

House Calendar

Thursday, April 21, 2011

107th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Third Reading

H. 298

An act relating to standardized ballots and vote tabulators

H. 378

An act relating to town payments of county taxes

Committee Bill for Second Reading

H. 455

An act relating to the enhanced 911 emergency response system.

(Rep. Hubert of Milton will speak for the Committee on **Government Operations**.)

Favorable with amendment

H. 290

An act relating to adult protective services

Rep. Mrowicki of Putney, for the Committee on **Human Services**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ADULT PROTECTIVE SERVICES; RULEMAKING

The secretary of human services shall adopt rules pursuant to chapter 25 of Title 3 governing the implementation of the statutory responsibilities of the department of disabilities, aging, and independent living, division of licensing and protection, with respect to adult protective services. The rules shall include:

- (1) criteria for screening reports and complaints;
- (2) standards for priority determinations and the timeliness of investigations;
- (3) criteria for substantiating complaints;
- (4) a process for investigating reports and complaints, including guidance on the roles of the victim and the reporter during the investigation process;

(5) processes for responding to inquiries from victims and reporters and for meeting statutory requirements regarding notification of these individuals;

(6) standards for coordinating and cooperating with law enforcement and state's attorneys;

(7) criteria for when and how the division will arrange for protective services in accordance with a written treatment plan;

(8) criteria for distinguishing possible statutory violations from probable self-neglect;

(9) appropriate referrals for probable self-neglect;

(10) a process for closing an investigation; and

(11) an appeals process that gives the victim and the reporter the right to participate in the appeal of a substantiation.

Sec. 2. APPEAL OF UNSUBSTANTIATION

No later than January 15, 2012, the commissioner of disabilities, aging, and independent living shall make a recommendation to the house committee on human services and the senate committee on health and welfare regarding whether alleged victims of abuse or neglect should have the right to appeal a finding of unsubstantiation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-1-0)

S. 49

An act relating to commercial motor vehicle operation on the interstate system

Rep. Bohi of Hartford, for the Committee on Transportation, recommends that the House propose to the Senate that the bill be amended as follows:

In Sec. 2, 23 V.S.A. § 1392, by deleting subdivision (16) and inserting in lieu thereof a new subdivision (16) to read:

(16) Notwithstanding any other provision of law the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways without permit, and upon posted state and town highways and

on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles ~~registered~~ operated pursuant to this subdivision (16) shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section;

~~(B) The following shall also apply to vehicles registered pursuant to this subdivision (16):~~

~~(i) no single axle load shall be in excess of 22,400 pounds except that a 10 percent tolerance shall be allowed on each single axle;~~

~~(ii) no tandem axle load shall be in excess of 36,000 pounds except that a 10 percent tolerance shall be allowed on each tandem axle;~~

~~(iii) no single axle of a tandem axle unit shall support more than 60 percent of the total rate supported by the tandem axle unit;~~

~~(iv) no tri axle group, as defined in subdivision (6)(D) of this section, shall support a gross weight in excess of that allowed in subdivision (4) of this section and no tolerance shall be allowed on any tri axle group;~~

~~(v) no single axle of a tri axle group shall support more than 40 percent of the total weight supported by the tri axle group;~~

~~(vi) the maximum load on any axle of the vehicle shall not exceed more than 600 pounds per inch of tire width computed in conformity with the manufacturer's designated width;~~

~~(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. On those highways designated as the national system of interstate and defense highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both are authorized under federal law.~~

(C) The fee for the annual permit as provided in this subdivision shall be \$7.00 when the fee has been paid to register the vehicle for 90,000 pounds or \$285.00 when the vehicle is registered for 80,000 pounds.

(Committee vote: 10-0-1)

(No Senate Amendments)

NOTICE CALENDAR
Favorable with Amendment
H. 456

An act relating to the clean energy development fund and solar energy tax credits.

(Rep. Cheney of Norwich will speak for the Committee on **Natural Resources and Energy.**)

Rep. Ancel of Calais, for the Committee on **Ways and Means**, recommends the bill be amended as follows::

First: In Sec. 1, 32 V.S.A. § 5930z (solar energy tax credit), by striking out subsection (f) (grant-in-lieu-of-credit), and inserting a new subsection (f) to read:

(f) In lieu of a solar energy tax credit certified by the board under this section, a taxpayer may in accordance with this subsection convert such a credit into a grant to the taxpayer from the clean energy development fund established under 10 V.S.A. § 6523.

