2.03 per gallon.

Sec. 26. DEPARTMENT OF PUBLIC SERVICE

The Department of Public Service shall conduct a monthly survey of businesses selling retail regular gasoline designed to determine a average statewide retail price and publish the survey result no latter than the 20th day of each month starting in June 2009.

* * * Transportation Infrastructure Bonds * * *

Sec. 27. 19 V.S.A. § 11f is added to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special account within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to

23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited annually to the fund, and the amount in the account shall carry forward from year to year.

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

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

(B) to pay for:

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

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

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

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

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

* * * Transportation Infrastructure Bonds * * *

Sec. 28. 32 V.S.A. chapter 13, subchapter 4 is added to read:

Subchapter 4. Transportation Infrastructure Bonds

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

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

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

(c) Funds raised from bonds issued under this section may be used to pay for:

(1) the rehabilitation, reconstruction, or replacement of state bridges and culverts; and

(2) the rehabilitation, reconstruction, or replacement of municipal bridges and culverts; and

(3) the rehabilitation, reconstruction, or replacement of state roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 30 years or more;

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

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

§ 973. ISSUANCE OF BONDS

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

(1) date of issuance;

(2) place of payment;

(3) rate of interest (which may be fixed or variable) or the manner of determining such rate of interest;

(4) original stated value;

(5) investment returns or manner of determining the investment returns;

(6) maturity value, time of maturity, and provisions with respect to redemption prior to maturity;

(7) whether to issue the bonds at par, premium, or discount;

(8) sinking fund and reserve requirements;

(9) amount and manner of issuance; and

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

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

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

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

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

§ 974. SECURITY DOCUMENTS

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

(b) Any trust agreement or credit enhancement agreement entered into pursuant to this section shall be valid and binding from the time of the agreement without any physical delivery or further act and without any filing or recording under the Uniform Commercial Code or otherwise, and the lien of

such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof.

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

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

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

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

§ 975. PROCEEDS

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

(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the

transportation infrastructure bond fund as they fall due without further order or authority.

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

§ 976. ANTICIPATION OF PROCEEDS

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

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

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

§ 977. REFUNDING BONDS

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

§ 978. PLEDGE

The general assembly hereby pledges and covenants with holders of the bonds issued under this subchapter that the state will fulfill the terms of any agreement made with the holders of transportation infrastructure bonds and

will not in any way impair the rights or remedies of the holders of the bonds until the bonds, interest, and all costs associated with the bonds are fully paid.

§ 979. AUTHORITIES

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

(1) sections 953, 956, 958, and 960;

(2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and

(3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to subdivision 974(e)(2) of this title.

§ 980. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to section 972 of this title for the purpose of funding future appropriations only as approved by the general assembly.

Sec. 29. PLAN FOR USE OF BOND PROCEEDS IN FUTURE YEARS

On or before January 15, 2010, the agency of transportation shall submit to the joint transportation oversight committee a plan for use of bond proceeds for transportation purposes during state fiscal years 2011, 2012, and 2013, taking into consideration the likely availability of funds from other sources and the needs identified by the transportation project planning process. In no instance shall the total request for bonding authority exceed $100,000,000.

Sec. 30. FISCAL YEAR 2010 BONDING AUTHORITY

Notwithstanding 32 V.S.A. §980, the state treasurer is authorized to issue transportation infrastructure bonds for fiscal year 2010 in a total amount of no more than $10,000,000, provided that the agency requests and the joint transportation oversight committee approves of such issue.

Sec. 31. 32 V.S.A. § 1001(b) is amended to read:

(b)(1) Committee duties. The committee shall review annually the size and affordability of the net state tax-supported indebtedness~~,~~ and submit to the governor and to the general assembly an estimate of the maximum amount of new long-term net state tax-supported debt that prudently may be authorized

for the next fiscal year. The estimate of the committee shall be advisory and in no way bind the governor or the general assembly.

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

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

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

§ 1001a. REPORTS

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

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

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

* * * Town Local Match Requirements * * *

Sec. 33. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

* * *

(c) Notwithstanding subsections 309a(a), (b), and (c) of this title, a municipality may use a grant awarded under the town highway structures program or the class 2 town highway roadway program to provide the nonfederal matching funds required to draw down a federal earmark or to match grants provided to towns under the American Recovery and Reinvestment Act of 2009. In all such cases, the grant shall be matched by local funds as provided in this section. The intended use of a town highway grant as matching funds for a federal earmark or for grants provided to towns under the American Recovery and Reinvestment Act of 2009 shall not entitle a municipal grant applicant to any priority for a grant award in any fiscal year. When grants awarded under the town highway structures program or the class 2 town highway roadway program are used to satisfy nonfederal matching

requirements for federal earmarks or for grants provided to towns under the American Recovery and Reinvestment Act of 2009, the term "project costs" in subsections (a) and (b) of this section shall refer only to the nonfederal match for the federal earmark or for a grant provided to towns under the American Recovery and Reinvestment Act 2009.

* * * ARRA Funding of Town Projects * * *

Sec. 34. ARRA FUNDING OF TOWN PROJECTS

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

* * * Motor Vehicle Fees * * *

Sec. 35. 23 V.S.A. § 114(a)(14) is amended to read:

(a) The commissioner shall be paid the following fees for miscellaneous transactions:

* * *

(14) Certified copy three-year operating record ~~10.00~~ 11.00

Sec. 36. 23 V.S.A. § 115(a) is amended to read:

(a) Any Vermont resident may make application to the commissioner and be issued an identification card which is attested by the commissioner as to true name, correct age, and any other identifying data as the commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the commissioner may require. The commissioner shall require payment of a fee of ~~$15.00~~ $17.00 at the time application for an identification card is made.

Sec. 37. 23 V.S.A. § 304(b) is amended to read:

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

number plates marked with initials, letters, or combination of numerals and letters, in the following manner:

(1) Except as otherwise provided, at the request of the registrant of any motor vehicle, upon application and upon payment of an annual fee of ~~$35.00~~ $38.00 in addition to the annual fee for registration. He or she may not issue two sets of special number plates bearing the same initials or letters unless the plates also contain a distinguishing number. Special number plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) For the purposes of this subdivision, "safety organizations" shall include groups which have at least 100 instate members in good standing and provide police and fire protection, rescue squads, national guard, together with those organizations required to respond to public emergencies. It shall include amateur radio operators licensed by the U.S. Federal Communications Commission. For purposes of this subdivision, "service organization" includes any group which (i) has as a primary purpose, service to the community through specific programs for the improvement of public health, education, or environmental awareness and conservation, and are not limited to social activities; (ii) has nonprofit status under Section 501(c)(3) or (10) of the United States Internal Revenue Code, as amended; (iii) is registered as a nonprofit corporation with the office of the secretary of state; and (iv) except for a military veterans group, has at least 100 instate members in good standing. "Service organization" also includes congressionally chartered and noncongressionally chartered United States military service veterans groups.

(A) At the request of the leader of a safety organization or service organization, upon application and payment of a fee of ~~$10.00~~ $15.00 for each set of plates in addition to the annual fee for registration, special plates indicating membership in one of the "safety organizations" or "service organizations" may be issued to registrants of vehicles registered at the pleasure car rate and of trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, who are members of these organizations. The applicant must provide a written statement from the appropriate official of the organization, authorizing the issuance of the plates.

(B) At the time that an organization requests the plates, it shall deposit ~~$1,000.00~~ $2,000.00 with the commissioner. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and the balance shall be deposited in the transportation fund. For ~~each set~~ the first 100 sets of plates issued, ~~$10.00~~ $15.00 of this deposit shall be deemed to be the safety organization or service

organization special plate fee for each authorized applicant. Of this deposit, $500.00 shall be retained by the department to recover costs of developing the organization plate. When the initial deposit of ~~$1,000.00~~ $1,500.00 is depleted, applicants shall be required to pay the ~~$10.00~~ $15.00 fee as provided for in subdivision (1) of this subsection. Notwithstanding section 502 of Title 32, the commissioner may charge the actual costs of production of the plates against the fees collected and shall remit the balance to the transportation fund. No organization shall charge its members any additional fee or premium charge for the authorization, right or privilege to display these special number plates. This provision shall not prevent any organization from recovering up to ~~$1,000.00~~ $1,500.00 from applicants for the special plates.

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

* * *

Sec. 38. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

(a) The commissioner shall, upon application, issue conservation registration plates for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles and the commissioner of fish and wildlife shall determine the graphic design of the

special plates in a manner which serves to enhance the public awareness of the state's interest in restoring and protecting its wildlife and major watershed areas. The commissioner of motor vehicles and the commissioner of fish and wildlife may alter the graphic design of these special plates provided that plates in use at the time of a design alteration shall remain valid subject to the operator's payment of the annual registration fee. Applicants shall apply on forms prescribed by the commissioner and shall pay an initial fee of ~~$20.00~~ $23.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a conservation plate shall pay a renewal fee of ~~$20.00~~ $23.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection. The commissioner of motor vehicles and the commissioner of fish and wildlife shall annually submit to the members of the house committees on transportation and fish, wildlife and water resources, and the members of the senate committees on transportation and natural resources and energy a report detailing, over a three-year period, the revenue generated, the number of new conservation plates sold and the number of renewals, and recommendations for program enhancements.

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

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

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

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

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

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

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

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

Sec. 39. 23 V.S.A. § 307 is amended to read:

§ 307. CARRYING OF REGISTRATION CERTIFICATE

A person shall not operate a motor vehicle nor draw a trailer or semi-trailer unless the registration certificate thereof is carried in some easily accessible

place in such motor vehicle. In case of the loss, mutilation or destruction of such certificate the owner of the vehicle described therein shall forthwith notify the commissioner and remit a fee of ~~$12.00~~ $13.00 whereupon the commissioner shall furnish such owner with a duplicate certificate. A corrected registration certificate shall be furnished by the commissioner upon request and receipt of a fee of ~~$12.00~~ $13.00.

Sec. 40. 23 V.S.A. § 323 is amended to read:

§ 323. TRANSFER FEES

A person who transfers the ownership of a registered motor vehicle to another, upon the filing of a new application, and upon the payment of a fee of ~~$20.00~~ $22.00 may have registered in his or her name another motor vehicle for the remainder of the registration period without payment of any additional registration fee, provided the proper registration fee of the motor vehicle sought to be registered is the same as the registration fee of the transferred motor vehicle. However, if the proper registration fee of the motor vehicle sought to be registered by such person is greater than the registration fee of the transferred motor vehicle, the applicant shall pay, in addition to such fee of ~~$20.00~~ $22.00, the difference between the registration fee of the motor vehicle previously registered and the proper fee for the registration of the motor vehicle sought to be registered.

Sec. 41. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type, and all vehicles powered by electricity, shall be ~~$59.00~~ $64.00, and the biennial fee shall be ~~$108.00~~ $120.00.

Sec. 42. 23 V.S.A. § 364 is amended to read:

§ 364. MOTORCYCLES

The annual fee for registration of a motorcycle, with or without side car, shall be ~~$36.00~~ $40.00.

Sec. 43. 23 V.S.A. § 367(a)(1) is amended to read:

(a)(1) The annual fee for registration of tractors, truck-tractors, or motor trucks except truck cranes, truck shovels, road oilers, bituminous distributors, and farm trucks used as hereinafter specified shall be based on the total weight of the truck-tractor or motor truck including body and cab plus the heaviest load to be carried. In computing the fees for registration of tractors, truck-tractors or motor trucks with trailers or semi-trailers attached, except

trailers or semi-trailers with a gross weight of less than 6,000 pounds, the fee shall be based upon the weight of the tractor, truck-tractor or motor truck, the weight of the trailer or semi-trailer, and the weight of the heaviest load to be carried by the combined vehicles. In addition to the fee set out in the following schedule, the fee for vehicles weighing between 10,000 and 25,999 pounds inclusive shall be an additional ~~$29.00~~ $31.47, the fee for vehicles weighing between 26,000 and 39,999 pounds inclusive shall be an additional ~~$58.00~~ $62.93, the fee for vehicles weighing between 40,000 and 59,999 pounds inclusive shall be an additional ~~$203.04~~ $220.30 and the fee for vehicles 60,000 pounds and over shall be an additional ~~$319.07~~ $346.19. The fee shall be computed at the following rates per thousand pounds of weight determined as above specified and rounded up to the nearest whole dollar, the minimum fee for registering a tractor, truck-tractor, or motor truck to 6,000 pounds shall be the same as for the pleasure car type:

~~$12.42~~ $13.48 when the weight exceeds 6,000 pounds but does not exceed 8,000 pounds.

~~$14.21~~ $15.42 when the weight exceeds 8,000 pounds but does not exceed 12,000 pounds.

