

# Journal of the Senate

Wednesday, April 21, 2010

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 eight o'clock and thirty minutes, 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 nominated Senator John F. Campbell to be acting President *pro tempore*. Senator Lyons seconded the nomination.

There being no further nominations, on motion of Senator Mazza, 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

### Devotional Exercises

A moment of silence was observed in lieu of devotions.

### Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the nineteenth day of April, 2010, he approved and signed a bill originating in the Senate of the following title:

**S. 77.** An act relating to the recycling and disposal of electronic waste.

### Message from the Governor

A message was received from His Excellency, the Governor, by David Coriell, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twentieth day of April, 2010, he approved and signed a bill originating in the Senate of the following title:

**S. 150.** An act relating to parking reserved for people with disabilities.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 770.**

An act relating to approval of amendments to the charter of the city of Barre.

To the Committee on Government Operations.

**H. 792.**

An act relating to implementation of challenges for change.

To the Committee on Appropriations.

**Bill Passed in Concurrence**

House bills of the following titles were severally read the third time and passed in concurrence:

**H. 527.** An act relating to municipal recovery of costs of fire department response.

**H. 771.** An act relating to approval of amendments to the charter of the town of Stowe.

**Bill Passed in Concurrence with Proposals of Amendment**

**H. 759.**

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to executive branch fees.

**House Proposal of Amendment Concurred In with Amendment**

**S. 264.**

House proposal of amendment to Senate bill entitled:

An act relating to stop and hauling charges.

Was taken up.

The House proposes to the Senate to amend the bill by striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATE

This bill shall take effect upon passage, except that Sec. 2. (amendment to 6 V.S.A. § 2676, mandating that cost of hauling to be paid by buyer) shall take effect when New York and Pennsylvania require, by legislative or administrative enactment of statewide applicability and enforcement, that dairy hauling costs be paid by the purchaser of cows' milk rather than the producer of the milk.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Giard moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. EFFECTIVE DATE

This act shall take effect upon passage, except that Sec. 2 (amendment to 6 V.S.A. § 2676, mandating that the cost of hauling shall be paid by the buyer) shall take effect when New York requires, by legislative or administrative enactment of statewide applicability and enforcement, that dairy hauling costs shall be paid by the purchaser of the cows' milk rather than by the producer of the cows' milk.

Which was agreed to.

**House Proposal of Amendment Not Concurred In; Committee of Conference Requested**

**S. 282.**

House proposal of amendment to Senate bill entitled:

An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles.

Was taken up.

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. 23 V.S.A. § 4103(4)(B)(iii) is amended to read:

(iii) ~~military~~ equipment owned or operated by the United States Department of Defense, including the National Guard, and operated by noncivilian personnel or by National Guard military technicians (civilians who are required to wear military uniforms) and active duty U.S. Coast Guard personnel;

Sec. 2. 23 V.S.A. § 4110(a)(6)(C) is amended to read:

(C) the applicant is not subject to any disqualification under 49 C.F.R. ~~part 385.54~~ section 383.51, or any license suspension, revocation, or cancellation under state law; and

Sec. 3. 23 V.S.A. § 4111(a) and (f) are amended to read:

(a) Contents of license. A commercial driver's license shall be marked "commercial driver license" or "CDL," and shall be, to the maximum extent practicable, tamper proof, and shall include, but not be limited to, the following information:

\* \* \*

(2) The person's color photograph or imaged likeness. A person issued a license under this subsection ~~that contains an imaged likeness may renew his or her license by mail. Except that a renewal must be made in person so that an updated imaged likeness of the person is obtained no less often than once every eight years may renew the license not earlier than six months prior to its expiration date. In such case, the prior license document shall be surrendered. The renewed license shall be effective from the date of issuance to the end of the period for which it is renewed.~~

\* \* \*

(f) When applying for renewal of a commercial driver license, the applicant shall complete the application form required by section 4110 of this title, providing updated information and required certifications. If the applicant wishes to retain a hazardous materials endorsement, the written test for a hazardous materials endorsement must be taken and passed. In addition, the applicant must successfully complete the security threat assessment required by 49 C.F.R. part 1572. Within 15 days of an adverse initial or final determination of threat assessment being served by the United States Transportation Security Administration, the applicant's hazardous materials endorsement shall be revoked or denied.

Sec. 4. 23 V.S.A. § 4112 is amended to read:

§ 4112. RECORDS; NOTIFICATION

(a) After suspending, revoking, or disqualifying a person from holding a commercial driver license, the commissioner shall update his or her records to reflect that action within 10 days. After suspending, revoking, or disqualifying a nonresident commercial driver's privileges, the commissioner shall notify the licensing authority of the state which issued the commercial driver license or commercial driver certificate within 10 days.

(b) When the commissioner receives a request for an operating record of a person currently or previously licensed in Vermont, the commissioner shall provide the information within 30 days.

Sec. 5. 23 V.S.A. § 4113 is amended to read:

§ 4113. Notification of traffic convictions

When a person who holds a commercial driver license issued by another state is convicted in this state of any violation of state law or local ordinance relating to motor vehicle traffic control, other than parking violations, in any type of vehicle, the commissioner shall notify the driver licensing authority in the licensing state of the conviction within ~~30~~ 10 days.

Sec. 6. 23 V.S.A. § 4116(d) and (k) are amended to read:

(d) A person shall be disqualified from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, arising from separate incidents occurring within a three-year period. A disqualification for 120 days shall be issued to be consecutive with any previous disqualification.

(k) A person shall be disqualified for a term concurrent with any disqualification or suspension issued by the administrator of the Federal Motor Carrier Safety Administration pursuant to 49 C.F.R. ~~part~~ section 383.52.

Sec. 7. 23 V.S.A. § 4119 is amended to read:

§ 4119. COMPLIANCE WITH OUT-OF-SERVICE ORDER;  
DISQUALIFICATION FROM OPERATION OF VEHICLE

(a) No person shall operate a commercial motor vehicle in violation of an out-of-service order.

(b) Any person convicted for violating an out-of-service order shall be disqualified as follows except as provided in subsection ~~(b)~~(c) of this section:

(1) A person shall be disqualified from driving a commercial motor vehicle for a period of ~~90~~ 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of ~~one year~~ two years if convicted of a second violation of an out-of-service order during any ten-year period, arising from separate incidents.

(3) A person shall be disqualified for a period of three years if convicted of a third or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

~~(b)~~(c) Any person convicted for violating an out-of-service order while transporting hazardous materials or while operating a commercial motor vehicle designed or used to transport ~~15~~ 16 or more passengers, including the driver, shall be disqualified as follows:

(1) A person shall be disqualified for a period of 180 days if convicted of a first violation of an out-of-service order.

(2) A person shall be disqualified for a period of three years if convicted of a second or subsequent violation of an out-of-service order during any ten-year period, arising from separate incidents.

Sec. 8. 23 V.S.A. § 4120(a) and (b) are amended to read:

(a) Notwithstanding any other provision of law to the contrary, any driver who violates or fails to comply with an out-of-service order is subject to a penalty ~~of \$1,500.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(1), in addition to disqualification under this chapter.

(b) Any employer who violates an out-of-service order, or who knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, is subject to a penalty ~~of \$4,000.00~~ for a first conviction or for a second or subsequent conviction at the applicable minimum level set forth in 49 C.F.R. section 383.53(b)(2).

Sec. 9. 23 V.S.A. § 102(a) is amended to read:

(a) The commissioner shall:

\* \* \*

(9) Issue nondriver identification cards; and

(10) Maintain commercial driver records and driver identification data in accordance with the provisions of 49 C.F.R section 384.231(d).