(1) The dollar amount of such a grant-in-lieu-of-credit shall be the lesser of the following:

(A) 50 percent of the dollar amount of the credit as contained in the certification issued by the board to the taxpayer.

(B) 15 percent of the actual costs of the plant.

(2) No later than 30 days after the effective date of this subdivision (2), the clean energy development fund shall provide notice of this option to obtain a grant-in-lieu-of-credit to all taxpayers for which the clean energy development board has certified tax credits under this section.

(3) On or before August 1, 2011, a taxpayer to which the board has issued a certification of a solar energy tax credit under this section shall submit to the fund the taxpayer's request, if any, to obtain a grant-in-lieu-of-credit under this subsection.

(4) To a taxpayer making a timely request under subdivision (3) of this subsection, a grant-in-lieu-of-credit shall be paid from the clean energy development fund within 30 days of:

(A) The date on which the taxpayer provides proof to the clean energy development fund that the plant for which the taxpayer seeks a grant-in-lieu-of-credit under this subsection has received from the U.S. Department of the Treasury, pursuant to 26 U.S.C. §§ 46 and 48, a grant in lieu

of the federal investment tax credit and proof of the dollar amount of such federal grant; or

(B) If the taxpayer has not received a grant from the U.S Department of the Treasury described in subdivision (4)(A) of this subsection, the date on which the taxpayer provides to the clean energy development fund proof that the solar energy plant for which the taxpayer seeks a grant-in-lieu-of-credit under this subsection has been commissioned and proof of the plant's actual costs.

Second: By striking Sec. 3 (clean energy development board; transition; term expiration; new appointments) and inserting in lieu thereof a new Sec. 3 to read as follows):

Sec. 3. CLEAN ENERGY DEVELOPMENT BOARD; TRANSITION;
TERM EXPIRATION; NEW APPOINTMENTS

(a) The terms of all members of the clean energy development board under 10 V.S.A. § 6523 appointed prior to the effective date of this section shall expire 44 days after such effective date.

(b) No later than 30 days after the effective date of this section, the appointing authorities under Sec. 2 of this act, 10 V.S.A. § 6523(e)(4), shall appoint the members of the clean energy development board created by Sec. 2, 10 V.S.A. § 6523(e)(3). The terms of the members so appointed shall commence on the 45th day following the effective date of this section. The appointing authorities may appoint members of the clean energy development board as it existed prior to the effective date of this section. The provisions of 10 V.S.A. § 6523(e)(3)(B) (board members; prohibition; financial benefits) shall apply only to members of the clean energy development board appointed to terms commencing on the 45th day after such effective date.

(c) With respect to the clean energy development fund established under 10 V.S.A. § 6523, as of the 45th day following the effective date of this section:

(1) The department of public service shall be the successor to the clean energy development board as it existed on the 44th day after the effective date of this act, and any legal obligations incurred by the clean energy development board as of such 44th day shall become legal obligations of the department of public service.

(2) The clean energy development board shall exercise prospectively such functions and authority as this act confers on that board.

Third: In Sec. 6 (effective dates), by striking subsection (b) and inserting in lieu thereof a new subsection (b) to read:

(b) Except as provided under subdivision (a)(3) of this section, Secs. 2 (clean energy development fund) and 4 (ARRA energy moneys) of this act shall take effect 45 days after the act's passage.

and that when so amended the bill ought to pass.

(Committee Vote 7-4-0)

S. 94

An act relating to miscellaneous amendments to the motor vehicle laws

Rep. Brennan of Colchester, for the Committee on **Transportation**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Dealer Records Custodian * * *

Sec. 1. 23 V.S.A. § 466 is amended to read:

§ 466. RECORDS; CUSTODIAN

(a) On a form prescribed or approved by the commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the commissioner during reasonable business hours:

(1) Every motor vehicle which is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange;

(2) Every motor vehicle which is bought or otherwise acquired and dismantled by the licensee;

(3) The name and address of the person from whom such motor vehicle was purchased or acquired, the date thereof, name and address of the person to whom any such motor vehicle was sold or otherwise disposed of and the date thereof, a sufficient description of every such motor vehicle by name and identifying numbers thereon to identify the same;

(4) If the motor vehicle is sold or otherwise transferred to a consumer, the cash price. For purposes of this section, "consumer" shall be as defined in ~~subsection 2451a(a) of Title 9 V.S.A. § 2451a(a)~~ and "cash price" shall be as defined in ~~subdivision 2351(6) of Title 9 V.S.A. § 2351(6)~~.