~~$15.67~~ $17.00 when the weight exceeds 12,000 pounds but does not exceed 16,000 pounds.

~~$16.76~~ $18.18 when the weight exceeds 16,000 pounds but does not exceed 20,000 pounds.

~~$17.53~~ $19.02 when the weight exceeds 20,000 pounds but does not exceed 30,000 pounds.

~~$17.92~~ $19.44 when the weight exceeds 30,000 pounds but does not exceed 40,000 pounds.

~~$18.34~~ $19.90 when the weight exceeds 40,000 pounds but does not exceed 50,000 pounds.

~~$18.51~~ $20.08 when the weight exceeds 50,000 pounds but does not exceed 60,000 pounds.

~~$19.14~~ $20.77 when the weight exceeds 60,000 pounds but does not exceed 70,000 pounds.

~~$19.78~~ $21.46 when the weight exceeds 70,000 pounds but does not exceed 80,000 pounds.

~~$20.42~~ $22.16 when the weight exceeds 80,000 pounds but does not exceed 90,000 pounds.

Sec. 44. 23 V.S.A. § 371(a)(1) is amended to read:

(a)(1) The one-year and two-year fees for registration of a trailer or semi-trailer, except contractor's trailer or farm trailer, shall be as follows:

(A) ~~$20.00 and $40.00~~ $23.00 and $45.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of less than 1,500 pounds;

(B) ~~$40.00 and $80.00~~ $46.00 and $90.00, respectively, when such trailer or semi-trailer has a gross weight of trailer and load of 1,500 pounds or more, and is drawn by a vehicle of the pleasure car type;

(C) ~~$40.00 and $80.00~~ $46.00 and $90.00, respectively, when such trailer or semi-trailer is drawn by a motor truck or tractor, when such trailer or semi-trailer has a gross weight of 1,500 pounds or more, but not in excess of 3,000 pounds;

(D) ~~$40.00 and $80.00~~ $46.00 and $90.00, respectively, when such trailer or semi-trailer is used in combination with a truck-tractor or motor truck registered at the fee provided for combined vehicles under section 367 of this title. Excepting for the fees, the provisions of this subdivision shall not apply to trailer coaches as defined in section 4 of this title nor to modular homes being transported by trailer or semi-trailer.

Sec. 45. 23 V.S.A. § 463 is amended to read:

§ 463. SALE OF VEHICLE TO GO OUT OF STATE

A registered motor vehicle dealer is authorized to issue an in-transit registration permit for the purpose of movement over the highways of certain motor vehicles otherwise required to be registered when these vehicles are sold in this state to be transported to and registered in another state or province. The commissioner of motor vehicles shall, upon request, provide registered motor vehicle dealers with such numbers of applications and special in-transit number plates for vehicles sold in this state to be transported to and registered in another state or province as shall be necessary. The commissioner is authorized to charge a fee of ~~$3.00~~ $5.00 for the processing of the plate application and the issuance of the plate. The dealer, upon the sale of a motor vehicle to be transported to and registered in another state or province shall cause the application to be filled out and transmitted to the commissioner and shall attach to the vehicle the in-transit number plate corresponding to the application. No registered motor vehicle dealer shall sell, exchange, give, or transfer any application or in-transit plate to any person other than the person to whom the dealer sells or exchanges a motor vehicle to be registered in another state or province. The application shall be in a form prescribed and

furnished by the commissioner. The special in-transit number plate to be attached to the vehicle will be issued in the form and design as prescribed by the commissioner and shall be valid for a period of 30 days from the date of issue.

Sec. 46. 23 V.S.A. § 608(a) amended to read:

(a) The four-year fee required to be paid the commissioner for licensing an operator of motor vehicles shall be ~~$40.00~~ $45.00. The two-year fee required to be paid the commissioner for licensing an operator shall be ~~$25.00~~ $28.00 and the two-year fee for licensing a junior operator shall be ~~$27.00~~ $28.00.

Sec. 47. 23 V.S.A. §§ 617(b) and (d) are amended to read:

(b) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the commissioner of motor vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the commissioner. The commissioner shall require payment of a fee of $17.00 at the time application is made. After the applicant has successfully passed all parts of the motorcycle endorsement examination, other than a skill test, the commissioner may issue to the applicant a learner's permit which entitles the applicant, subject to section 615(a) of this title, to operate a motorcycle upon the public highways for a period of 120 days from the date of issuance. A motorcycle learner's permit may be renewed only twice upon payment of a $17.00 fee. If during the original permit period and two renewals, the permittee has not successfully passed the skill test or the motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless he or she has successfully completed the motorcycle rider training course. This section shall not affect section 602 of this title. The fee for the examination shall be $7.00.

(d) An applicant shall pay ~~$15.00~~ $17.00 to the commissioner for each learner's permit that is not a motorcycle learner's permit or a duplicate or renewal thereof.

Sec. 48. 23 V.S.A. § 634(a) is amended to read:

(a) The fee for an examination for a learner's permit shall be ~~$25.00~~ $28.00. The fee for an examination to obtain an operator's license when the applicant is required to pass an examination pursuant to section 632 of this title shall be ~~$15.00~~ $17.00.

Sec. 49. 23 V.S.A § 675(a) is amended to read:

(a) Before a suspension or revocation issued by the commissioner of a person's operator's license or privilege of operating a motor vehicle may be

terminated or before a person's operator's license or privilege of operating a motor vehicle may be reinstated, there shall be paid to the commissioner a fee of ~~$65.00~~ $71.00 in addition to any other fee required by statute. This section shall not apply to suspensions issued under the provisions of chapter 11 of this title nor suspensions issued for physical disabilities or failing to pass reexamination. The commissioner shall not reinstate the license of a driver whose license was suspended pursuant to section 1205 of this title until the commissioner receives certification from the court that the costs due the state have been paid.

Sec. 50. 23 V.S.A. § 1230 is amended to read:

For each inspection certificate issued by the department of motor vehicles, the commissioner shall be paid ~~$3.00~~ $4.00 provided that state and municipal inspection stations that inspect only state or municipally owned and registered vehicles shall not be required to pay a fee.

Sec. 51. 23 V.S.A. § 1392(17) is amended to read:

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load bearing axles and specially equipped for hauling unprocessed milk, unprocessed forest or unprocessed quarry products shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire coincidentally with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on the state and town highways, subject to the following:

(A) The combination of vehicles must have as a minimum, a distance of 51 feet between extreme axles.

(B) The axle weight provisions of section 1391 of this title and subdivision 1392(6) of this section shall also apply to vehicles permitted under this subdivision.

(C) When determining the fine for a gross overweight violation of this subdivision, the fine for any portion of the first 10,000 pounds over the permitted weight shall be the same as provided in section 1391a of this title, and for overweight violations 10,001 pounds or more over the permitted weight, the fine schedule provided in section 1391a shall be doubled.

(D) The weight permitted by this subdivision shall be allowed for foreign trucks which are registered or permitted for 99,000 pounds in a state or province which recognizes Vermont vehicles for weights consistent with this subdivision.

(E) The provisions of this subdivision shall not apply to operation on the interstate and defense highway system.

(F) The fee for the annual permit as provided in this subdivision shall be ~~$350.00~~ $500.00.

(G) For the purposes of this subdivision, the following definitions shall apply:

(i) unprocessed milk products as defined in 23 V.S.A. § 4(55);

(ii) unprocessed forest products as defined in 23 V.S.A. § 1392(13);

(iii) unprocessed quarry products shall be quarried rock in block or blocks as it would be removed from the quarry.

Sec. 52. 23 V.S.A. § 1402(a) and (b) are amended to read:

(a) Overweight, overwidth, indivisible overlength, and overheight permits. Overweight, overwidth, indivisible overlength and overheight permits shall be signed by the commissioner or by his or her agent and a copy shall be kept in the office of the commissioner or in a location approved by the commissioner. Except as provided in subsection (c) of this section, a copy shall also be available in the towing vehicle and must be available for inspection on demand of a law enforcement officer. Before operating a traction engine, tractor, trailer, motor truck or other motor vehicle, the person to whom a permit to operate in excess of the weight, width, indivisible overlength and height limits established by this title is granted shall pay a fee of ~~$20.00~~ $35.00 for each single trip permit or ~~$70.00~~ $100.00 for a blanket permit, except that the fee for a fleet blanket permit shall be ~~$70.00~~ $100.00 for the first unit and ~~$1.00~~ $5.00 for each unit thereafter. At the option of a carrier, an annual permit for the entire fleet, to operate over any approved route, may be obtained for ~~$70.00~~ $100.00 for the first tractor and ~~$1.00~~ $5.00 for each additional tractor, up to a maximum fee of $1,000.00. The fee for a fleet permit shall be based on the entire number of tractors owned by the applicant. An applicant for a fleet permit may apply for any number of specific routes, each of which shall be reviewed with regard to the characteristics of the route and the type of equipment operated by the applicant. When the weight or size of the vehicle-load are considered sufficiently excessive for the routing requested, the agency of transportation shall, on request of the commissioner, conduct an engineering inspection of the vehicle-load and route, for which a fee of $300.00 will be added to the cost of the permit if the load is a manufactured home. For all other loads of any size or with gross weight limits less than 150,000 pounds, the fee shall be $800.00 for any engineering inspection that

requires up to eight hours to conduct. If the inspection requires more than eight hours to conduct, the fee shall be $800.00 plus $60.00 per hour for each additional hour required. If the vehicle and load weigh 150,000 pounds or more but not more than 200,000 pounds, the engineering inspection fee shall be $2,000.00. If the vehicle and load weigh more than 200,000 pounds but not more than 250,000 pounds, the engineering inspection fee shall be $5,000.00. If the vehicle and load weigh more than 250,000 pounds, the engineering inspection fee shall be $10,000.00. The study must be completed prior to the permit being issued. Prior to the issuance of a permit, an applicant whose vehicle weighs 150,000 pounds or more, or is 15 or more feet in width or height, shall file with the commissioner a special certificate of insurance showing minimum coverage of $250,000.00 for death or injury to one person, $500,000.00 for death or injury to two or more persons and $250,000.00 for property damage, all arising out of any one accident.

(b) Overlength permits. Except as provided in ~~subsection 1432(f)~~ subsections 1432(c) and (e) of this title, it shall be necessary to obtain an overlength permit as follows:

(1) ~~For vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet off the truck network established in subsection 1432(c) of this title and the distance between the steering axle and the rearmost tractor axle is 23 feet or less. In such cases, the vehicle may be operated with a single or multiple trip overlength permit issued by the department of motor vehicles at no cost or, for a fee, by an entity authorized under subsection 1400(d) of this title for routes approved by the agency of transportation.~~

~~(2) For vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network established in subsection 1432(c) of this title and the distance between the steering axle and the rearmost tractor axle is more than 23 feet. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles at no cost for routes approved by the agency of transportation.~~

~~(3)~~ For vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet anywhere in the state on highways approved by the agency of transportation. In such cases, the vehicle may be operated with a single trip overlength permit issued by the department of motor vehicles for a fee of ~~$10.00~~ $25.00. If the vehicle is 100 feet or more in length, the permit applicant shall file with the commissioner of motor vehicles, a special certificate of insurance showing minimum coverage of $250,000.00 for death or injury to one person, $500,000.00 for death or injury to two or more persons and $250,000.00 for property damage, all arising out of any one accident.

(2) Notwithstanding the provisions of this section, the agency of transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length.

Sec. 53. 23 V.S.A. § 2002(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) For any certificate of title, including a salvage certificate of title, ~~$28.00~~ $31.00;

(2) For each security interest noted upon a certificate of title, including a salvage certificate of title, ~~$7.00~~ $9.00;

(3) For a certificate of title after a transfer, ~~$28.00~~ $31.00;

(4) For each assignment of a security interest noted upon a certificate of title, ~~$7.00~~ $9.00;

(5) For a duplicate certificate of title, including a salvage certificate of title, ~~$28.00~~ $31.00;

(6) For an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~$28.00~~ $31.00;

(7) For filing a notice of security interest, ~~$7.00~~ $9.00;

(8) For a certificate of search of the records of the motor vehicle department, for each motor vehicle searched against, $20.00;

(9) For filing an assignment of a security interest, ~~$7.00~~ $9.00;

(10) For a certificate of title after a security interest has been released, ~~$28.00~~ $31.00;

(11) For a certificate of title for a motor vehicle granted a veteran by the veterans' administration and exempt from registration fees pursuant to section 378 of this title, no fee;

(12) For a corrected certificate of title, ~~$28.00~~ $31.00.