Sec. 10. 5 V.S.A. § 2001(d) and (f) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules promulgated pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(f) The regulations promulgated by the ~~Materials Transportation Bureau of the Pipeline and Hazardous Materials Safety Administration~~, United States Department of Transportation contained in Parts ~~170-189~~ 100-199 of Title 49 of the Code of Federal Regulations revised as of ~~December 31, 1976~~ October 1, 2007, and any amendment or addition to these regulations, and the regulations promulgated by the ~~Bureau of Federal Motor Carrier Safety, Federal Highway Administration~~, United States Department of Transportation contained in Parts 390-397 of Title 49 of the Code of Federal Regulations, revised as of October 1, ~~1976~~ 2008, and any amendment or addition to these regulations and any provisions of any other regulations regarding the transportation of hazardous materials adopted by a federal agency may be adopted by the secretary of transportation.

Sec. 11. 5 V.S.A. § 2101(d) and (e) are amended to read:

(d) Notwithstanding any other provision of this chapter or other law whether general, special, or local, violations of any rules adopted pursuant to this section involving the operation of a motor vehicle may be charged through the use of a traffic complaint prescribed by the supreme court pursuant to ~~23 V.S.A. § 2303~~ 4 V.S.A. § 1105.

(e) The regulations promulgated by the Federal Motor Carrier Safety Administration, United States Department of Transportation contained in parts 40, 350, 360, 365, 372, 381-383, 386-388, 385-388, 390-397, and 399 of Title 49 of the Code of Federal Regulations, revised as of October 1, ~~2002~~ 2008, and any amendment or addition to these regulations may be adopted by the secretary of transportation.

Sec. 12. 23 V.S.A. § 114(a)(21) is amended to read:

(21) Records not otherwise specified ~~4.00~~ 6.00 per page

Sec. 13. 23 V.S.A. §§ 453 and 459 are amended to read:

§ 453. FEES AND NUMBER PLATES

\* \* \*

(g) The commissioner of motor vehicles shall not issue a dealer's certificate of registration to a new or used car dealer, unless the dealer has provided the commissioner with a surety bond, letter of credit, or certificate of deposit issued by an entity authorized to transact business in the same state. The amount of such surety bond, letter of credit, or certificate of deposit shall be between ~~\$5,000.00~~ \$20,000.00 and ~~\$15,000.00~~, \$35,000.00 based on the number of new or used units sold in the previous year; such schedule is to be determined by the commissioner of motor vehicles. In the case of a certificate of deposit, it shall be issued in the name of the dealer and assigned to the commissioner or his or her designee. The bond, letter of credit, or certificate of deposit shall serve as indemnification for any monetary loss suffered by the state or by a purchaser of a motor vehicle by reason of the dealer's failure to remit to the commissioner any fees collected by the dealer under the provisions of chapters 7 and 21 of this title or by a dealer's failure to remit to the commissioner any tax collected by the dealer under chapter 219 of Title 32. This state or the motor vehicle owner who suffers such loss or damage shall have the right to claim against the surety upon the bond or against the letter of credit or certificate of deposit. The bond, letter of credit, or certificate of deposit shall remain in effect for the pending registration year and one year thereafter. The liability of any such surety or claim against the letter of credit or certificate of deposit shall be limited to the amount of the fees or tax collected by the dealer under chapters 7 and 21 of this title or chapter 219 of Title 32 and not remitted to the commissioner.

#### § 459. NOTICE TO COMMISSIONER

(a) Upon issuing a number plate with temporary validation stickers, temporary number plate, or decal to a purchaser for attachment to a motor vehicle, a dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee, deposited with him or her by the purchaser, together with notice of such issue and such other information as the commissioner may require.

(b) If a number plate with temporary validation stickers, temporary registration plate, or decal is not issued by a dealer in connection with the sale or exchange of a motor vehicle, the dealer may accept, from the purchaser, a properly executed registration, tax and title application, and the required fees for transmission to the commissioner. The dealer shall, within ~~three business~~ 15 calendar days, forward to the commissioner the application and fee together with such other information as the commissioner may require.



Sec. 14. 23 V.S.A. § 1129(a) is amended to read:

(a) The operator of a motor vehicle involved in an accident whereby a person is injured or whereby there is total damage to all property to the extent of ~~\$1,000.00~~ \$3,000.00 or more shall make a written report concerning the accident to the commissioner of motor vehicles on forms furnished by the commissioner. The written report shall be mailed to the commissioner within 72 hours after the accident. The commissioner may require further facts concerning the accident to be provided upon forms furnished by him or her.

Sec. 15. 23 V.S.A. § 1222(c) is amended to read:

(c) Notwithstanding the provisions of subsection (a) of this section, an exhibition vehicle of model year 1940 or before, registered as prescribed in section 373 of this title or a trailer registered as prescribed in subdivision 371(a)(1)(A) of this title shall be exempt from inspection; provided, however, the vehicle must be equipped as originally manufactured, must be in good mechanical condition, and must meet the applicable standards of the inspection manual.

Sec. 16. 23 V.S.A. § 2017(b) is amended to read:

(b) The commissioner shall maintain at his or her central office a record of all certificates of title issued by him or her:

~~(1) Under for vehicles 15 years old and newer under~~ a distinctive title number assigned to the vehicle;

~~(2) Under under~~ the identification number of the vehicle;

~~(3) Alphabetically~~ alphabetically, under the name of the owner; and, in the discretion of the commissioner, by any other method he or she determines. ~~The original records may be maintained on microfilm or electronic imaging, and, in the discretion of the commissioner, by any other method he or she determines. The original records may be maintained on microfilm or electronic imaging.~~

Sec. 17. REPEAL

23 V.S.A. § 735 (motorcycle rider training program advisory committee) and chapter 20 of Title 23 (interstate compact for motor vehicle safety equipment) are repealed.

Sec. 18. 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. 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~~ Except as otherwise provided in subsection (d) of this section, no plate is valid for the second and succeeding years unless the sticker is affixed to the rear plate in the manner prescribed by the commissioner.

(d) When a registration is renewed electronically, a receipt shall be available for printing. The receipt shall serve as a temporary registration. To be valid, the temporary registration shall be in the possession of the operator at all times, and it shall expire ten days after the date of the transaction.

Sec. 19. 23 V.S.A. § 1251 is amended to read:

§ 1251. SIRENS AND COLORED SIGNAL LAMPS

~~No~~ A motor vehicle shall not be operated upon a highway of this state equipped with a siren or signal lamp colored other than amber unless a permit authorizing ~~such~~ this equipment, issued by the commissioner of motor vehicles, is carried in the vehicle. A permit may be transferred following the same procedure and subject to the same time limits as set forth in section 321 of this title. The commissioner may adopt additional rules as may be required to govern the acquisition of permits and the use pertaining to sirens and colored signal lamps.

Sec. 20. EFFECTIVE DATES

(a) Sec. 3 (renewal) shall take effect on July 1, 2011.

(b) This section and Sec. 19 (siren and signal lamp permit transfer) shall take effect on passage.

(c) Secs. 1–2 and Secs. 4–18 shall take effect on July 1, 2010.

And that after passage the title of the bill be amended to read:

“An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles and amending miscellaneous motor vehicle laws.”

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mazza, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

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**Third Readings Ordered****H. 774.**

Senator Flanagan, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**H. 775.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to technical changes to the records management authority of the Vermont state archives and records administration.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**H. 788.**

Senator Doyle, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the town of Berlin.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Consideration Postponed**

House bill entitled:

**H. 213.**

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

Was taken up.

Thereupon, Senator Illuzzi moved that the bill be ordered to lie.

Thereupon, pending the question, Shall the bill be ordered to lie?, Senator Illuzzi requested and was granted leave to withdraw his motion.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 578.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to requiring all state law enforcement officers to serve under the direction and control of the commissioner of public safety.

Reported recommending that the Senate propose to the House to amend the bill by adding a new section to be numbered Sec. 2a to read as follows:

Sec. 2a. COMMISSIONER OF PUBLIC SAFETY; REPORT

The commissioner of public safety shall file a report with the house and senate committees on government operations by January 15, 2011. The report shall explain the commissioner's efforts to develop criteria to measure the reduction of redundancies and the increase in communication as set forth in Sec. 1 of this act. The report shall also recommend improvements in the command and coordination of Vermont law enforcement agencies.