Sec. 54. 23 V.S.A. § 3802(a) is amended to read:

(a) The commissioner shall be paid the following fees:

(1) for filing an application for a first certificate of title, ~~$15.00~~ $19.00;

(2) for each security interest noted upon a certificate of title, ~~$7.00~~ $9.00;

(3) for a certificate of title after a transfer, ~~$15.00~~ $19.00;

(4) for each assignment of a security interest noted upon a certificate of title, ~~$7.00~~ $9.00;

(5) for a duplicate certificate of title, ~~$15.00~~ $19.00;

(6) for an ordinary certificate of title issued upon surrender of a distinctive certificate, ~~$15.00~~ $19.00;

(7) for filing a notice of security interest, ~~$7.00~~ $9.00;

(8) for a certificate of search of the records of the motor vehicle department for each vessel, snowmobile or all-terrain vehicle searched against, $20.00;

(9) for filing an assignment of a security interest, ~~$7.00~~ $9.00;

(10) for a certificate of clear title after the security interest or interests have been released, ~~$15.00~~ $19.00;

(11) for a corrected certificate of title, ~~$15.00~~ $19.00.

Sec. 55. 32 V.S.A. § 8903(a), (b), and (d) are amended to read:

(a)(1) There is hereby imposed upon the purchase in Vermont of a motor vehicle by a resident a tax at the time of such purchase, payable as hereinafter provided. The amount of the tax shall be six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;

motorcycle as defined in 23 V.S.A. § 4;

motor home as defined in subdivision 8902(11) of this title; or

vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of the motor vehicle or ~~$1,680.00~~ $1,850.00 for each motor vehicle, whichever is smaller, except that pleasure cars which are purchased, leased or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

(b)(1) There is hereby imposed upon the use within this state a tax of six percent of the taxable cost of a:

pleasure car as defined in 23 V.S.A. § 4;
motorcycle as defined in 23 V.S.A. § 4;
motor home as defined in subdivision 8902(11) of this title; or
vehicle weighing up to 10,099 pounds, registered pursuant to 23 V.S.A. § 367, other than a farm truck.

(2) For any other motor vehicle it shall be six percent of the taxable cost of a motor vehicle, or ~~$1,680.00~~ $1,850.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided, except no use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car which was purchased, leased or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

(d) There is hereby imposed a use tax on the rental charge of each transaction, in which the renter takes possession of the vehicle in this state, during the life of a pleasure car purchased for use in short-term rentals, which tax is to be collected by the rental company from the renter and remitted to the commissioner. The amount of the tax shall be ~~seven~~ nine percent of the rental charge. Rental charge means the total rental charge for the use of the pleasure car, but does not include a separately stated charge for insurance, or recovery of refueling cost, or other separately stated charges which are not for the use of the pleasure car. In the event of resale of the vehicle in this state for use other than short-term rental, such transaction shall be subject to the tax imposed by subsection (a) of this section.

Sec. 56. 23 V.S.A. § 476 is added to read:

§ 476. MOTOR VEHICLE WARRANTY FEE

A motor vehicle warranty fee of $5.00 is imposed on the registration of each new motor vehicle in this state not including trailers, tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, mopeds, or trucks with a gross vehicle weight over 12,000 pounds.

* * * Snowmobile and Motorboat Registration Fees * * *

Sec. 57. 23 V.S.A. § 3204 is amended to read:

§ 3204. REGISTRATION FEES AND DEALER PLATES

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

(b)(1) Dealer; manufacturer and repair plates; fees. Unless exempted pursuant to subsection 3205(d) of this title, any person engaged in the manufacture or sale of snowmobiles shall obtain registration certificates and identifying number plates subject to such rules as may be adopted by the

commissioner which shall be valid for the following purposes only: testing; adjusting; demonstrating; temporary use of customers for a period not to exceed 14 days; private business or pleasure use of such person or members of his or her immediate family; and use at fairs, shows or races when no charge is made for such use.

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

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

* * *

Sec. 58. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY

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

* * *

Sec. 59. 23 V.S.A. § 3305(b) is amended to read:

(b) Annually, the owner of each motorboat required to be registered by this state shall file an application for a number with the commissioner of motor vehicles on forms approved by him or her. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of ~~$17.00~~ $22.00 and a surcharge of $5.00 for a motorboat in class A; by a fee of ~~$28.00~~ $33.00 and a surcharge of $10.00 for a motorboat in class 1; by a fee of ~~$55.00~~ $60.00 and a surcharge of $10.00 for a motorboat in class 2; by a fee of ~~$121.00~~ $126.00 and a surcharge of $10.00 for a motorboat in class 3. Upon receipt of the application in approved form, the commissioner shall enter the application upon the records of the department of motor vehicles and issue to the applicant a registration certificate stating the number awarded to the motorboat and the name and address of the owner. The owner shall paint on or attach to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules of the commissioner in order that it may be clearly visible. The registration shall be void one year from the first day of the month following the month of issue. A vessel of less than 10 horsepower used as a tender to a registered vessel shall be deemed registered, at no additional cost, and shall have painted or attached to both sides of the bow, the same registration number as the registered vessel with the number "1" after the number. The number shall be maintained in legible condition. The registration certificate shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever the motorboat is in operation. A duplicate registration may be obtained upon payment of a fee of $2.00 to the commissioner. Notwithstanding section 3319 of this chapter, $5.00 of each registration fee shall be allocated to the transportation fund. The remainder of the fee shall be allocated in accordance with section 3319 of this title.

Sec. 60. 23 V.S.A. § 3214 is amended to read:

§ 3214. ALLOCATION OF FEES AND PENALTIES; LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of $5.00 from the sale of every resident and nonresident snowmobile registration shall be allocated to the agency of transportation. The balance of fees and penalties collected under this subchapter, except interest, ~~are~~ is hereby allocated to the agency of natural resources for use by VAST for development and maintenance of the statewide snowmobile trail program (SSTP), for trails' liability insurance, and an amount equal to $5.00 from the

sale of every resident and nonresident snowmobile registration shall be allocated to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter; the allocation for snowmobile law enforcement shall be included as a part of the annual expenditure plan required by section 3215 of this chapter. The departments of public safety and fish and wildlife are authorized to contract with VAST to provide these law enforcement services. The agency of natural resources may retain for its use up to $11,500.00 during each fiscal year to be used for the oversight of the state snowmobile trail program.

* * *

Sec. 61. 10 V.S.A. § 501 is amended to read:

§ 501. FEES

Subject to the provisions of ~~section~~ subsection 486(c) of this title, an applicant for an official business directional sign or an information plaza plaque shall pay to the travel information council an initial license fee and an annual renewal fee as established by this section.

(1) Initial license fees shall be as follows:

(A) for full-sized or half-sized business directional signs, ~~$75.00~~ $175.00 per sign;

(B) for information plaza plaques, $25.00 per plaque; however, if more than one plaque is requested by a business at the same time, a ten percent discount shall be given on the second and subsequent plaques.

(2) Annual renewal fees ~~the amount, rounded to the next higher even whole dollar, determined by dividing the estimated cost of maintenance and administration of the official business directional sign and information plaza programs during the following fiscal year by the total number of licensed signs and plaques eligible for renewal during the following fiscal year; except that the renewal fees shall not exceed the following amounts~~ shall be as follows:

(A) for full and half-sized official business directional signs, ~~$60.00~~ $125.00 per sign;

* * *

* * * Passenger Rail Equipment * * *

Sec. 62. PASSENGER RAIL EQUIPMENT

In consultation with the joint fiscal office, the agency shall examine the alternatives and relative costs and benefits and service implications available to

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

* * * State-Owned Railroad Property * * *

Sec. 63. Sec. 17(b)(2) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

(2) town of Morristown; valuation section V50/51; approximately 3.7 acres adjacent to engine house and currently leased for batch plant, to be conveyed to lessee S. T. Griswold & Company, Inc. or assignee; however, if this conveyance is not consummated, the Lamoille Economic Development Corporation shall have the option to purchase; and

Sec. 64. Sec. 17(e) of No. 175 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 31 of No. 164 of the Acts of the 2007 Adj. Sess. (2008), is further amended to read:

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

* * * Cancellation of Projects * * *

Sec. 65. CANCELLATION OF PROJECTS

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

(1) Town highway bridges:

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

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

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

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

(2) Bicycle and pedestrian facilities: Irasburg STP WALK(16) (installation of sidewalks and curbs along VT 58) (town has requested termination).

* * * Transportation Fund; Sales of Surplus Property * * *

Sec. 66. 19 V.S.A. § 11(8) is amended to read:

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

Sec. 67. 29 V.S.A. § 1557(b) is amended to read:

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

* * * Relinquishment of State Highway Segments to Municipal Control * * *

Sec. 68. RELINQUISHMENT OF VERMONT ROUTE 15 IN THE VILLAGE OF ESSEX JUNCTION

(a) Under the authority of 19 V.S.A. § 15(2), approval is granted for the secretary of transportation to enter into an agreement with the village of Essex Junction to relinquish to the village's jurisdiction a segment of the state highway known as Vermont Route 15 (Pearl Street) in the village of Essex Junction starting at the Essex Junction village boundary, near the intersection with Susie Wilson Road (TH #4), and extending in an easterly direction for 1.004 miles, connecting to existing class 1 town highway TH #1 at a point 0.261 miles west of West Hillcrest Road (TH #551). The relinquishment shall include the Vermont Route 15 approaches to West Street Extension (TH #5). Upon relinquishment, the former state highway shall become a class 1 town highway.

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

* * * Town Highways * * *

Sec. 69. 19 V.S.A. § 305(g) is amended to read:

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

Sec. 70. 19 V.S.A. § 305(i) is amended to read:

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

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

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

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

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

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

(F) The secretary of transportation.

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

* * * Trucks and Buses; Use of Tire Chains * * *

Sec. 71. 23 V.S.A. § 1006c is added to read:

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

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

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

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

Sec. 72. USE OF CHAINS; IMPLEMENTATION

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

* * * Public Transportation Planning * * *

Sec. 73. 24 V.S.A. § 5089 is amended to read:

§ 5089. PLANNING

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

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

~~(c)~~ The agency of transportation's public transit plan for the state shall be ~~updated~~ amended no less frequently than every five years ~~so as to include, and incorporate the public transportation elements of regional plans that have not been disapproved under the provisions of chapter 117 of this title~~. The development of the state public transit plan shall include consultation with public transit providers, the metropolitan planning organization, and the regional planning commissions and their transportation advisory committees to ensure the integration of transit planning with the transportation planning initiative as well as conformance with chapter 117 of this title, (municipal and regional planning and development). Regional plans, together with the agency of transportation's public transit plan shall function to coordinate the provision of public, private nonprofit, and private for-profit regional public transit services, in order to ensure effective local, regional and statewide delivery of services.

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

Sec. 74. 23 V.S.A. § 372 is amended to read:

§ 372. MOTOR BUS

The annual fee for registration of a motor bus shall be based on the actual weight of such bus, plus passenger carrying capacity at 150 pounds per person, and shall be $1.40 per 100 pounds of such weight, except for motor buses registered under section 372a or 376 of this title. Fractions of a hundred-weight shall be disregarded. The minimum fee for the registration of any motor bus shall be $43.00.

* * * Public Transit * * *

Sec. 75. PUBLIC TRANSIT

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

* * * Local Match for Public Transportation Service * * *

Sec. 76. 23 V.S.A. § 372a is amended to read:

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

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

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

* * * Motor Buses; Diesel Tax * * *

Sec. 77. 23 V.S.A. § 3003(d)(1)(A) through (F) and (d)(2) are amended to read:

(A) uses, the taxation of which would be precluded by the laws and Constitution of the United States and this state;

(B) uses for agricultural purposes not conducted on the highways of the state;

(C) uses by any state, municipal, school district, fire district or other governmentally owned vehicles for official purposes;

(D) uses by any vehicle off the highways of the state; and

(E) ~~uses by motor buses registered in this state; and~~

~~(F)~~ uses by any vehicle registered as a farm truck under subsection 367(f) of this title.

(2) Provided, however, that no tax shall be due with respect to fuel for use in any state, municipal, school district, fire district, nonprofit public transit system as defined in 24 V.S.A. § 5088(3), or other ~~governmentally-owned~~ vehicle owned, leased, or contracted for other than single-trip use by a government entity, as long as the distributor takes from the purchaser at the time of sale an exemption certificate in the form prescribed by the

commissioner; and provided, further, that no tax shall be due with respect to fuel delivered for farm use to a farm bulk fuel storage tank.

* * * Public Transit Report * * *

Sec. 78. PUBLIC TRANSIT REPORT

(a) Public transit report. Consistent with the goals, findings, and recommendations of the two most recent legislative reports prepared by VTrans regarding a review of potential changes to Vermont's public transit service delivery model (Sec. 35 and Sec. 45 reports), VTrans shall, in continued cooperation with the legislature's joint fiscal office, conduct such further analysis as is necessary to generate specific recommendations for improving the efficient and effective delivery of public transit services in Vermont.

(b) Goal of report. The goal of the report is to recommend a governance and funding structure for public transportation that creates the most efficient use of taxpayer funds while simultaneously creating the most efficient system of public transportation services consistent with the statutory policy goals in 24 V.S.A. § 5083. The report shall:

(1) Make use of the data and information currently available and assess the strengths and weaknesses of the public transit delivery system;

(2) Review the pros and cons of realistic alternative service delivery models;

(3) Present a recommendation for a systematic approach toward changing, evolving, or maintaining the existing service delivery model and propose a configuration under which the service delivery model maximizes state, federal, and local investments into the broad range of public transit services.

(c) The agency shall direct the report with the involvement of the agency of human services and of all public transit providers in the state who are direct grantees and subrecipients of state and federal funds.

(d) Consistent with federal United We Ride initiatives, the report shall consider all federal and state funding invested through or by state and federal agencies on public, human services, and related transportation programs and shall evaluate the potential for achieving greater efficiency through coordination of effort or consolidation of funding and effort.

(e) The report shall be delivered to the general assembly on or before February 15, 2010.

* * * VASA Trail Insurance * * *

Sec. 79. 23 V.S.A. § 3513 is amended to read:

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

(a) The amount of 85 percent of the fees and penalties collected under this subchapter, except interest, is hereby allocated to the agency of natural resources for use by the Vermont ATV sportsman's association (VASA) for development and maintenance of a statewide ATV trail program ~~on private property~~, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the department of public safety, and the department of fish and wildlife for purposes of trail compliance pursuant to this chapter. The departments of public safety and fish and wildlife are authorized to contract with VASA to provide these law enforcement services. The agency of natural resources may retain for its use up to $7,000.00 during each fiscal year to be used for administration of the state grant that supports this program.

* * *

* * * All-Terrain Vehicles * * *

Sec. 80. 23 V.S.A. § 3502 is amended to read:

§ 3502. REGISTRATION

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

* * *

Sec. 81. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

* * *

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

* * *

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

* * *

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

* * *

* * * Two-Wheeled All-Terrain Vehicles * * *

Sec. 82. 23 V.S.A. § 3501(5) is amended to read:

(5) "All-terrain vehicle" or "ATV" means any nonhighway recreational vehicle, except snowmobiles, having no less than ~~three~~ two low pressure tires (10 pounds per square inch, or less), not wider than 60 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (ZZ); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A)~~,~~ and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

* * * One Registration Plate Sticker * * *
* * * Bright Futures Plate * * *

Sec. 83. 23 V.S.A. § 304c is amended to read:

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

(a) The commissioner shall, upon application, issue "building bright spaces for bright futures fund," hereinafter referred to as "the bright futures fund," registration plates for use only on vehicles registered at the pleasure car rate, ~~and~~ on trucks registered for less than 26,001 pounds, on vehicles registered to state agencies under section 376 of this title, and excluding vehicles registered under the International Registration Plan. Plates so acquired shall be mounted on the front and rear of the vehicle. The commissioner of motor vehicles shall utilize the graphic design recommended by the commissioner of social and rehabilitation services for the special plates to enhance the public awareness of

the state's interest in supporting children's services. Applicants shall apply on forms prescribed by the commissioner of motor vehicles, and shall pay an initial fee of $20.00 in addition to the annual fee for registration. In following years, in addition to the annual registration fee, the holder of a bright futures fund plate shall pay a renewal fee of $20.00. The commissioner shall adopt rules under 3 V.S.A. chapter 25 to implement the provisions of this subsection.

* * *

* * * Design-Build Contracts * * *

Sec. 84. 19 V.S.A. chapter 26 is added to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS

§ 2601. DEFINITIONS

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

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

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

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

(4) "Project" means the highway, bridge, railroad, airport, trail, transportation, building, or other improvement being constructed or rehabilitated, including all professional services, labor, equipment, materials, tools, supplies, warranties, and incidentals needed for a complete and functioning product.

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

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

(7) "Quality" means those features that the agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts,

traveler and other user costs, service life, time to construct, and other factors that the agency considers to be in the best interest of the state.

§ 2602. AUTHORIZATION

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

(b) The agency shall identify those projects it believes are candidates for design-build contracting, including those involving extraordinary circumstances, such as emergency work, unscheduled projects, or loss of funding.

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

§ 2603. PREQUALIFICATION

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

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

(c) The agency shall evaluate and rate all entities submitting a conforming statement of qualifications and select the most qualified entities to receive a request for proposals. The agency may select any number of entities, except that if the agency fails to prequalify at least two entities, the agency shall readvertise the project.

§ 2604. REQUEST FOR PROPOSALS

The agency may issue a request for proposals, which shall set forth the scope of work, design parameters, construction requirements, time constraints, and all other requirements that have a substantial impact on the cost or quality

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

§ 2605. LOW-BID AWARD

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

§ 2606. BEST-VALUE AWARD

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

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

Sec. 85. DESIGN-BUILD CONTRACTS; LIMITATIONS ON USE

During fiscal year 2010 the agency of transportation shall limit its exercise of the authority granted by Sec. 78 of this act to not more than four projects.

Sec. 86. PROJECT SIGNAGE

For projects initiated in 2010 using design-build contracts, the agency shall erect signage at the project site for the duration of the project's construction identifying the project and its total cost, provided that the cost of acquiring and installing the signs does not exceed $2,000.00 per project. The signs shall be designed in accordance with the agency's recommendations regarding size and lettering contained in the agency's 2009 report on the issue.

* * * Joint Transportation Oversight Committee Chairs * * *

Sec. 87. 19 V.S.A. § 12b(a) is amended to read:

(a) There is created a joint transportation oversight committee composed of the chairs of the house and senate committees on appropriations, the house and senate committees on transportation, the house committee on ways and means, and the senate committee on finance. The committee shall be chaired alternately by the chairs of the house and senate committees on transportation, and the two year term shall run concurrently with the biennial session of the legislature. The chair of the senate committee on transportation shall chair the committee during the 2009–2010 legislative session.

* * * State Highway Law; Definitions * * *

Sec. 88. 19 V.S.A. § 1 is amended to read:

§ 1. DEFINITIONS

For the purposes of this title:

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

(2) "Board" means the transportation board.

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

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

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

(6) "Department" means the department of motor vehicles.

(7) "Develop" means the partition or division of any tract of land of any size by a person through sale, lease, transfer or any other means by which any interest in or to the land or a portion of the land is conveyed to another person which will require the construction of permanent new or enlarged points of

access to a state or town highway other than a limited access facility pursuant to subsection (a) of section 1702a of this title; excluding however, tracts of land located entirely within a city or incorporated village.

(8) "Director" means the head of a division.

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

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

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

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

(13) "Management road" means a road not designated as a "state forest highway" used for the long-term management of lands owned by or under the control of the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation to meet the responsibilities and purposes set forth in chapter 83 of Title 10, part 4 of Title 10, and regulations promulgated under those statutes. The term "management road" includes associated easements and rights-of-way. A "management road" is not a "highway" or a "town highway" as defined in this title, is not a public road, and the public has no common law or statutory right of access or use of such a road. A "management road" may be open for temporary, seasonal uses by the public or may be closed temporarily or seasonally at the discretion of the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation. A "management road" may be closed permanently upon 30

days' notice to the governing body of the municipality in which the road is located and any affected user groups. Designation of a road as a "management road" shall not diminish any deeded rights of way or easements of private landowners on lands owned or controlled by the agency of natural resources, the department of forests, parks and recreation, the department of fish and wildlife, or the department of environmental conservation.

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

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

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

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

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

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

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

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

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

~~(21)~~(23) "Town highways" are ~~those~~ class 1, 2, 3 and 4 highways:

(A) that the towns have authority to exclusively or cooperatively maintain; or

(B) that are maintained by the towns except for scheduled surface maintenance performed by the agency pursuant to section 306a of this title.

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

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

Sec. 89. 19 V.S.A. § 301 is amended to read:

§ 301. DEFINITIONS

* * *

(7) "Town highways" are ~~those~~ class 1, 2, 3 and 4 highways:

(A) that the towns have authority to exclusively or cooperatively maintain; or

(B) that are maintained by the towns except for scheduled surface maintenance performed by the agency pursuant to section 306a of this title.

* * * Budget Surplus; Towns of Glastenbury and Somerset * * *

Sec. 90. FISCAL YEAR 2009 FUND TRANSFERS

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

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

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

Sec. 91. 32 V.S.A. § 4961 is amended to read:

§ 4961. ASSESSMENT OF TAX

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

(b) Annually, on or before August 1, the supervisor of Buel's Gore shall call a meeting of the residents of the Gore for the purpose of presenting the proposed budget and tax rate for the Gore for the ensuing year and inviting discussion thereon. Notice of the meeting shall be sent by first class mail to all residents of the Gore at least 14 days before the meeting. The meeting shall be held at a place within the Gore or within a town that adjoins the Gore. Included with the notice shall be an itemized proposed budget which shall, in the judgment of the supervisor, cover the education, road maintenance and general government costs within the Gore. Also included with the notice shall be proposed tax rates consistent with the budget. Annually, on or before September 10, the supervisor shall adopt a budget and tax rate and notify the residents and appraisers for the Gore.

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

Sec. 92. 24 V.S.A. § 1406 is amended to read:

§ 1406. TAXES EXPENDED; HOW

Upon allowance of the accounts of supervisors and appraisers for unorganized towns and gores, the commissioner of finance and management shall certify forthwith the amount as allowed to the state treasurer and the balance, if any, of the moneys received from any supervisor, after deducting the amount of the county tax and regional planning costs, if any. The amount of such supervisors' and appraisers' accounts, so certified, shall be used for the laying out, construction and maintenance of highways and bridges in the

unorganized towns and gores for which the supervisor is appointed, to be expended by and under the direction of the secretary of transportation, in the same manner as state transportation appropriations. The portion of the money which remains unexpended for more than one year may be ~~used~~ carried forward in the supervisors' accounts for like purposes ~~and expended in a like manner in towns adjoining unorganized towns and gores~~.

* * * Sidewalks; Landowner Liability * * *

Sec. 93. Chapter 23 of Title 19 is redesignated to read:

CHAPTER 23. BICYCLE ROUTES AND SIDEWALKS

Sec. 94. 19 V.S.A. § 2301 is amended to read:

§ 2301. DEFINITIONS

* * *

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

Sec. 95. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner's property pursuant to this chapter, unless the landowner charges a fee for the use of the property. Landowner immunity from liability with regard to sidewalks under this section shall not extend to damage or injury to the extent that it arises from negligent, reckless, or willful acts of the landowner.

* * * Year of Manufacture Plates * * *

Sec. 96. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be $15.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) The Vermont registration plates of any motor vehicle issued prior to 1939 may be displayed instead of the plates issued under this section, if the current plates are maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

* * * Aviation Maintenance Equipment * * *

Sec. 97. REPORT; AVIATION MAINTENANCE EQUIPMENT

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

* * * Transportation Buildings * * *

Sec. 98. TRANSPORTATION BUILDINGS

The following modifications are made to the transportation buildings program:

(1) Consistent with the recommendations of the January 15, 2009 legislative report (Sec. 8(2) of No. 164 of the Acts of the 2007 Adj. Sess. (2008)) titled "VTrans' Plans for Maintenance Facilities in Chittenden and Addison Counties," the agency of transportation shall proceed with Option A (Stay at "Fort) for the Colchester "Fort" Facility project and shall proceed with Option B (Truck Inspection/Motorcycle Training Facility only) for the North Ferrisburgh Facility project.

(2) As part of the Colchester "Fort" Facility renovation project, the agency shall sell the 25 +/- acre property located off VT Route 117 with the proceeds credited as provided in 19 V.S.A. § 26.

* * * Burlington Airport Pilot Project; Creative Financing * * *

Sec. 99. PILOT PROJECT FOR BURLINGTON INTERNATIONAL AIRPORT; CREATIVE FINANCING

A pilot project to examine the potential for a public-private initiatives program shall be pursued for the advancing of an interchange on Interstate 89 along Vermont Route 116 in South Burlington to explore improving future access to the Burlington International Airport and to relieve the overburdened interchanges at Interstate 89 exits 12 and 14. Implementation of the pilot study shall be carried out in cooperation, consultation, and with the support of the Vermont agency of transportation, the Chittenden County metropolitan planning organization (CCMPO), and other affected local jurisdictions and

project partners. The CCMPO, with the cooperation of the agency of transportation, is directed to prepare a creative financing plan for the advancement of a project to construct an interchange at the above-mentioned location and deliver the plan to the legislature by November 1, 2009.