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 proposal of amendment was agreed to, and third reading of the bill was ordered on a division of the Senate, Yeas 12, Nays 10.

### **Rules Suspended; Proposals of Amendment; Third Reading Ordered**

#### **H. 790.**

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

An act relating to capital construction and state bonding.

Was taken up for immediate consideration.

Senator Scott, for the Committee on Institutions, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

Sec. 1. STATE BUILDINGS

The following sums are appropriated in total to the department of buildings and general services, and the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the chairs of the senate committee on institutions and the house committee on corrections and institutions are notified before that action is taken. The individual allocations in this section are estimates only.

(1) <u>Statewide, asbestos and lead abatement:</u>	<u>300,000</u>
(2) <u>Statewide, Americans with Disabilities Act (ADA):</u>	<u>100,000</u>
(3) <u>Statewide, building reuse and planning:</u>	<u>125,000</u>
(4) <u>Statewide, contingency:</u>	<u>500,000</u>
(5) <u>Statewide elevator repairs and upgrades:</u>	<u>350,000</u>
(6) <u>Statewide, major maintenance:</u>	<u>8,003,826</u>
(7) <u>Statewide, major maintenance, VT information centers:</u>	<u>100,000</u>
(8) <u>Statewide: BGS engineering and architectural project costs:</u>	<u>2,465,785</u>
(9) <u>Statewide physical security enhancements:</u>	<u>100,000</u>
(10) <u>Montpelier, 116 State St., restore building envelope:</u>	<u>750,000</u>
(11) <u>Montpelier, 133 State St., infrastructure repair:</u>	<u>1,250,000</u>
(12) <u>Montpelier, 120 State St., replace heating system</u>	<u>750,000</u>
(13) <u>Waterbury, steamline extension:</u>	<u>700,000</u>
(14) <u>Waterbury, state office complex fire alarm panels and door holders:</u>	<u>250,000</u>
(15) <u>Springfield, state office building, HVAC upgrade:</u>	<u>500,000</u>
(16) <u>Bennington, courthouse and state office building:</u>	<u>6,958,340</u>
(17) <u>Burlington, 32 Cherry St., HVAC upgrades:</u>	<u>500,000</u>
(18) <u>Burlington, 108 Cherry St., HVAC upgrades. The commissioner may reallocate funds between this subdivision and subdivision (17) of this section as the commissioner finds to be in the best interests of the state:</u>	<u>500,000</u>

(19) Bennington, state office building, geothermal energy project: 2,000,000

(20) Montpelier, rehabilitation of 128 State Street for the secretary of state: 250,000

(21) Montpelier, state house, renovations to restore room 41 for a house committee room and to return the Ethan Allen room for use as a conference room for general use. Any remaining funds shall be used to renovate room 33: 25,000

Total Appropriation – Section 1 \$26,477,951

## Sec. 2. ADMINISTRATION

(a) The sum of \$100,000 is appropriated to the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping.

(b) The sum of \$5,000,000 is appropriated to the Vermont telecommunications authority (VTA) to build infrastructure to meet the cellular and broadband needs of unserved Vermonters. To the extent possible, the VTA shall use the funds to leverage drawdown of ARRA funds and to build infrastructure that can be used as a revenue stream to enable use of up to \$40,000,000 in moral obligation bonding allocated to the VTA.

Total Appropriation – Section 2 \$5,100,000

## Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in total to the department of buildings and general services for the agency of human services for the projects described in this section.

(1) Health laboratory design. Site acquisition, permitting, and construction documents for co-location of department of health laboratory with the UVM Colchester research facility: 4,700,000

(2) Vermont state hospital, ongoing safety renovations: 100,000

(3) Corrections, continuation of suicide abatement project: 100,000

(4) Corrections, security upgrades: 200,000

(5) Corrections, grease trap for the Chittenden regional correctional facility: 335,000

(b) The sum of \$10,000 is appropriated to the department of corrections for the study conducted pursuant to Sec. 31 of this act.

Total Appropriation – Section 3 \$5,445,000

Sec. 4. JUDICIARY

The sum of \$750,000 is appropriated to the department of buildings and general services to design and replace the electric boiler and upgrade to a solar energy or biomass system in the Barre district court and office building.

Total Appropriation – Section 4 \$750,000

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in total to the department of buildings and general services for the agency of commerce and community development for the following projects:

(1) Major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 250,000

(2) Plymouth Visitors’ Center, exhibits and furnishings: 250,000

(b) The following sums are appropriated in total to the agency of commerce and community development for the following projects:

(1) Underwater preserves: 50,000

(2) Placement and replacement of roadside historic site markers: 15,000

Total Appropriation – Section 5 \$565,000

Sec. 6. BUILDING COMMUNITIES GRANTS

The following sums are appropriated for building communities grants established in chapter 137 of Title 24:

(1) To the agency of commerce and community development, division for historic preservation, for the historic preservation grant program: 180,000

(2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program: 180,000

(3) To the Vermont council on the arts for the cultural facilities grant program: 180,000

(4) To the department of buildings and general services for the recreational facilities grant program: 180,000

(5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 180,000

(6) For the agricultural fairs capital projects competitive grant program. No single entity shall be awarded more than ten percent of this appropriation: 180,000

Total Appropriation – Section 6 \$1,080,000

#### Sec. 7. EDUCATION

The following is appropriated in total to the department of education for:

(1) State aid for emergency school construction projects pursuant to 16 V.S.A. § 3448(a)(3)(A): 600,000

(2) Emergency shelters in schools: 44,889

(3) The Burlington International airport to continue the process of planning and designing a new aviation technical training center: 150,000

(4) Alternate energy projects pursuant to 16 V.S.A. § 3448(a)(7)(B) which were prioritized for funding by the state board of education for fiscal year 2011. Each project shall receive an equal percentage of the amount owed by the state: 1,157,676

(5) Remaining state aid for school construction projects pursuant to 16 V.S.A. § 3448 which were prioritized for funding by the state board of education for fiscal year 2011, excluding asset renewal projects. Each project shall receive an equal percentage of the amount owed by the state: 5,197,435

Total Appropriation – Section 7 \$7,150,000

#### Sec. 8. AUSTINE SCHOOL

The sum of \$540,104 is appropriated to the department of buildings and general services for the renovation of Holton Hall at the Austine School.

Total Appropriation – Section 8 \$540,104

#### Sec. 9. UNIVERSITY OF VERMONT

The sum of \$2,000,000 is appropriated to the University of Vermont for construction, renovation, and maintenance.

Total Appropriation – Section 9 \$2,000,000

#### Sec. 10. VERMONT STATE COLLEGES

The sum of \$2,000,000 is appropriated to the Vermont State Colleges for major facility maintenance.



Total Appropriation – Section 10 \$2,000,000

Sec. 11. VERMONT INTERACTIVE TELEVISION

The sum of \$290,085 is appropriated to Vermont Interactive Television to purchase equipment, including video upgrades and monitor replacement.