* * * State Speed Zones * * *

Sec. 100. 23 V.S.A. § 1003 is amended to read:

§ 1003. STATE SPEED ZONES

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

(b) When establishing a maximum speed limit on a state highway contiguous to a school, the traffic committee shall consider, along with the engineering and traffic investigation, data collected for the purpose of promulgating a school travel plan under the Vermont Safe Routes to School program.

* * * Special DMV Examinations * * *

Sec. 101. 23 V.S.A. § 636(a) is amended to read:

(a) Whenever the commissioner has good cause to believe that any holder of an operator's license, or any applicant for renewal of an operator's license, is incompetent or otherwise not qualified to be licensed, he may require such person to submit to a special examination to determine his capabilities or mental or physical fitness, but no person shall be required to pay to the state a fee for such special examination. Such examination shall be given at such time and place as the commissioner may determine. If the commissioner determines that a special examination is warranted, then a driving examination shall be administered. If, under the commissioner's discretion, extenuating circumstances exist, the commissioner may also administer a written or oral examination.

* * * Truck Permits * * *

Sec. 102. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; AUTHORIZED HIGHWAYS

(a) Operation of vehicles with or without a trailer or semitrailer. No motor vehicle without a trailer or semitrailer attached, which is longer than 46 feet overall, shall be operated upon any highway except under special permission from the commissioner of motor vehicles. A motor vehicle with a trailer or semitrailer shall be operated, with regard to the length of the vehicle, pursuant to this section. If there is a trailer or semitrailer, the distance between the kingpin of the semitrailer to the center of the rearmost axle group shall not exceed ~~43~~ 41 feet. An "axle group" is defined as two or more axles where the centers of all the axles are spaced at an equal distance apart.

(1) ~~Vehicles with a trailer or semitrailer not exceeding 72 feet on the truck network. If the overall length of a vehicle with a trailer or semitrailer does not exceed 72 feet, it may be operated without a permit on the truck network established in subsection (c) of this section.~~

~~(2)~~ Vehicles with a trailer or semitrailer not exceeding ~~68~~ 75 feet ~~off the truck network~~. If the overall length of a vehicle with a trailer or semitrailer does not exceed ~~68~~ 75 feet, it may be operated without a permit ~~off the truck network~~.

~~(3)~~(2) ~~Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor 23 feet or less. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is 23 feet or less, a permit may be issued pursuant to subdivision 1402(b)(1) of this title.~~ A receiver or shipper of goods located in Vermont may request from the agency of transportation, access to a state highway~~, not on the truck network,~~ for a commercial motor vehicle where the overall length exceeds ~~68 feet but is not longer than 72~~ 75 feet. ~~The~~ If the total vehicle length is in excess of 75 feet or the distance from the steering axle to the rearmost tractor axle is longer than 25 feet, a permit may be requested from the commissioner. In that event, the agency of transportation shall review the route or routes requested, making its determination for approval based on safety and engineering considerations, after considering input from local government and regional planning commissions or the metropolitan planning organization. The agency shall maintain consistency in its application of acceptable highway geometry when approving other routes. The agency may authorize safety precautions on these highways, if warranted, which shall

include, but not be limited to, precautionary signage, intelligent transportation system signage, special speed limits and use of flashing lights.

~~(4) Vehicles with a trailer or semitrailer longer than 68 feet but not longer than 72 feet off the truck network; tractor greater than 23 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than 68 feet but not longer than 72 feet, and if the distance between the steering axle to the rearmost tractor axle is greater than 23 feet in length, a permit may be issued pursuant to subdivision 1402(b)(2) of this title.~~

~~(5)~~(3) Vehicles with a trailer or semitrailer longer than ~~72~~ 75 feet. If the overall length of a vehicle with a trailer or semitrailer is longer than ~~72~~ 75 feet, a permit may be issued pursuant to subdivision ~~1402(b)(3)~~ 1402(b(1) of this title.

(b) Rear-end protective devices on trailers. A trailer or semitrailer not in excess of 53 feet may be operated provided the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than 22 inches from the surface as measured with the vehicle empty and on a level surface.

(c) ~~The truck network. The truck network shall consist of the following: U.S. Route 2 between the New Hampshire state line and the junction of U.S. Route 5; U.S. Route 2 from the junction of exit 21 on I-91 to exit 8 on Interstate 89; U.S. Route 2 between the New York state line and VT Route 78; VT Route 2A; U.S. Route 4 from the New York state line to the junction of VT Route 100 south; VT Route 279 from the New York state line to the junction of U.S. Route 7; U.S. Route 5 from the junction of U.S. Route 2 to the junction of exit 20 of I-91; U.S. Route 5 between I-91 at exit 22 to the south entrance of the St. Johnsbury-Lyndonville industrial park; U.S. Route 5 south from I-91 at exit 22 to the intersection of St. Johnsbury Railroad Street and Hastings Hill Street; U.S. Route 7; VT Route 9 from the New York state line to the junction of exit 2 on I-91; VT Route 9 from the junction of exit 3 on I-91 to the New Hampshire state line; VT Route 18 from U.S. Route 2 to the New Hampshire state line; VT Route 22A between U.S. Route 4 and U.S. Route 7; VT Route 78; VT Route 103; VT Route 105 from the junction of U.S. Route 7 to the junction of VT Route 100, then southerly on VT Route 100 to the junction of VT Route 100 and VT Route 14, then easterly on VT Route 14 to the junction of VT Route 14 and U.S. Route 5, then northerly on U.S. Route 5 to the junction of U.S. Route 5 and VT Route 105, then easterly on VT Route 105 from the junction of U.S. Route 5 to the New Hampshire border; VT Route 104 from VT Route 105 to I-89 at exit 19; VT Route 253 from the New~~

~~Hampshire border to the Canadian border; VT Route 289; and U.S. Route 302. The commissioner is authorized to place special restrictions applying to motor vehicles on any route of the truck network when, in his or her opinion, the restrictions would provide for the safe operation of all vehicles on the route.~~

~~(d)~~ Operation on U.S. Route 4. ~~Vehicles~~ Notwithstanding any other law to the contrary, vehicles with a trailer or semitrailer which are longer than 68 feet but not longer than 72 feet may be operated with a single or multiple trip overlength permit issued at no cost by the department of motor vehicles or, for a fee, by an entity authorized in subsection 1400(d) of this title on U.S. Route 4 from the New Hampshire state line to the junction of VT Route 100 south, provided the distance from the kingpin of the semitrailer to the center of the rearmost axle group is not greater than ~~43~~ 41 feet.

~~(e)~~(d) Operation of pole semitrailers. The provisions of this section shall not be construed to prevent the operation of so-called pole dinkeys or pole semitrailers when being used to support the ends of poles, timbers, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections, the overall length of which may exceed ~~60~~ 75 feet under special permission from the commissioner of motor vehicles.

~~(f)~~(e) Operation on Interstate highways. Notwithstanding subsection (a) of this section, on the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, United States Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower National System of Interstate and Defense Highways for a distance of one mile, unless the agency of transportation finds the use of a specific highway to be unsafe, no overall length limits for tractor-semitrailer or tractor semitrailer-trailer combination shall apply. On these highways, no semitrailer in a tractor-semitrailer combination longer than 53 feet and no trailer or semitrailer in a tractor-semitrailer-trailer combination longer than 28 feet shall be operated. However, the limits established by this section shall not be construed in such a manner as to prohibit the use of semitrailers in a tractor-semitrailer combination of such dimensions as were in actual and lawful use in this state on December 1, 1982.

~~(g)~~(f) List of approved highways. The commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this state and, upon request, to any interested person.

* * * Transportation Enhancement Grants * * *

Sec. 103. ENHANCEMENT GRANTS; FISCAL YEAR 2010

(a) Notwithstanding 19 V.S.A. § 38, the transportation enhancement grant committee shall award grants up to fiscal year 2010 in the amount of federal funds made available to the state under the American Recovery and Reinvestment Act of 2009 (ARRA) which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35), estimated to be $3,773,739. The transportation enhancement grant committee shall award grants authorized in this section in a separate grant round before June 30, 2009. The agency shall notify potential applicants of the separate grant round and fix a deadline for the filing of applications of May 15, 2009. All enhancement grant awards authorized in this section shall require a local match in accordance with the same rules that apply to annual enhancement grants.

(b) Any amounts authorized in subsection (a) of this section that are not awarded by the committee by June 30, 2009, up to $3,773,739 shall be included in the fiscal year 2010 enhancement grant program.

(c) To the extent that any grants awarded using ARRA enhancement funds cannot be fully obligated by November 30, 2009, and to the extent necessary to satisfy any deadlines for obligation of ARRA enhancement funds, the secretary of transportation is authorized to obligate ARRA federal funds made available to the state which are exclusively reserved for enhancement projects as defined in 23 U.S.C. § 101(a)(35) to eligible projects in the approved fiscal year 2010 transportation program. The following projects are added to program development – bike and pedestrian facilities – candidates list:

Statewide - STP RAMP (1) – Reconstruction of curb ramps on state highway system to comply with ADA requirements.

Statewide - STP NWRT (1) – Rehabilitate aggregate surfaces on rail trails.

Sec. 104. ENHANCEMENT GRANTS FISCAL YEAR 2010

Notwithstanding 19 V.S.A. § 38, the fiscal year 2010 enhancement grant program shall include a second grant round with respect to non-ARRA funds. For purposes of determining the amount of the grant program, the percentage applicable in 19 V.S.A. § 38(c)(1) shall be 5.0 percent. The provisions of 19 V.S.A. § 38 shall otherwise apply to such grants.

* * * Rest Area Commercialization * * *

Sec. 105. REST AREA COMMERCIALIZATION

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

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

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

* * * Rest Area Revitalization * * *

Sec. 106. LEGISLATIVE INTENT

It is the intent of the general assembly to require agencies to provide justification for reducing services to the public by:

(1) analyzing current service delivery methods;

(2) reexamining the assumptions that underlie the choice of the current delivery method;

(3) right-sizing when necessary; and

(4) exploring alternate delivery methods that could provide similar services at a lower cost to taxpayers.

Sec. 107. PERMANENT CLOSING OF REST AREA FACILITIES

(a) The commissioner of buildings and general services (BGS) is instructed to permanently close rest area facilities at Highgate on Interstate 89, at Sharon South on Interstate 89, at Hartford North on Interstate 91, and at Randolph North on Interstate 89. These four facilities and all operating and maintenance costs associated with them, including the costs of operating WiFi, are hereby transferred to the Vermont agency of transportation (VTrans) effective July 1, 2009.

(b) VTrans is hereby instructed to explore ways these buildings might be used for state purposes other than operating a rest area or those purposes that would meet with FHWA approval or, absent a public need, may have the structures removed. In the event VTrans decides to have the structures removed, it will notify the members of the Rest Area Advisory Committee established in 19 V.S.A. § 12c with 30 days' advance notice prior to removal.

(c) VTrans, at its discretion, may decide to close the sites to traffic or to have them remain open to either truck or pleasure car traffic or both.

Responsibilities for maintaining the grounds will become the responsibility of VTrans. Erection of barriers to traffic or fencing as necessary to limit the public use of these facilities shall be the responsibility of VTrans.

Sec. 108. HOURS OF OPERATION

The commissioner of buildings and general services (BGS) is hereby authorized to adjust the hours of operation for all remaining rest areas. The commissioner shall make decisions on hours of operation based on budgetary considerations, numbers of visitors, and seasonal fluctuations.

Sec. 109. PILOT PROJECT FOR OPERATION OF INFORMATION CENTERS

(a) Pursuant to Sec. 19e(c) of No. 38 of the Acts of 1997, the commissioner of buildings and general services (BGS) is authorized to commence a three-year pilot project to operate facilities at Alburgh, Georgia North, and Georgia South.

(b) Pursuant to Sec. 39(3) of No. 18 of the Acts of 1999, the commissioner is authorized to explore the possibility of creating privately operated travel information centers at exits along the interstate and along the state highway system. The secretary of transportation is instructed to support this initiative by working with BGS and the FHWA to explore a signage strategy that clearly directs travelers to these service opportunities.

Sec. 110. FUTURE CONSTRUCTION

The commissioner of buildings and general services (BGS) is instructed to take steps to plan for and build the Bennington welcome center at an amount not to exceed the federal earmarks and state matching funds identified for this project. It is the expectation of the house and senate committees on transportation that the site will be operated by the Bennington area chamber of commerce under Sec. 19e(c) of No 38 of the Acts of 1997 and under an agreement approved by the Federal Highway Administration. Therefore, the commissioner of BGS and the chamber shall report back to the rest area advisory committee on or before January 15, 2010, as to the plan for operation and the proposed cost.