Total Appropriation – Section 11 \$290,085

Sec. 12. NATURAL RESOURCES

(a) The following is appropriated in total to the agency of natural resources for water pollution control projects:

(1) For grants to municipalities pursuant to chapter 55 of Title 10 (aid to municipalities for water supply, pollution abatement, and sewer separations) and chapter 120 of Title 24 (special environmental revolving fund), the Springfield loan conversion, and administrative support under chapter 120 of Title 24. Of this amount and the amount in subdivision (2) of this subsection, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,375,400

(2) For combined sewer overflow projects receiving ARRA funding:

- (A) Burlington, Gazo Avenue: 100,000
- (B) Burlington, Manhattan Drive: 200,000
- (C) Middlebury, pump station work: 450,000
- (D) Montpelier, several areas of the city: 138,500
- (E) Proctor sewer system rehabilitation: 32,500
- (F) Springfield, several areas: 374,000

(3) Interest on short-term borrowing associated with delayed grant funding for the Pownal project: 85,000

(b) The following sum is appropriated to the agency of natural resources for the drinking water state revolving fund. Of this amount, up to \$50,000 may be used to provide municipalities with grants or loans for a study of the feasibility and planning of site-appropriate potable water supply and wastewater systems, including innovative decentralized systems, for historic village and existing settled areas. Systems shall be designed to comply with the adopted municipal plan. The agency of natural resources shall have the discretion to determine eligibility for and amounts of funds provided to municipalities for feasibility studies and planning, and shall report to the senate committees on institutions and on natural resources and energy, and the house committees on corrections and institutions and on fish, wildlife and water resources on or before January 15, 2011, regarding how the municipal grant program is working, the demand for the grants, what projects were funded, and anticipated future construction costs of those projects: 2,175,660

(c) The following sum is appropriated to the agency of natural resources for the clean and clear program for ecosystem restoration and protection. The agency shall use at least \$250,000 of this appropriation to work with the Vermont youth conservation corps on appropriate ecosystem restoration and protection projects: 1,700,000

(d) The following sum is appropriated to the agency of natural resources for the state's year-three share of the federal match to conduct a three-year study of flood-control measures in the city of Montpelier. However, the state shall not enter into any commitment to pay for construction of flood control improvements without legislative approval: 177,000

(e) The following sums are appropriated to the agency of natural resources for the department of forests, parks and recreation:

(1) rehabilitation of small and large infrastructure in the state forests and parks, including wastewater repairs, upgrades of restrooms and bathhouses, rehabilitation of CCC structures, and road restoration: 2,500,000

(2) energy conservation and alternative energy projects at Vermont state parks: 1,000,000

(f) The following sums are appropriated to the agency of natural resources for department of fish and wildlife projects described in this subsection:

(1) to match federal funding for a lamprey control project: 157,500

(2) Safety improvements at the Salisbury, Bennington, and Bald Hill fish hatcheries: 78,300

(3) Bald Hill fish hatchery, fish production improvements: 120,000

(4) Bald Hill emergency dam repair: 70,000

(5) For the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure. The association shall enter into an agreement with any private landowner whose pond is upgraded, maintained, or built in whole or in part using state funds. The agreement shall provide for a lease of at least 10 years, with the option for renewal, and for mutually agreeable maintenance, repair, and use of the pond. In addition, the Walleye Association shall report in January 2011 to the house committee on corrections and institutions and the senate committee on institutions on use of the funds appropriated in this subdivision: 25,000

(6) For improvement and expansion of existing fishing accesses: 250,000

Total Appropriation – Section 12 \$12,008,860

#### Sec. 13. MILITARY

The sum of \$850,000 is appropriated to the department of the military for maintenance and renovation at state armories. To the extent feasible, these funds shall be used to draw down federal funds.

Total Appropriation – Section 13 \$850,000

#### Sec. 14. PUBLIC SAFETY

The following is appropriated in total to the department of buildings and general services for the department of public safety for:

(1) Renovations to the public safety headquarters building in Waterbury: 3,215,000

(2) Purchase of equipment for the fire service training center in Pittsford: 100,000

(3) Conversion to narrowband frequencies for SOV two-way radio systems: 45,000

Total Appropriation – Section 14 \$3,360,000

#### Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL

The sum of \$1,000,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to complete improvements and repairs to the firing range in Pittsford.

Total Appropriation – Section 15 \$1,000,000

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 Sec. 16. AGRICULTURE, FOOD AND MARKETS

The following is appropriated in total to the agency of agriculture, food and markets for the purposes described in this section:

(1) For the best management practice implementation cost share program, to continue to reduce nonpoint source pollution in Vermont. For projects paid from this appropriation, cost share funds may be increased to 90 percent of a project: 1,500,000

(2) For the agricultural buffer program, to install water quality conservation buffers: 175,000

Total Appropriation – Section 16 \$1,675,000

## Sec. 17. VERMONT PUBLIC TELEVISION

The sum of \$500,000 is appropriated to Vermont Public Television for the state match for the federally mandated conversion of Vermont Public Television’s transmission sites to digital broadcasting format.

Total Appropriation – Section 17 \$500,000

## Sec. 18. VERMONT RURAL FIRE PROTECTION

The sum of \$100,000 is appropriated to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

Total Appropriation – Section 18 \$100,000

## Sec. 19. VERMONT VETERANS’ HOME

The following sums are appropriated in total to the department of buildings and general services for the Vermont Veterans’ Home for the purposes described in this section:

(1) Relocate and replace the transformer: 150,000

(2) Replace gas lines: 170,000

Total Appropriation – Section 19 \$320,000

## Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

The sum of \$50,000 is appropriated to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic violence shelters. Annually, on or before December 1, the Vermont Center for Crime Victim Services shall file with the commissioner of buildings and general services a report which details the status of the improvements funded in whole or in part by state capital appropriations.

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Total Appropriation – Section 20

\$50,000

Sec. 21. VERMONT HISTORICAL SOCIETY

The sum of \$150,000 is appropriated to the department of buildings and general services for a one-to-one matching grant to the Vermont historical society to reduce debt at the Vermont history center in Barre. The department may release the funds to the historical society upon receiving certification that the funds have been matched.

Total Appropriation – Section 21

\$150,000

Sec. 22. HOUSING AND CONSERVATION BOARD

The amount of \$5,000,000 is appropriated to the Vermont housing and conservation board (VHCB) for building and preservation of affordable housing, and for conservation projects. The board shall:

(1) give priority consideration to affordable housing preservation and infill projects in or near downtowns or village centers as well as consider applications to build or renovate housing for elders, supportive housing for persons with disabilities, including chronic mental illness, and individuals and families who might otherwise be homeless;

(2) allocate up to 20 percent of this appropriation for conservation grant awards that will maximize drawdown of federal and private matching funds, particularly federal farmland protection funds allocated to Vermont by the Natural Resources Conservation Service. If less than \$4,000,000 of the state's private activity bond cap is made available to the VHCB for eligible affordable housing investments, VHCB may increase the amount it allocates to conservation grant awards from its capital appropriation, notwithstanding the percentage provided for in this section, provided that VHCB increases its affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2011 Appropriations Act;

(3) allocate \$100,000 of this appropriation for the construction of single room occupancy (SRO) housing for at-risk youth. The board shall give priority to SRO housing that requires as a condition of residency participation in educational, life-skills, and job training and programming and for which rental subsidies will support ongoing operational costs;

(4) leverage federal and private funds to the maximum extent feasible;  
and

(5) on or before January 15, 2011, report to the senate committee on institutions and the house committee on corrections and institutions on how the funds appropriated in this section were spent or obligated.

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Total Appropriation – Section 22 \$5,000,000

\* \* \* Financing this Act \* \* \*

Sec. 23. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

The following sums are reallocated to the department of buildings and general services to defray expenditures authorized in Sec. 1 of this act:

(1) of proceeds from sale of space in the Emory A. Hebard State Office Building in Newport pursuant to Sec. 37 of No. 62 of the Acts of 1997: 53,478.68

(2) of the amount realized from the sale of land on Swift Street in Burlington pursuant to Sec. 27 of No. 43 of the Acts of 2005: 30,000.00

(3) of the amount appropriated by Sec. 5(a)(1) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Lamoille County courthouse): 61,508.11

(4) of the amount appropriated by Sec. 5(d) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Grand Isle County courthouse): 8,476.40

(5) of the amount realized from a nonrefundable deposit for purchase of land pursuant to Sec. 25(2) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (Comfort Hill Road, Vergennes): 3,010.00

(6) of the amount appropriated for dam inspection and repair at the Southeast State Correctional Facility in Windsor pursuant to Sec. 4(4) of No. 52 of the Acts of 2007: 68,868.00

(7) of the amount appropriated by Sec. 4(6) of No. 52 of the Acts of 2007 for security at the Chittenden Regional Correctional Facility: 422.49

(8) of the amount appropriated by Sec. 8(2) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for a sludge storage facility in Bradford: 42,521.92

(9) of the amount appropriated by Sec. 11(e)(3) of No. 256 of the Acts of the 1991 Adj. Sess. (1992) for grants and loans for solid waste management facilities: 2,704.23

(10) of the amount appropriated by Sec. 19(d)(1) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for landfill closings: 2,000.00

(11) of the amount appropriated by Sec. 13(b)(4)(B) of No. 62 of the Acts of 1995 for assistance to municipalities for recycling: 25,143.58

(12) of the amount appropriated by Sec. 19(d)(3) of No. 233 of the Acts of the 1993 Adj. Sess. (1994) for municipal grants and loans for solid waste management facilities: 23,424.00

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- (13) of the amount appropriated by Sec. 10(b)(3) of No. 185 of the Acts of the 1995 Adj. Sess. (1996) for municipal assistance for solid waste management facilities: 9,120.46
- (14) of the amount appropriated by Sec. 10(k) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) to purchase mechanical harvesting equipment: 2,479.03
- (15) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for a forest plan for the Green Mountain National Forest: 11,921.57
- (16) of the amount appropriated by Sec. 10(o) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for an engineering study of the state dock in St. Albans: 7,373.00
- (17) of the amount appropriated by Sec. 3(3) of No. 43 of the Acts of 2009 for consideration of how to replace acute intensive psychiatric inpatient services provided at the current Vermont state hospital with services to be provided at the Rutland Regional Medical Center: 250,000.00
- (18) of the amount appropriated by Sec. 10(d) of No. 121 of the Acts of the 2003 Adj. Sess. (2004) for forestry planning: 11,922.00
- (19) of the amount appropriated by Sec. 12(f)(4) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for the Salisbury fish station generator: 13,119.00
- (20) of the amount appropriated by Sec. 9 of No. 29 of the Acts of 1999 for the Vermont historical society: 29,116.00
- (21) of the amount appropriated by Sec. 3(c)(1) of No. 43 of the Acts of 2005 for a dormitory-style work camp: 41,163.00
- (22) of the amount appropriated by Sec. 9(a)(1) of No. 43 of the Acts of 2009 for water pollution control: 88,879.00
- (23) of the amount appropriated by Sec. 12 (a)(1) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) for water pollution control: 431,538.00
- (24) of the amount appropriated by Sec 4(f) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) for heating and ventilation system for the Northern State Correctional Facility: 6,196.00
- (25) of the amount appropriated by Sec. 10(o) No. 121 of the Acts of the 2003 Adj. Sess. (2004) for the St. Albans engineering study: 7,373.00
- (26) of the amount appropriated by Sec. 23 of No. 148 of the Acts of the 1999 Adj. Sess. (2000) for non-point pollution reduction: 25,947.37

(27) of the amount appropriated by Sec. 5 of No.61 of the Acts of 2001 for non-point source pollution reduction: 87,558.69

(28) of the amount appropriated by Sec. 13 of No. 149 of the Acts of the 2001 Adj. Sess. (2002) for non-point pollution reduction: 13,313.08

(29) of the amount appropriated by Sec.14(a) of No. 63 of the Acts of 2003 for non-point source pollution reduction: 57,885.15

(30) of the amount appropriated by Sec.15 of No.121 of the Acts of the 2003 Adj. Sess. (2004) for non-point source pollution reduction: 170,537.39

Total Reallocations and Transfers – Section 23 \$1,587,000.15

#### Sec. 24. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The state treasurer is authorized to issue general obligation bonds in the amount of \$71,825,000 for the purpose of funding the appropriations of this act. The state treasurer, with the approval of the governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The state treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The sum of \$2,000,000 is transferred from the Vermont clean energy development fund established in 10 V.S.A. § 6523 to the department of buildings and general services for the purpose of funding statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

(c) The sum of \$1,000,000 is transferred from the Vermont clean energy development fund established in 10 V.S.A. § 6523 to the agency of natural resources for the purpose of energy conservation and alternative energy projects at state parks pursuant to Sec. 11(e)(2) of this act.

Total Revenues – Section 24 \$74,825,000

\* \* \* Buildings and General Services \* \* \*

#### Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) Pursuant to 29 V.S.A. § 152(3), the commissioner of buildings and general services is authorized to purchase the land and existing building located at 245 South Park Drive in Colchester.

(b) Notwithstanding 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to sell the land purchased under subsection (a) of this section to the University of Vermont for one dollar, and to enter into a ground lease with the University of Vermont for one dollar for the purpose of



locating the state health laboratory for a minimum of 50 years with an automatic renewal provision. With the advice and consent of the chairs and vice chairs of the house committee on corrections and institutions and the senate committee on institutions, the commissioner shall negotiate the ground lease so that the state will receive services and benefits from the university which will ensure that the land exchange is fair to both parties.

(c) Notwithstanding 29 V.S.A. §§ 166(b) and 165(h), after consultation with the chairs and vice chairs of the senate committee on institutions and the house committee on corrections and institutions, the commissioner of buildings and general services is authorized to sell or enter into a lease purchase agreement at less than fair market value for building #617 in Essex.

(d) Notwithstanding 29 V.S.A. §§ 165 and 166, the commissioner of buildings and general services is authorized to sell to the city of Rutland the former armory building at 62 Pierpoint Avenue in Rutland at the 2010 appraised value. The sale may be a lease purchase agreement that would enable the city to lease the building for up to ten years and that would grant the city the right to purchase the property any time during the ten-year lease for fair market value with all lease payments and improvements to the property, at depreciated value, made by the city to the state being deducted from the purchase price. The lease-to-own agreement shall include a provision that the city shall pay all expenses, including major maintenance. If the commissioner is unable to negotiate a mutually acceptable agreement with the city of Rutland, the commissioner is authorized to sell the building pursuant to 29 V.S.A. § 166. Proceeds of the lease purchase under this subsection shall be paid into a capital fund account pursuant to 29 V.S.A. § 166(d).

(e) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans.

## Sec. 26. USE AND DEVELOPMENT OF STATE FACILITIES AND LANDS

(a) The commissioner of buildings and general services shall work with the town of Windsor to develop a plan for use of state lands adjacent to the southeast state correctional facility in Windsor, and shall consult with the commissioner of forests parks and recreation, and the commissioner of corrections as they develop the plan. The plan shall describe a mixed use of the area which will result in benefits to the town of Windsor, the region, and the state on a sustainable basis. Proposed uses shall be based on the natural

attributes of the area so that for example, agricultural uses may be proposed in sections of prime agricultural soils, forestry uses may be proposed in areas suitable for sustainable tree growth, and housing may be proposed to be clustered near recreational uses. On or before January 15, 2011, the commissioner of buildings and general services and the town of Windsor shall jointly present the plan to the senate committee on institutions and the house committee on corrections and institutions.

(b) The commissioner of buildings and general services shall work with the city of Montpelier to determine whether the state's steam plant could generate electricity and provide heat and water to both state buildings and a portion of the city. If needed, the commissioner is authorized to sign a letter of intent which would support the city of Montpelier's commencement of necessary environmental reviews, if appropriate. However, any letter of intent shall be approved by the chairs of the senate committee on institutions and the house committee on corrections and institutions prior to signature, and no lease transfer or construction shall take place without the authorization of the general assembly.

(c) It is the intent of the general assembly that, as appropriate and feasible, all programs and services of the secretary of state shall be consolidated within the capital complex.

(d) The commissioner of buildings and general services may use up to \$400,000 of unexpended FY10 funds allocated for major maintenance and \$200,000 of funds allocated for major maintenance in FY11 for:

(1) repair of the generator and switchgear of the cogeneration system at the state correctional facility in Springfield; and

(2) up to \$ 200,000 for improvements and upgrades to the municipal water system serving the Springfield correctional facility, provided that the town of Springfield contributes an equal amount of funds for the upgrades and provided that the town of Springfield agrees to accept ownership of the system in accordance with provision #9 of the correctional facility agreement executed between the state and the town on March 30, 1999. However, funds shall be expended under this subdivision only for the remainder of the project after the town has received federal funds for upgrade of the water system.