* * * Authority to Sell Salt Shed Property in Montpelier * * *

Sec. 111. AUTHORIZATION TO CONVEY "SALT SHED" PROPERTY IN MONTPELIER

(a) Upon receiving satisfactory evidence of release of any interest of the Washington County Railroad Company, the secretary of transportation, as agent for the state of Vermont, is authorized to convey to Connor Brothers

Stonecutters, LLC (Connor) for fair market value a parcel of land in the city of Montpelier between Stone Cutters Way and the Winooski River. Conveyance of this parcel of land, sometimes known as 575 Stone Cutters Way or the "salt shed property," shall include the state's interest in a December 16, 1999 lease, as amended, between the state of Vermont, agency of transportation, joined by Washington County Railroad Company, and the Pyralisk Arts Center, Inc. The secretary, in his or her discretion, may adjust the boundaries of the land to be conveyed to Connor to accommodate the building plans of Connor. Connor shall be responsible for obtaining any necessary survey and subdivision approvals. In determining fair market value for this transfer, the secretary shall consider the undertaking of Connor, either through itself or through others, to provide remediation of hazardous wastes and materials on the subject property pursuant to the so-called "Corrective Action Plan (Salt Shed)" dated April 13, 2005, prepared by The Johnson Company, Inc. for Central Vermont Regional Planning Commission, as amended with Connor's consent from time to time.

(b) The authority granted by this section shall expire on June 30, 2011.

* * * Validating Sticker on Registration Plate * * *

Sec. 112. 23 V.S.A. § 305 is amended to read:

§ 305. – WHEN ISSUED

* * *

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

* * * Passenger Rail Service * * *

Sec. 113. 2006 STATE RAIL & POLICY PLAN

Consistent with the 2006 State Rail & Policy Plan, the agency shall estimate the total cost of (1) upgrading the western corridor rail line for passenger rail service to and from Burlington, Rutland, Bennington and Albany, New York, (2) operating a passenger rail service from Burlington to Rutland connecting to White Hall, New York and (3) operating a passenger rail service from Burlington to Rutland to Bennington connecting to Albany, New York. The agency shall present its analysis to the House and Senate committees on transportation by January 15, 2010

* * * Central Garage * * *

Sec. 114. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), the amount of $1,120,000 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Effective Dates * * *

Sec. 115. EFFECTIVE DATES

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

(1) Secs. 3, 21 (ARRA funds).

(2) Sec. 111 (sale of salt shed in Montpelier).

(3) Secs. 103, 104 (enhancement grants).

(4) Secs. 66, 67 (sale of surplus rail property).

(5) Sec. 101 (commissioner of DMV administering special exam).

(b) Secs. 24-28, 30-32 (motor fuels transportation infrastructure assessments and bond fund) shall take effect on June 1, 2009.

(c) Secs. 22 and 23 (motor fuels infrastructure assessments) shall take effect on October 1, 2009.

(d) Sec. 77 (exemption of motor buses from diesel tax) shall take effect on July 1, 2010.

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

RICHARD T. MAZZA
PHILIP B. SCOTT
M. JANE KITCHEL

Committee on the part of the Senate

RICHARD A. WESTMAN
DAVE POTTER
PATRICK M. BRENNAN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the substitute report of the Committee of Conference?, was decided in the affirmative.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was ordered messaged to the House forthwith.

Senator Shumlin Assumes the Chair

Recess

On motion of Senator Mazza, the Senate recessed until seven o'clock and thirty minutes.

Called to Order

At seven o'clock and forty-five minutes the Senate was called to order. Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the time for convening of the Senate having been set at 7:30 P.M., the Senate was called to order by David A. Gibson, Secretary of the Senate.

Presiding Officer Elected

Thereupon, pursuant to the provisions of Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the Senate proceeded to the election of an acting President *pro tempore* to preside.

Nominations being in order, Senator Mazza of Grand Isle District nominated Senator John F. Campbell of Windsor District.

There being no further nominations, on motion of Senator Cummings, the nominations were closed, and the Assistant Secretary was instructed to cast one ballot for Senator John F. Campbell to serve as presiding officer until the return of the President or the President *pro tempore*.

Senator Campbell Assumes the Chair

Rules Suspended; Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment

H. 145.

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to composting.

Was taken up for immediate consideration.

Senator Kittell, for the Committee on Agriculture, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) Composting is a process by which organic material is mixed and tended to create a soil amendment that reduces runoff, increases plant fertility, and builds living soil;

(2) Composting is an agricultural practice that farmers traditionally have practiced in order to recycle nutrients and manage wastes on their farms;

(3) The benefits of composting include the recapture of nutrients and the rebuilding of soils, both of which also help to protect surface waters from nutrient runoff, improve soil productivity, mitigate the generation of greenhouse gases, and reduce the demands on the state's solid waste management system;

(4) Several state agencies have regulatory authority over composting activities or components of composting activities. It is important that the state clarify the scope of the jurisdiction and authority that state agencies possess over composting; and

(5) Clarifying the regulatory requirements over composting in the state will allow the development of composting activities and facilities that support Vermont's goals for waste recycling, nutrient redistribution, farm viability, and sustainable food systems.

Sec. 2. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

When used in this chapter:

* * *

(3)(A) "Development" means:

* * *

(D) The word "development" does not include:

* * *

(vi) The construction of improvements below the elevation of 2,500 feet for the on-site storage, preparation, and sale of compost, provided that:

(I) The compost is produced from no more than 100 cubic yards of material per year;

(II) The compost is principally produced on the farm;

(III) The compost is principally used on the farm where it was produced;

(IV) The compost is made only from clean, high carbon bulking agents from any source and manure produced on the farm; or

(V) The compost is produced on a tract of land of fewer than 10 acres and the production of the compost utilizes no more than 40,000 cubic yards of combined organic material per year, including no more than 5,000 cubic yards of food residuals per year.

(E) When development is proposed to occur on a parcel or tract of land that is devoted to farming activity as defined in subdivision 6001(22) of this section, only those portions of the parcel or the tract that support the development shall be subject to regulation under this chapter. Permits issued under this chapter shall not impose conditions:

(i) on other portions of the parcel or tract of land which do not support the development ~~and~~ ;or

(ii) that restrict or conflict with accepted agricultural practices adopted by the secretary of agriculture, food and markets.

* * *

(31) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage or septage or materials derived from sewage or septage.

Sec. 3. 10 V.S.A. § 6605h is added to read:

§ 6605h. SOLID WASTE REGISTRATION

(a) Notwithstanding sections 6605, 6605f, and 6611 of this title, the secretary may, by rule, authorize a person engaged in the following activities to register with the secretary instead of obtaining a facility certification under section 6605 or 6605c of this title:

(1) construction, alteration, or operation of a facility managing certain solid waste categories; or

(2) construction, alteration, or operation of a facility producing or managing compost, as that term is defined in subdivision 6001(31) of this title.

(b) This section shall not apply to the storage, treatment, or disposal of:

(1) Municipal solid waste;

(2) Sludge;

(3) Septage; or

(4) Mineral processing waste. For purposes of this section, mineral processing waste means solid waste from an industrial or manufacturing facility that processes materials from a mining activity and where chemicals, as defined by the secretary by rule, are intentionally added as a part of that processing.

Sec. 4. 10 V.S.A. § 6605j is added to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The secretary, in consultation with the secretary of agriculture, food and markets, shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce accepted composting practices for the management of composting in the state. These accepted composting practices may include standards for:

(1) Facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(2) Siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(3) The composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(4) Management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas.

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the secretary of natural resources determines that a permit is necessary to protect public health or the environment.

(c) The secretary of natural resources shall coordinate with the secretary of agriculture, food and markets in implementing and enforcing the accepted composting practices. The secretary of agriculture, food and markets and the secretary of natural resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices.

(d) For purposes of this section, "small-scale composting facility" means a facility that:

(1) is located on a tract of land of no more than four acres in size; and

(2) uses no more than 5,000 cubic yards of total organics per year in the production of compost, including no more than 2,000 cubic yards per year of food residuals.

Sec. 5. AGENCY OF NATURAL RESOURCES REPORT ON RULES FOR ACCEPTED COMPOSTING PRACTICES

Prior to filing a final proposal of rules under section 841 of Title 3, the agency of natural resources shall submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture the proposed final rules required under 10 V.S.A. § 6605j for accepted composting practices. The house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture shall review the proposed final rules and shall recommend whether the proposed final rules should be amended or whether the proposed final rules should be filed with the secretary of state and the legislative committee on administrative rules under section 841 of Title 3. If the general assembly is not in session when the agency of natural resources is prepared to file a final proposal of rules addressing accepted composting practices, the agency may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator MacDonald, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 10 V.S.A. § 6602(25) is added to read:

(25) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

Sec. 2. 10 V.S.A. § 6605h is added to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the secretary instead of obtaining a facility certification under section 6605 or 6605c of this title.

Sec. 3. 10 V.S.A. § 6605j is added to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The secretary, in consultation with the secretary of agriculture, food and markets, shall adopt by rule, pursuant to chapter 25 of Title 3, and shall implement and enforce accepted composting practices for the management of composting in the state. These accepted composting practices shall address:

(1) Standards for the construction, alteration, or operation of a composting facility;

(2) Standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) Standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) Standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) Standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) Specified areas of the state unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) Definitions of "small-scale composting facility" and "medium-scale composting facility."

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the secretary of natural resources determines that a permit is necessary to protect public health or the environment.

(c) The secretary of natural resources shall coordinate with the secretary of agriculture, food and markets in implementing and enforcing the accepted composting practices. The secretary of agriculture, food and markets and the secretary of natural resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices.

Sec. 4. AGENCY OF NATURAL RESOURCES REPORT ON RULES FOR ACCEPTED COMPOSTING PRACTICES

Prior to filing a final proposal of rules under section 841 of Title 3, the agency of natural resources shall, prior to February 15, 2010, submit to the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture the proposed final rules required under 10 V.S.A. § 6605j for accepted composting practices. The house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture shall review the proposed final rules and shall recommend whether the proposed final rules should be amended or whether the proposed final rules should be filed with the secretary of state and the legislative committee on administrative rules under section 841 of Title 3. If the general assembly is not in session when the agency of natural resources is prepared to file a final proposal of rules addressing accepted composting practices, the agency may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources, the senate committee on natural resources and energy, and the house and senate committees on agriculture.

Sec. 5. COMPOSTING STUDY COMMITTEE

(a) On or before July 1, 2009, the agency of natural resources shall reconvene the composting study committee established by No. 130 of the Acts of the 2007 Adj. Sess. (2008) to review the application of Act 250, 10 V.S.A. chapter 151, to composting facilities in the state; to recommend whether certain composting facilities or categories of composting facilities should be exempt from Act 250; and to recommend areas of the state in which a composting facility using post-consumer food residuals or animal mortalities should be prohibited from locating regardless of the size of the facility or whether a facility is otherwise exempt from the requirements of 10 V.S.A. § chapter 151. The committee shall issue a final report of its findings to the house committee on fish, wildlife and water resources, the house and senate committees on natural resources and energy, and the house and senate committees on agriculture by January 15, 2010.

(b) For the purposes of this section, the composting study committee shall consist of the members appointed under the requirement of No. 130 of the Acts of the 2007 Adj. Sess. (2008) and:

(1) a member of the house committee on fish, wildlife and water resources, appointed by the speaker of the house;

(2) a member of the senate committee on natural resources and energy, appointed by the committee on committees; and

(3) a member of an environmental organization, appointed by the speaker of the house.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the pending question, Shall the Senate propose to the House that the proposal of amendment of the Committee on Agriculture be amended as recommended by the Committee on Natural Resources and Energy?, was agreed to.

Thereupon, the pending question?, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered messaged to the House forthwith.

Message from the House No. 86

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 438. An act relating to the state's transportation program.

And has adopted the same on its part.

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

H. 125. An act relating to the sale of unpasteurized milk.

And has severally concurred therein..

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment; Rules Suspended; Bill Messaged

S. 48.

Appearing on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to marketing of prescription drugs.

Was taken up for immediate consideration.

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

Sec. 1. 18 V.S.A. § 4631(b) is amended to read:

(b) As used in this section:

* * *

(3) "Health care professional" shall have the same meaning as <u>health care provider</u> in section 9402 of this title.

* * *

Sec. 2. LEGISLATIVE FINDINGS; INTENT

(a) The general assembly finds that the legislative findings in Sec. 1 of No. 80 of the Acts of 2007 provide a sound basis for instituting a ban of certain gifts to prescribers and disclosure of marketing activities as provided for in this act. Findings (1) through (8), (13), (15), (17), (19), and (21) shall be incorporated into this act by reference.

(b) The general assembly also finds:

(1) In 2007, Vermonters spent an estimated $572 million on prescription and over-the-counter drugs and nondurable medical supplies. In 2002, spending was about $377 million. Between 2002 and 2007, the average annual increase in spending was 8.7 percent, which is slightly higher than the average increase in overall health care spending during this same period.