(e) Notwithstanding 29 V.S.A. § 166, the secretary of the agency of commerce and community development is authorized to enter into a lease with the Calvin Coolidge Memorial Foundation for a portion of the Calvin Coolidge state historic site in Plymouth Notch for use as an educational center for a term of years he or she deems to be in the best interests of the state.

Sec. 27. Sec. 1(8) and (11) of No. 43 of the Acts of 2009 are amended to read:

(8) BGS engineering and architectural project costs. It is the intent of the general assembly that labor and operating costs, such as engineering and architectural costs, shall not be paid for from bonded funds in the future:

	<del>1,950,000</del>	<u>2,408,340</u>
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(11) Bennington, 200 Veterans Drive. Demolish and design the rebuilding of the older section of the state office building, ~~excluding and a portion of the courthouse space; renovate the newer section of the building to house programs and services previously located in the building to address water infiltration and indoor air quality issues, consolidate all courthouse functions in an expanded building, enhance energy opportunities, and allow geothermal equipment to be installed under the new space;~~ and build four holding cells, a sally port, and two additional courtrooms without jury facilities for a total of four courtrooms:

	<del>8,000,000</del>	<u>7,541,660</u>
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Sec. 28. 3 V.S.A. § 2291(e) amended to read:

(e) The commissioner of buildings and general services shall develop life cycle cost guidelines for use in all state buildings. These guidelines shall require all new construction and major renovations to meet or exceed the ~~document titled “The Vermont Guidelines for Energy Efficient Commercial Construction” as published in its most recent edition by the department of public service as that document may be amended~~ current “Vermont Commercial Building Energy Standards.” Where practicable the goal shall be attaining an EPA ENERGY STAR® rating of at least seventy-five.

\* \* \* Building Communities Grants \* \* \*

Sec. 29. 24 V.S.A. § 5603 is amended to read:

§ 5603. HISTORIC BARNS PRESERVATION GRANT PROGRAM

There is established an historic barns preservation grant program which shall be administered by the division for historic preservation in the agency of commerce and community development. Grants shall be made available to ~~municipalities and nonprofit tax exempt organizations~~ barn owners on a one-for-one matching basis for restoring historic barns.

\* \* \* Commerce and Community Development \* \* \*

Sec. 30. 23 V.S.A. § 3311(d) is amended to read:

(d) Underwater historic preserve area. A vessel shall not be operated in an “underwater historic preserve area” except as provided in this subsection. These areas are historic and archaeological sites located on the bottomlands of

the waters of the state and are designated as public recreational areas. The division for historic preservation may designate underwater historic preserve areas and they shall be identified by a floating special purpose yellow buoy marked "State of Vermont Underwater Historic Preserve." The following requirements shall govern the operation of vessels at the preserves:

(1) a vessel may secure to a yellow buoy only when diving or remotely operated vehicle diving at the preserve. In this subsection, "remotely operated vehicle diving" means using an unstaffed underwater robot to view a preserve site;

(2) ~~only~~ vessels 35 feet in length or less, ~~and only those engaged in diving,~~ may secure to a buoy;

(3) vessels 50 feet in length or less and piloted by a U.S. Coast Guard-licensed captain may secure to a buoy for the purpose of remotely operated vehicle diving;

(4) a divers-down flag shall be displayed whenever a vessel is secured to a buoy;

~~(4)~~(5) on sites with multiple buoys, one vessel may be secured to each buoy;

~~(5)~~(6) when a vessel is secured to the buoy, all other vessels shall remain at least 200 feet from the buoy; and

~~(6)~~(7) anchoring is not permitted within 200 feet of the buoy.

Sec. 31. 10 V.S.A. § 6654(f) is amended to read:

(f) The Vermont economic development authority, VEDA, is authorized to make loans on behalf of the state pursuant to this section. Annually, the secretary of commerce and community development with the approval of the secretary of natural resources in consultation with the VEDA manager shall determine an amount from the brownfield revitalization program that will be available to VEDA for loans. Proceeds from repayment of loans shall be deposited in the brownfield revitalization fund and shall be available for future grants and loans under this section. Loans under this subsection shall be issued and administered by VEDA, provided:

\* \* \*

(2) A loan to an applicant for characterization or assessment may not exceed \$250,000.00 ~~and may be used for characterization, assessment, or remediation.~~ Remediation loans shall not be capped. All loans shall be subject to all the following conditions:

\* \* \*

\* \* \* Vermont Telecommunications Authority \* \* \*

Sec. 32. VERMONT TELECOMMUNICATIONS AUTHORITY; USE OF PRIVATE ACTIVITY BONDING AUTHORITY; REPORT

On or before January 15, 2011, the executive director of the Vermont telecommunications authority shall report to the senate committee on institutions, the senate committee on finance, and the house committee on corrections and institutions on revenues realized from infrastructure built with general obligation bond funds, private activity bonds issued pursuant to 30 V.S.A. § 8064, revenues realized from infrastructure built with private activity bonds, and what is needed to maximize use of the authority's private activity bonding authority.

\* \* \* Natural Resources \* \* \*

Sec. 33. 10 V.S.A. § 1974(4), (5), and (6) are added to read:

(4) The installation or use of a water treatment system for a potable water supply where the treatment system is designed to:

(A) reduce or eliminate water hardness;

(B) reduce or eliminate properties or constituents on the list of secondary standards in the Vermont water supply rules;

(C) reduce or eliminate radon, lead, arsenic, or a combination of these; or

(D) eliminate bacteria or pathogenic organisms, provided that the treatment system treats all of the water used for drinking, washing, bathing, the preparation of food, and laundering.

(5) The installation or use of a water treatment device, provided that the installation or use is overseen by the secretary as a part of a response action due to contamination or the threat of contamination of a potable water supply by a release or threat of release of a hazardous material or any other source of contamination.

(6) The increase in flow to an existing wastewater system as a result of the use of an exempt water treatment system under subdivisions (4) and (5) of this section.

Sec. 34. CLEAN WATER STATE REVOLVING FUND; INTENDED USE PLAN; AMENDMENTS

(a) The agency of natural resources has written and submitted a clean water intended use plan for submission to the U.S. Environmental Protection Agency (EPA) as part of its annual application for a Clean Water Capitalization Grant. Upon acceptance by the EPA, Vermont expects to be awarded \$12,905,000 which it will distribute through the clean water state revolving fund. The intended use plan describes how these funds will be distributed to municipal projects.

(b) If any of the municipalities allocated a share of the federal funds in the intended use plan are unable to use the funds due to unanticipated delays, or is eligible for other funds which could be used for the project instead of the federal funds, the agency is hereby directed to submit a plan amendment which will enable it to reallocate those funds to a project on the priority list which will cost more than \$4 million, does not readily qualify for other sources of funding, serves over 2,500 users, is in the economic growth center of the region, and will result in jobs and economic growth.

Sec. 35. POLLUTION CONTROL REVOLVING LOAN FUND; DRINKING WATER REVOLVING FUND; LOAN FORGIVENESS

(a) Upon awarding a loan from the Vermont environmental protection agency pollution control revolving fund or the Vermont environmental protection agency drinking water state revolving fund, the secretary of the agency of natural resources may forgive up to 50 percent of the loan if the award is made from funds appropriated from the Federal Fiscal Year 2010 Clean Water State Revolving Fund or Drinking Water State Revolving Fund Grants (FFY2010 CWSRF and FFY2010 DWSRF).

(b) Notwithstanding 10 V.S.A. § 1624a(b), the assistance provided by a loan from the Vermont environmental protection agency pollution control revolving fund made from FFY2010 CWSRF funds may be for up to 100 percent of the eligible project cost.