(2) According to the U.S. District Court for the District of Vermont in IMS v. Sorrell, Docket No. 1:07-CV-188 (Apr. 23, 2009), the state of Vermont has a substantial interest in cost containment and the protection of public health.

(3) The court in IMS v. Sorrell found that research shows that doctors are influenced by the marketing efforts of pharmaceutical companies, and that doctors who attend talks sponsored by a pharmaceutical company often prescribe that company's drug more than a competitor's drugs.

(4) The court in IMS v. Sorrell also found that drug detailing encourages doctors to prescribe newer, more expensive, and potentially more dangerous drugs instead of adhering to evidence-based treatment guidelines.

(5) According to a 2009 report from the Institute of Medicine of the National Academies, acceptance of meals and gifts and other relationships are common between physicians and pharmaceutical, medical device, and biotechnology companies. The report found that these relationships may influence physicians to prescribe a company's medicines even when evidence indicates another drug would be more beneficial to the patient.

(6) According to the April 2009 Report of Vermont Attorney General William H. Sorrell, in fiscal year 2008, pharmaceutical manufacturers reported spending $2,935,248.00 in Vermont on fees, travel expenses, and other direct payments to Vermont physicians, hospitals, universities, and others for the purpose of marketing their products. Of Vermont's 4,573 licensed health care professionals, 2,280 were recipients. Of the above amount, approximately $2.1 million in payments went to physicians. The top 100 individual recipients received nearly $1,770,000.00 in fiscal year 2008.

(7) Of the disclosures reported by pharmaceutical manufacturers, only 17 percent were available to the public due to the current trade secret exemption in state law.

(8) According to the attorney general, expenditures on food totaled $861,911.70, or 29.36 percent of all marketing expenditures. Of the 1,132 recipients of food in fiscal year 2008, 20.36 percent had $500.00 or more expended on them, including 11.31 percent who had $1,000.00 or more expended on them. 41.1 percent of the 1,132 recipients of food received food valued at $100.00 or less. The individual recipient with the greatest reported food expenditure received $15,793.78 in food for him- or herself and any colleagues who may not prescribe.

(9) The federal Office of Inspector General (OIG) has taken enforcement action against several medical device manufacturers in recent years for violations of fraud and abuse laws. Through its investigations, the OIG found medical device manufacturers providing kickbacks to physicians in the form of all-expense-paid trips, false consulting arrangements, meals, and other gifts. The OIG recommends subjecting the financial relationships between medical device manufacturers and physicians to reporting requirements and greater transparency.

(10) There is little or no difference in the marketing of biological products and prescription drugs. It is logical and necessary to include biological products to the same extent as prescription drugs to ensure appropriate and consistent transparency and reduce real or perceived conflicts of interest.

(11) This act is necessary to increase transparency for consumers by requiring disclosure of allowable expenditures and gifts to health care providers and facilities providing health care. This act is also necessary to reduce real or perceived conflicts of interest which undermine patient confidence in health care providers and increase health care costs by influencing prescribing patterns. Limitations on gifts and increased transparency are expected to save money for consumers, businesses, and the state by reducing the promotion of expensive prescription drugs, biological products, and medical devices, and to protect public health by reducing sales-oriented information to prescribers.

Sec. 3. 18 V.S.A. § 4631a is added to read:

§ 4631a. GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a) As used in this section:

(1) "Allowable expenditures" means:

(A) Payment to the sponsor of a significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) the payment is not made directly to a health care provider;

(ii) funding is used solely for bona fide educational purposes; and

(iii) all program content is objective, free from industry control, and does not promote specific products.

(B) Honoraria and payment of the expenses of a health care professional who serves on the faculty at a bona fide significant educational, medical, scientific, or policy-making conference or seminar, provided:

(i) there is an explicit contract with specific deliverables which are restricted to medical issues, not marketing activities; and

(ii) the content of the presentation, including slides and written materials, is determined by the health care professional.

(C) For a bona fide clinical trial:

(i) gross compensation for the Vermont location or locations involved;

(ii) direct salary support per principal investigator and other health care professionals per year; and

(iii) expenses paid on behalf of investigators or other health care professionals paid to review the clinical trial.

(D) For a research project that constitutes a systematic investigation, is designed to develop or contribute to general knowledge, and reasonably can be considered to be of significant interest or value to scientists or health care professionals working in the particular field of inquiry:

(i) gross compensation;

(ii) direct salary support per health care professional; and

(iii) expenses paid on behalf of each health care professional.

(E) Payment or reimbursement for the reasonable expenses, including travel and lodging-related expenses, necessary for technical training of individual health care professionals on the use of a medical device if the commitment to provide such expenses and the amounts or categories of reasonable expenses to be paid are described in a written agreement between the health care provider and the manufacturer.

(F) Royalties and licensing fees paid to health care providers in return for contractual rights to use or purchase a patented or otherwise legally recognized discovery for which the health care provider holds an ownership right.

(G) Other reasonable fees, payments, subsidies, or other economic benefits provided by a manufacturer of prescribed products at fair market value.

(2) "Bona fide clinical trial" means an FDA-reviewed clinical trial that constitutes "research" as that term is defined in 45 C.F.R. § 46.102 and reasonably can be considered to be of interest to scientists or health care professionals working in the particular field of inquiry.

(3) "Clinical trial" means any study assessing the safety or efficacy of prescribed products administered alone or in combination with other prescribed products or other therapies, or assessing the relative safety or efficacy of prescribed products in comparison with other prescribed products or other therapies.

(4) "Gift" means:

(A) Anything of value provided to a health care provider for free; or

(B) Any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider, unless:

(i) it is an allowable expenditure as defined in subdivision (a)(1) of this section; or

(ii) the health care provider reimburses the cost at fair market value.

(5)(A) "Health care professional" means:

(i) a person who is authorized to prescribe or to recommend prescribed products and who either is licensed by this state to provide or is otherwise lawfully providing health care in this state; or

(ii) a partnership or corporation made up of the persons described in subdivision (i) of this subdivision (5)(A); or

(iii) an officer, employee, agent, or contractor of a person described in subdivision (i) of this subdivision (5)(A) who is acting in the course and scope of employment, of an agency, or of a contract related to or supportive of the provision of health care to individuals.

(B) The term shall not include a person described in subdivision (A) of this subdivision (5) who is employed solely by a manufacturer.

(6) "Health care provider" means a health care professional, a hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to dispense or purchase for distribution prescribed products in this state.

(7) "Manufacturer" means a pharmaceutical, biological product, or medical device manufacturer or any other person who is engaged in the production, preparation, propagation, compounding, processing, packaging, repacking, distributing, or labeling of prescribed products. The term does not include a wholesale distributor of biological products or a pharmacist licensed under chapter 36 of Title 26.

(8) "Marketing" shall include promotion, detailing, or any activity that is intended to be used or is used to influence sales or market share or to evaluate the effectiveness of a professional sales force.

(9) "Pharmaceutical manufacturer" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale distributor of prescription drugs or a pharmacist licensed under chapter 36 of Title 26.

(10) "Prescribed product" means a drug or device as defined in section 201 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. § 321, or a biological product as defined in section 351 of the Public Health Service Act, 42 U.S.C. § 262.

(11) "Significant educational, scientific, or policy-making conference or seminar" means an educational, scientific, or policy-making conference or seminar that:

(A) is accredited by the Accreditation Council for Continuing Medical Education or a comparable organization; and

(B) offers continuing medical education credit, features multiple presenters on scientific research, or is authorized by the sponsoring association to recommend or make policy.

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

(A) Samples of a prescribed product provided to a health care provider for free distribution to patients.

(B) The loan of a medical device for a short-term trial period, not to exceed 90 days, to permit evaluation of a medical device by a health care provider or patient.

(C) The provision of reasonable quantities of medical device demonstration or evaluation units to a health care provider to assess the appropriate use and function of the product and determine whether and when to use or recommend the product in the future.

(D) The provision, distribution, dissemination, or receipt of peer-reviewed academic, scientific, or clinical articles or journals and other items that serve a genuine educational function provided to a health care provider for the benefit of patients.

(E) Scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference or seminar of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association.

(F) Rebates and discounts for prescribed products provided in the normal course of business.

(G) Labels approved by the federal Food and Drug Administration for prescribed products.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and attorney's fees and may impose on a manufacturer that violates this section a civil penalty of no more than $10,000.00 per violation. Each unlawful gift shall constitute a separate violation.

Sec. 4. 18 V.S.A. § 4632 is amended to read:

§ 4632. ~~PHARMACEUTICAL MARKETERS~~ DISCLOSURE OF ALLOWABLE EXPENDITURES AND GIFTS BY MANUFACTURERS OF PRESCRIBED PRODUCTS

(a)(1) Annually on or before ~~December~~ October 1 of each year, every ~~pharmaceutical manufacturing company~~ manufacturer of prescribed products shall disclose to the office of the attorney general for the fiscal year ending the

previous June 30th the value, nature, ~~and~~ purpose, and recipient information of ~~any gift, fee, payment, subsidy, or other economic benefit provided in connection with detailing, promotional, or other marketing activities by the company, directly or through its pharmaceutical marketers, to~~ any physician, ~~hospital, nursing home, pharmacist, health benefit plan administrator, or any other person in Vermont authorized to prescribe, dispense, or purchase prescription drugs in this state. Disclosure shall include the name of the recipient. Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require pharmaceutical manufacturing companies to report the value, nature, and purpose of all gift expenditures according to specific categories. The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1.~~:

(A) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to any health care provider, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

(B) any allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title to an academic institution or to a professional, educational, or patient organization representing or serving health care providers or consumers, except:

(i) royalties and licensing fees as described in subdivision 4631a(a)(1)(F) of this title;

(ii) rebates and discounts for prescribed products provided in the normal course of business as described in subdivision 4631a(b)(2)(F) of this title; and

(iii) payments for clinical trials as described in subdivision 4631a(a)(1)(C) of this title, which shall be disclosed after the earlier of the date of the approval or clearance of the prescribed product by the Food and Drug Administration or two calendar years after the date the payment was made. For a clinical trial for which disclosure is delayed under this subdivision (iii), the manufacturer shall identify to the attorney general the clinical trial, the start date, and the web link to the clinical trial registration on the national clinical trials registry.

(2)(A) Notwithstanding the provisions of subdivision (1) of this subsection, annually on or before October 1 of each year, every manufacturer of prescribed products shall disclose to the office of the attorney general the receiving health care provider's information and the brand name, generic name, quantity, and dosage of samples of a prescribed product provided for free distribution to patients as described in subdivision 4631a(b)(2)(A) of this title.

(B) Information related to schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as from time to time amended, shall not be publicly available or searchable pursuant to subdivision (a)(6) of this subsection.

~~(2)~~(3) Annually on ~~October~~ July 1, each ~~company subject to the provisions of this section~~ manufacturer of prescribed products also shall disclose to the office of the attorney general~~,~~ the name and address of the individual responsible for the ~~company's~~ manufacturer's compliance with the provisions of this section~~, or if this information has been previously reported, any changes to the name or address of the individual responsible for the company's compliance with the provisions of this section~~.

~~(3) The office of the attorney general shall keep confidential all trade secret information, as defined by subdivision 317(b)(9) of Title 1, except that the office may disclose the information to the department of health and the office of Vermont health access for the purpose of informing and prioritizing the activities of the evidence-based education program in subchapter 2 of chapter 91 of Title 18. The department of health and the office of Vermont health access shall keep the information confidential. The disclosure form shall permit the company to identify any information that it claims is a trade secret as defined in subdivision 317(c)(9) of Title 1. In the event that the attorney general receives a request for any information designated as a trade secret, the attorney general shall promptly notify the company of such request. Within 30 days after such notification, the company shall respond to the requester and the attorney general by either consenting to the release of the~~

~~requested information or by certifying in writing the reasons for its claim that the information is a trade secret. Any requester aggrieved by the company's response may apply to the superior court of Washington County for a declaration that the company's claim of trade secret is invalid. The attorney general shall not be made a party to the superior court proceeding. Prior to and during the pendency of the superior court proceeding, the attorney general shall keep confidential the information that has been claimed as trade secret information, except that the attorney general may provide the requested information to the court under seal.~~

~~(4) The following shall be exempt from disclosure:~~

~~(A) free samples of prescription drugs intended to be distributed to patients;~~

~~(B) the payment of reasonable compensation and reimbursement of expenses in connection with bona fide clinical trials;~~

~~(C) any gift, fee, payment, subsidy or other economic benefit the value of which is less than $25.00;~~

~~(D) scholarship or other support for medical students, residents, and fellows to attend a significant educational, scientific, or policy-making conference of a national, regional, or specialty medical or other professional association if the recipient of the scholarship or other support is selected by the association; and~~

~~(E) prescription drug rebates and discounts.~~

(4) Disclosure shall be made on a form and in a manner prescribed by the office of the attorney general and shall require manufacturers of prescribed products to report each allowable expenditure or gift permitted under subdivision 4631a(b)(2) of this title including:

(A) except as otherwise provided in subdivision (a)(2) of this section, the value, nature, and purpose of each allowable expenditure, and gift permitted under subdivision 4631a(b)(2) of this title according to specific categories identified by the office of the attorney general;

(B) the name of the recipient;

(C) the recipient's address;

(D) the recipient's institutional affiliation;

(E) prescribed product or products being marketed, if any; and

(F) the recipient's state board number.