(c) The secretary shall establish standards, policies, and procedures as necessary for implementing the provisions of this section, for allocating the funds among projects, and for revising standard priority lists in order to comply with requirements associated with the federal FY2010 CWSRF and DWSRF capitalization grants.

Sec. 36. Sec. 8(a)(3) of No. 149 of the Acts of the 2001 Adj. Sess. (2002) is amended to read:

(3) Dams, maintenance and reconstruction; provided \$35,000 of this appropriation shall be made to supplement the \$55,000 federal Land and Water Conservation Fund grant for Harvey's Lake dam to replace the existing dam with an electronically-controlled rubber bladder dam; and provided ~~\$30,000~~ \$58,591 of this appropriation shall be made to enable engineering and design of repairs to abate the imminent hazard posed by the Curtis Pond dam in Calais, with the further provision that the state shall not be liable for any claims that may arise from the work performed at that dam: 300,000

\* \* \* Vermont State Hospital \* \* \*

Sec. 37. VERMONT STATE HOSPITAL; REPLACEMENT

(a) The department of mental health is directed to continue to develop plans for the replacement of state hospital functions consistent with state public policy and the terms of the conceptual certificate of need, including acute specialized and intensive care inpatient hospital beds and any other incomplete elements of the plan.

(b) The department of mental health shall proceed with further inpatient Phase II certificate of need applications only if the general assembly has identified an acceptable financing plan.

(c) The commissioner of buildings and general services and the commissioner of mental health shall continue to plan, design, and work to obtain permits for a secure residential recovery facility in Waterbury. Notwithstanding Sec. 31(b) of No. 43 of the Acts of 2009, simultaneous with the certificate of need process and prior to applying for a local permit for a new appropriately designed 15-bed secure residential program and facility in Waterbury, the commissioners shall further review all potential building sites within the Waterbury complex and shall consult with the Waterbury village and town officials, and report on the final site to the chairs and vice chairs of the senate committee on institutions and house committee on corrections and institutions on or before July 1, 2010. The facility design shall incorporate the components necessary for the facility to function as a freestanding program that does not rely on support space currently serving patient needs in the existing Vermont state hospital.

(d) The commissioner of mental health shall plan for the replacement of Vermont state hospital inpatient beds in consultation with the following: Brattleboro Retreat, Rutland Regional Medical Center, and Dartmouth Medical School. The commissioner of buildings and general services shall engage in

the design of the required space. The commissioner of mental health shall make funds necessary for this work available from funds allocated in the past for planning and replacement of beds at a secure residential facility.

Sec. 38. Sec. 31(d) of No. 43 of the Acts of 2009 is amended to read:

(d) DAIL shall amend by rule pursuant to chapter 25 of Title 3 the licensing requirements for ~~therapeutic community residences~~ residential care homes to provide for the operation of secure residential recovery programs.

\* \* \* Education \* \* \*

Sec. 39. 16 V.S.A. § 3448(a)(7)(C) is amended to read:

(C) The amount of an award shall be 50 percent of the approved cost of a project or applicable portion of a project which results in consolidation of two or more school buildings and which will serve the educational needs of students in a more cost-effective and educationally appropriate manner as compared to individual projects constructed separately. A decision of the commissioner as to eligibility for aid under this subdivision (C) shall be final. This subdivision (C) shall apply only to a project which has received preliminary approval by June 30, ~~2010~~ 2011.

Sec. 40. DEPARTMENT OF PUBLIC SAFETY;  
SHAFTSBURY/RUTLAND FEASIBILITY STUDY

The department of public safety shall explore opportunities for siting a consolidated police barracks in the Shaftsbury/Rutland area.

Sec. 41. REPEALS

The following are repealed:

(1) 32 V.S.A. § 309(d), relating to emergency operation centers.

(2) Sec. 13(b)(2)(B) of No. 148 of the Acts of the 1997 Adj. Sess. (1998), relating to deed covenants on land which may be conveyed by the state of Vermont to Rutland.

Sec. 42. EFFECTIVE DATE

This act shall take effect on passage.

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

Senator Illuzzi, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the of the Committee on Institutions with the following amendments thereto:



First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. ADMINISTRATION; VERMONT TELECOMMUNICATIONS AUTHORITY; VERMONT CENTER FOR GEOGRAPHIC INFORMATION

(a) The sum of \$100,000 is appropriated to the department of taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping.

(b) The sum of \$5,000,000 is appropriated to the Vermont telecommunications authority (VTA) to build infrastructure to meet the cellular and broadband needs of unserved Vermonters. To the extent possible, the VTA shall use the funds to leverage drawdown of ARRA funds and to build infrastructure that can be used as a revenue stream to enable use of up to \$40,000,000 in moral obligation bonding allocated to the VTA. These funds shall be spent in accordance with the provisions of Sec. 4 and Sec. 11 of No. 78 of the Acts of the 2009 Adj. Sess. (2010).

Total Appropriation – Section 2

\$5,100,000

Second: In Sec. 25(b) and (c), by striking out the subsections in their entirety and inserting in lieu thereof:

(b) Notwithstanding 10 V.S.A. § 6524, \$2,000,000 of the American Recovery and Reinvestment funds described in 10 V.S.A. § 6523(h) shall be under the authority of the commissioner of buildings and general services and shall be for statewide energy efficiencies and renewable projects pursuant to Sec. 1(19) of this act.

(c) Notwithstanding 10 V.S.A. § 6524, \$1,000,000 of the American Recovery and Reinvestment funds described in 10 V.S.A. § 6523(h) shall be under the authority of the secretary of natural resources and shall be for energy conservation and alternative energy projects at state parks pursuant to Sec. 12(e)(2) of this act.

Third: In Sec. 37(d), in the third sentence, by striking out the following: “commissioner of mental health” and inserting in lieu thereof the following: commissioner of buildings and general services

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

**Senator Shumlin Assumes the Chair**

**Senator Illuzzi Assumes the Chair**

**Senator Shumlin Assumes the Chair**

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Institutions was agreed to.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Institutions be amended as recommended by the Committee on Appropriations?, was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Institutions, as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi moved to amend the Senate proposal of amendment, as amended, by adding a new section to be numbered Sec. 41 to read as follows;

**Sec. 41. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT**

(a) Pursuant to the provisions of 5 V.S.A. § 204(3), the secretary of transportation is authorized to sell or lease the John H. Boylan state airport to the town of Brighton or to the Vermont Renewable Energy Company, LLC, d/b/a Vermont Biomass Energy (or its assignee) at fair market value.

(b) The state shall retain an ownership interest in the area which may be used as a helipad on the property that is accessible for authorized uses.

(c) The property shall be conveyed subject to a condition that the property will revert to the state of Vermont on terms and conditions negotiated by the parties.

(d) Any purchaser or lessor shall agree to accept assignment of the state of Vermont's interest in current leases on the property.

(e) In the event that the town of Brighton or Vermont Biomass Energy (or its assignee) does not purchase or lease the entire parcel, the secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

(f) Proceeds from the state of Vermont's sales or leases authorized by this section shall be deposited into the transportation fund, except for up to \$5,000.00 which may be used by the agency of transportation to create a memorial park at a location mutually agreed upon by the town of Brighton and by the agency to commemorate the contributions to the state of Vermont of the late Senator John H. Boylan and the late Essex District Probate Court Judge Lena Boylan.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Hartwell and Sears moved to amend the Senate proposal of amendment, as amended, by striking out Sec. 40 in its entirety and by renumbering the remaining sections to be numerically correct.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**Proposal of Amendment Amended; Bill Passed in Concurrence with  
Proposal of Amendment**

**H. 784.**

House bill entitled:

An act relating to the state's transportation program.

Was taken up.

Thereupon, pending third reading of the bill, Senator Campbell, on behalf of the Committee on Judiciary, moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. 39 in its entirety and inserting a new Sec. 39 to read as follows:

Sec. 39. AUTHORITY OF LAW ENFORCEMENT AND RESCUE PERSONNEL TO ENGAGE IN NEGLIGENT OR RECKLESS CONDUCT IN EMERGENCY AND NON-EMERGENCY SITUATIONS; STUDY

The commissioner of public safety, a designee of the Professional Firefighters of Vermont, the Vermont Bar Association, the Vermont Fire Chiefs Association, the Vermont Troopers Association and the Vermont Association for Justice shall study the need to revisit the standard of care required under § 1015(c) of Title 23, and whether the provisions of § 1015(c) of Title 23 should be extended to on-duty officers in non-emergency situations. The Committee shall report its findings and recommendations to the Senate and House committees on Judiciary on or before April 1, 2011.

Second: By striking out Sec. 40 in its entirety.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended as follows:

First: In Sec. 41, 23 V.S.A. § 1251 in the title of the section, after the word “LAMPS” by inserting the following: ; OUT OF STATE EMERGENCY AND RESCUE VEHICLES

Second: In Sec. 41, 23 V.S.A. § 1251 subsection (b) by striking out the following: “out-of-state” and inserting in lieu thereof the following: law enforcement vehicles, after the words “squad members” by inserting the following: which are registered or licensed by another state or province, and after the words “may use sirens and” by striking out the following: red or red and white

Which were collectively agreed to.

Thereupon, pending third reading of the bill, Senator Sears moved that the Senate proposal of amendment be amended in Sec. 41, 23 V.S.A. § 1251(b) in the first sentence, by adding the phrase in Vermont after the phrase “when responding to emergencies”

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Sears?, Senator Sears requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill, Senators Kitchel, Hartwell, Mazza, Scott and Shumlin moved that the Senate proposal of amendment be amended as follows:

First: After Sec. 58 by inserting three new sections to be Secs. 58a–58c to read:

#### Sec. 58a. LEGISLATIVE INTENT

It is the intent of the general assembly to require the commissioner of motor vehicles to conduct an in-depth study of the most effective and efficient mechanisms for promoting the use of ignition interlock devices or other devices that prevent impaired driving and implementing legislation related to such devices in Vermont. The commissioner also is directed to formulate recommended legislation by January 15, 2011, to advance the general assembly’s goal to pass ignition interlock legislation.

#### Sec. 58b. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) In 2008, nearly 12,000 people were killed in crashes attributed to alcohol-impaired driving, which accounted for 32 percent of all traffic fatalities in the United States. Impaired driving is a significant public safety concern.

(2) As a tool to combat impaired driving, 47 states have laws concerning the use of ignition interlock devices. Ignition interlock devices are installed in motor vehicles to prevent them from being started unless the operator blows into the device and the device detects that the operator's alcohol concentration is below a preset limit. Devices may be programmed to require periodic retesting while the car is running. About 146,000 ignition interlock devices currently are in use in the United States.

(3) Vermont is one of just three states that have not enacted ignition interlock legislation.

(4) Research shows that ignition interlock devices reduce subsequent arrest rates among both first-time and repeat DUI offenders by 50 to 90 percent while such devices are installed.

(5) Research estimating the costs versus the benefits of ignition interlock programs suggests a \$3.00 benefit for each \$1.00 in program costs for first-time DUI offenders and a \$4.00 to \$7.00 benefit for each \$1.00 in program costs for other DUI offenders.

#### Sec. 58c. IGNITION INTERLOCK DEVICE STUDY

(a) The commissioner of motor vehicles, in consultation with the commissioner of corrections, the court administrator, the department of public safety, state's attorneys and sheriffs, the defender general, the attorney general, the Vermont bar association, and any other organizations or entities the commissioner deems appropriate, shall study and formulate recommended legislation authorizing use of ignition interlock devices or other devices that prevent impaired driving in Vermont. In carrying out this directive, the commissioner shall:

(1) Review current laws, rules and regulations, and practices regarding use of ignition interlock devices in other states and attempt to ascertain the factors that contribute to the varying success of states in promoting use of ignition interlock devices.

(2) Consider whether legislation should:

(A) require installation of ignition interlock devices by some or all DUI offenders as a condition of license reinstatement;

(B) for some or all DUI offenders, authorize operation of a motor vehicle during a suspension period under specified conditions if an ignition interlock device is installed;

(C) require, or authorize upon request, some or all DUI offenders to install ignition interlock devices in exchange for a reduced period of license suspension;

(D) authorize or require judges to order installation of ignition interlock devices as a condition of probation for some or all DUI offenders;

(E) authorize or require judges to provide incentives (such as reduced fines) to some or all DUI offenders to encourage installation of such devices;

(F) require devices to be installed for a period in excess of usual suspension periods for some or all offenders;

(G) supplement, or operate as an alternative to, the state's abstinence program for persons whose license has been suspended for life;

(H) apply to all impaired driving offenders (i.e., include those whose violations involve operating under the influence of drugs) or only to those whose offense involved operating under the influence of intoxicating liquor;

(I) limit eligibility to certain classes of DUI offenders (i.e., those whose offense did not result in death of another); or

(J) authorize or require installation of ignition interlock devices under any other circumstances.

(3) Consider how any recommended use of ignition interlock devices should be coordinated with the use of electronic monitoring equipment such as global position monitoring equipment, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment.

(4) Study the costs of ignition interlock devices, including installation, monthly lease charges, periodic recalibration, and data downloads and the relative merits of having such costs borne entirely by DUI offenders or partially borne by the state.

(5) Study whether conditions or restrictions (such as hours of operation or limitation to travel to or from work, school, or a treatment program) should be imposed on some or all DUI offenders operating subject to an ignition interlock device requirement.

(6) Study the administrative tasks that must be performed to implement and carry out ignition interlock legislation; the costs associated with these tasks; which agency or agencies are best suited to perform them; and what additional authority or resources an agency or agencies would need to perform them.

(7) Consider appropriate penalties for DUI offenders required to operate vehicles equipped with ignition interlock devices who tamper with or otherwise circumvent such devices, or who operate a vehicle not equipped with such a device, or whose attempt to operate a vehicle is prevented through the functioning of such device, and consider the due process to which DUI offenders cited for such activities shall be entitled.

(8) Consider appropriate penalties for third parties who tamper with or otherwise circumvent ignition interlock devices, or who knowingly provide vehicles not equipped with such devices for DUI offenders required to operate vehicles equipped with such devices, and consider the due process to which persons cited for such activities shall be entitled.

(9) Consider the degree to which the state should monitor, utilize, and impose sanctions based on data obtained from ignition interlock devices.

(10) Consider and study any other issues deemed relevant to ignition interlock device policy and legislation.

(b) The commissioner shall report his or her findings and recommended legislation to the senate and house committees on transportation, the senate and house committees on judiciary, and the joint corrections oversight committee no later than January 15, 2011.

Second: In Sec. 59, by adding a new subdivision to be subdivision (a)(9) to read:

(9) Secs. 58a–58c (study and recommendation of ignition interlock device legislation).

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Ayer moved that the Senate proposal of amendment be amended in Sec. 55 (a) and (b) [Lake Champlain Bridge Facilities] by adding after the word “together” the words in consultation with the Division of Historic Preservation

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 28, Nays 0.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Bartlett, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Flory, Giard,

Hartwell, Illuzzi, Kitchel, Kittell, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Scott, Sears, Snelling, Starr, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Lyons, Shumlin (presiding).

### **Rules Suspended; Bills Messaged**

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 264, H. 527, H. 759, H. 771, H. 784.**

### **Message from the House No. 58**

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

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

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 62.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

**H. 408.** An act relating to improving nutrition programs.

And has concurred therein.

The Governor has informed the House that on the April 20, 2010, he approved and signed bills originating in the House of the following titles:

**H. 639.** An act relating to motor vehicle insurance for volunteer drivers.

**H. 766.** An act relating to preventing duplication in certain public health records.



**Adjournment**

On motion of Senator Mazza, the Senate adjourned until eight o'clock and thirty minutes in the morning.