(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before April 1. The report shall include:

(A) Information on allowable expenditures and gifts required to be disclosed under this section, which shall be presented in both aggregate form and by selected types of health care providers or individual health care providers, as prioritized each year by the office.

(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title.

(6) After issuance of the report required by subdivision (a)(5) of this section, the office of the attorney general shall make all disclosed data used for the report publicly available and searchable through an Internet website.

(7) The office of Vermont health access shall examine the data available from the office of the attorney general for relevant expenditures and determine whether and to what extent prescribing patterns by health care providers of prescribed products reimbursed by Medicaid, VHAP, Dr. Dynasaur, VermontRx, and VPharm may reflect manufacturer influence. The office may select the data most relevant to its analysis. The office shall report its analysis annually to the general assembly and the governor on or before October 1.

(b)(1) Annually on July 1, the office of the attorney general shall collect a $500.00 fee from each manufacturer of prescribed products filing annual disclosures of expenditures greater than zero described in subsection (a) of this section.

(2) Fees collected under this section shall fund collection and analysis of information on activities related to the marketing of prescribed products under sections 4631a and 4632 of Title 18. The fees shall be collected in a special fund assigned to the office.

(c) The attorney general may bring an action in Washington superior court for injunctive relief, costs, and ~~attorneys~~ attorney's fees, and to impose on a ~~pharmaceutical manufacturing company~~ manufacturer of prescribed products that fails to disclose as required by subsection (a) of this section a civil penalty of no more than $10,000.00 per violation. Each unlawful failure to disclose shall constitute a separate violation.

~~(c) As used in this section:~~

~~(1) "Approved clinical trial" means a clinical trial that has been approved by the U.S. Food and Drug Administration (FDA) or has been approved by a duly constituted Institutional Review Board (IRB) after~~

~~reviewing and evaluating it in accordance with the human subject protection standards set forth at 21 C.F.R. Part 50, 45 C.F.R. Part 46, or an equivalent set of standards of another federal agency.~~

~~(2) "Bona fide clinical trial" means an approved clinical trial that constitutes "research" as that term is defined in 45 C.F.R. § 46.102 when the results of the research can be published freely by the investigator and reasonably can be considered to be of interest to scientists or medical practitioners working in the particular field of inquiry.~~

~~(3) "Clinical trial" means any study assessing the safety or efficacy of drugs administered alone or in combination with other drugs or other therapies, or assessing the relative safety or efficacy of drugs in comparison with other drugs or other therapies.~~

~~(4) "Pharmaceutical marketer" means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in pharmaceutical detailing, promotional activities, or other marketing of prescription drugs in this state to any physician, hospital, nursing home, pharmacist, health benefit plan administrator, or any other person authorized to prescribe, dispense, or purchase prescription drugs. The term does not include a wholesale drug distributor or the distributor's representative who promotes or otherwise markets the services of the wholesale drug distributor in connection with a prescription drug.~~

~~(5) "Pharmaceutical manufacturing company" means any entity which is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription drugs, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription drugs. The term does not include a wholesale drug distributor or pharmacist licensed under chapter 36 of Title 26.~~

~~(6) "Unrestricted grant" means any gift, payment, subsidy, or other economic benefit to an educational institution, professional association, health care facility, or governmental entity which does not impose any restrictions on the use of the grant, such as favorable treatment of a certain product or an ability of the marketer to control or influence the planning, content, or execution of the education activity.~~

(d) ~~Disclosures of unrestricted grants for continuing medical education programs shall be limited to the value, nature, and purpose of the grant and the name of the grantee. It shall not include disclosure of the individual~~

~~participants in such a program~~ The terms used in this section shall have the same meanings as they do in section 4631a of this title.

Sec. 5. 1 V.S.A. § 317(c) is amended to read:

(c) The following public records are exempt from public inspection and copying:

* * *

(9) trade secrets, including~~, but not limited to,~~ any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern, and which gives its user or owner an opportunity to obtain business advantage over competitors who do not know it or use it, except that the disclosures required by section 4632 of Title 18 shall not be included in this subdivision;

Sec. 6. 18 V.S.A. § 4633(d) is amended to read:

(d) As used in this section:

(1) "Average wholesale price" or "AWP" means the wholesale price charged on a specific commodity that is assigned by the ~~drug manufacturer~~ pharmaceutical manufacturing company and listed in a nationally recognized drug pricing file.

(2) "Pharmaceutical manufacturing company" ~~is defined by subdivision 4632(c)(5) of this title~~ shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(3) "Pharmaceutical marketer" ~~is defined by subdivision 4632(c)(4) of this title~~ means a person who, while employed by or under contract to represent a pharmaceutical manufacturing company, engages in marketing, as that term is defined in section 4631a of this title.

* * * Therapeutic Substitution of Prescription Drugs * * *

Sec. 7. THERAPEUTIC EQUIVALENT DRUG WORK GROUP

(a) It is the intent of the general assembly to explore increasing the usage of generic drugs by allowing pharmacists to substitute a therapeutically equivalent generic drug from a specified list when a physician prescribes a more expensive brand-name drug in the same class. This section creates a work group to recommend a sample list and a process for substitution for consideration by the general assembly. A "therapeutically equivalent generic drug" means a generic drug which is in the same class as a brand-name drug but is not necessarily chemically equivalent.

(b) A work group is created to generate a proposed list by class of drugs to describe which generic drug or drugs could be substituted when a physician prescribes a more expensive brand name drug in the same class, with equivalent dosages for the substitution.

(c)(1) The work group shall consist of two physicians appointed by the Vermont Medical Society, two pharmacists appointed by the Vermont pharmacy association, and three representatives of the drug utilization review board.

(2) A representative of the drug utilization review board shall convene the first meeting of the work group. The work group shall organize itself with a chair or cochairs for the purposes of scheduling and conducting meetings.

(3) The work group shall consult with medical specialists and organizations representing patients when necessary to determine whether a substitution is advisable and safe for a particular condition or when the work group deems it necessary to have additional information of a specialized nature.

(d) The proposed list shall not include drugs used to treat severe and persistent mental illness.

(e) The work group shall transmit the list of therapeutically equivalent generic drugs to the board of medical practice established under chapter 23 of Title 26 and the board of pharmacy established under subchapter 2 of chapter 36 of Title 26 for review and comment. The board of medical practice and the board of pharmacy shall review the list of therapeutically equivalent generic drugs jointly to determine whether the list appropriately provides for substitutions. The boards shall provide comments to the work group no later than 60 days after receiving the list.

(f) No later than January 15, 2010, the work group shall provide a report to the house committees on health care and on human services and the senate committees on finance and on health and welfare on the list generated, the comments provided by the boards of medical practice and of pharmacy, patient advocacy organizations, and any other information the work group deems relevant to the consideration of draft legislation.

Sec. 8. 2 V.S.A. chapter 26 is amended to read:

CHAPTER 26. ~~NORTHEAST~~ NATIONAL LEGISLATIVE ASSOCIATION ON PRESCRIPTION ~~DRUGS PRICING~~ DRUG PRICES

§ 951. ~~NORTHEAST~~ NATIONAL LEGISLATIVE ASSOCIATION ON PRESCRIPTION ~~DRUGS PRICING~~ DRUG PRICES

(a) The general assembly finds that the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs Pricing~~ Drug Prices is a nonprofit organization of legislators formed for the purpose of making prescription drugs more affordable and accessible to citizens of the member states. The general assembly further finds that the activities of the Association provide a public benefit to the people of the state of Vermont.

(b) On or before January 15, upon the convening of each biennial session of the general assembly, three directors shall be appointed by the speaker, which may include the speaker, and three directors shall be appointed by the committee on committees, which may include a member of the committee on committees, to serve as the Vermont directors of the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs Pricing~~ Drug Prices. Directors so appointed from each body shall not all be from the same party. Directors so appointed shall serve until new members are appointed.

(c) For meetings of the Association, directors who are legislators shall be entitled to per diem compensation and reimbursement of expenses in accordance with section 406 of Title 2. If the lieutenant governor is appointed as a director pursuant to subsection (b) of this section, his or her compensation and expenses shall be paid from the appropriation made to the office of the lieutenant governor.

(d) The Vermont directors of the Association shall report to the general assembly on or before January 1 of each year with a summary of the activities of the Association, and any findings and recommendations for making prescription drugs more affordable and accessible to Vermonters.

Sec. 8a. HEALTH CARE COSTS IN CORRECTIONS WORK GROUP

(a) The director of health care reform, in consultation with the commissioner of corrections, shall convene a work group to:

(1) review the recommendations of the Heinz Family Philanthropies report entitled Making Connections: Utilizing the 340B Drug Pricing Program; and

(2) establish a mechanism for providing health services and prescriptions through a network of federally qualified health centers, disproportionate share hospitals, and other covered entities eligible under the Veterans Health Care Act of 1992, Public Law 102-585, codified at Section 340B of the Public Health Service Act.

(b) The work group shall include representatives from:

(1) Bi-State Primary Care Association;

(2) Fletcher Allen Health Care;

(3) Vermont Association of Hospitals and Health Systems;

(4) Behavioral Health Network;

(5) Heinz Family Philanthropies; and

(6) other interested stakeholders.

(c) No later than July 31, 2009, the work group shall provide a report to the commission on health care reform and the corrections oversight committee.

Sec. 9. 33 V.S.A. § 1998(c)(4)(A) is amended to read:

(4) The actions of the commissioners, the director, and the secretary shall include:

(A) active collaboration with the ~~Northeast~~ National Legislative Association on Prescription ~~Drugs in the Association's efforts to establish a Prescription Drug Fair Price Coalition~~ Drug Prices;

Sec. 10. APPROPRIATION

In fiscal year 2010, the sum of $40,000.00 is appropriated to the office of the attorney general from a special fund assigned to the office for the purposes of collecting and analyzing information on activities related to the marketing of prescribed products under sections 4631a, 4632, and 4633 of Title 18.

Sec. 11. EFFECTIVE DATE

This act shall take effect July 1, 2009, except:

(1) pharmaceutical manufacturers shall file by November 1, 2009 disclosures based on the law in effect on June 30, 2009 required by subdivision 4632 of Title 18 for the time period July 1, 2008 to June 30, 2009; and

(2) manufacturers of biological products and medical devices shall file by October 1, 2010 disclosures required by subdivisions 4632(a)(1) and (2) of Title 18 for the time period January 1, 2010 to June 30, 2010.

(3) Sec. 8a of this act, establishing a work group to examine health care costs in corrections, shall take effect upon passage.

and by amending the title to read "An act relating to the marketing of prescribed products"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment? Senator Carris moved that the Senate concur in the House proposal of amendment with an amendment, as follows;

First: In Sec. 4, subdivision 4632(a)(1)(A) of Title 18, by striking out the word "and" at the end of subdivision (ii), by striking out the period and inserting in lieu thereof the following ; and at the end of subdivision (iii) and by inserting a new subdivision (iv) to read as follows:

(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.

Second: In Sec. 4, subdivision 4632(a)(1)(B) of Title 18, by striking out the word "and" at the end of subdivision (ii), by striking out the period and inserting in lieu thereof the following ; and at the end of subdivision (iii) and by inserting a new subdivision (iv) to read as follows:

(iv) samples of a prescription drug provided to a health care professional for free distribution to patients.

Third: In Sec. 4, by striking out subdivision 4632(a)(2) in its entirey and renumbering the remaining subdivisions accordingly

Fourth: by inserting a new Sec. 5a. to read as follows:

Sec. 5a. STUDY OF DISCLOSURE OF DRUG SAMPLES

(a) The attorney general's office shall conduct a review, in consultation with the commission on health care reform, of the advisability of modifying section 4632 of Title 18 to require the disclosure of information about the provision of samples to health care providers by manufacturers of prescribed products.

(b) The attorney general's office shall provide a report of its findings to the house committee on health care and the senate committees on finance and on health and welfare no later than December 15, 2009.

Which was agreed to.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was ordered messaged to the House forthwith.

President Assumes the Chair

Adjournment

On motion of Senator Shumlin, the Senate adjourned until one o'clock and in the afternoon on Saturday, May 9, 2009.