(b) Every licensed dealer shall designate a custodian of documents who shall have primary responsibility for administration of documents required to be maintained under this title. In the absence of the designated custodian, the dealer shall have an ongoing duty to make such records available for

inspection by any law enforcement officer or motor vehicle inspector or other agent of the commissioner during reasonable business hours.

* * * Surrender of License or Registration * * *

Sec. 2. 23 V.S.A. § 204 is amended to read:

§ 204. ~~PROCEDURE FOR REVOCATION~~ SURRENDER OF LICENSE OR REGISTRATION

(a) A person whose license to operate a motor vehicle, nondriver identification card, or motor vehicle registration has been issued in error ~~or is suspended or revoked by the commissioner under the provisions of this title~~ shall surrender forthwith his or her license or registration upon demand of the commissioner or his or her authorized inspector or agent. The demand shall be made in person or by notice in writing sent by first class mail to the last known address of the person.

(b) The commissioner or his or her authorized inspector or agent, and all enforcement officers are authorized to take possession of any certificate of title, nondriver identification card, registration, or license issued by this or any other jurisdiction, which has been revoked, canceled, or suspended, or which is fictitious, stolen, or altered.

* * *

* * * Vanity and Other Special Plates * * *

Sec. 3. 23 V.S.A. § 304 is amended to read:

§ 304. REGISTRATION CERTIFICATES; NUMBER PLATES; VANITY AND OTHER SPECIAL PLATES

* * *

(b) The authority to issue ~~special~~ vanity 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~~ section 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 vanity and special organization number plates ~~marked with initials, letters, or combination of numerals and letters,~~ in the following manner:

(1) ~~Except as otherwise provided,~~ Vanity plates. Subject to the restrictions of this section, vanity plates shall be issued at the request of the registrant of ~~any motor vehicle,~~ a vehicle registered at the pleasure car rate or of a truck registered for less than 26,001 pounds (but excluding trucks registered under the International Registration Plan) upon application and upon payment of an annual fee of \$38.00 in addition to the annual fee for registration. ~~He or she may~~ The commissioner shall not issue two sets of ~~special number~~ plates bearing the same initials or letters unless the plates also contain a distinguishing number. ~~Special number~~ Vanity plates are subject to reassignment if not renewed within 60 days of expiration of the registration.

(2) Special organization plates.

(A) For the purposes of this ~~subdivision,~~ “safety section:

(i) ~~“Safety organizations” shall include groups which have at least 100 in-state members in good standing and are groups that provide police and fire protection, rescue squads, the Vermont national guard, together with those organizations required to respond to public emergencies. It shall include, and amateur radio operators licensed by the U.S. Federal Communications Commission. For purposes of this subdivision, To qualify for a special organization plate, safety organizations must have at least 100 in-state members in good standing.~~

(ii) ~~“service “Service organization” includes congressionally chartered or noncongressionally chartered United States military service veterans’ groups, and any group which:~~

(i)(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 is not limited to social activities;~~

(ii)(II) ~~has nonprofit status under Section 501(c)(3) or (10) of the United States Internal Revenue Code, as amended;~~

(iii)(III) ~~is registered as a nonprofit corporation with the office of the secretary of state; and~~

(iv)(IV) ~~except for a military veterans group, has at least 100 in-state in-state 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 (B) The officer~~ of a safety organization or service organization, ~~upon application and payment of a fee of \$15.00 for each set of plates in addition to the annual fee for registration, may~~

apply to the commissioner to approve 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 a qualifying organization to be issued to organization members for a \$15.00 special fee for each set of plates in addition to the annual fee for registration. The application shall include designation of an officer or member to serve as the principal contact with the department and a distinctive name or emblem or both for use on the proposed special plate. The name and emblem shall not be objectively obscene or confusing to the general public and shall not promote, advertise, or endorse a product, brand, or service provided for sale. The organization’s name and emblem must not infringe on or violate a trademark, trade name, service mark, copyright, or other proprietary or property right, and the organization must have the right to use the name and emblem. After consulting with the principal contact, the commissioner shall determine the design of the special plate on the basis that the primary purpose of motor vehicle number plates is vehicle identification. An organization may have only one design, regardless of the number of individual organizational units, squads, or departments within the state that may conduct the same or substantially similar activities.

(B) At the time that an organization requests the plates, it (C) After the plate design is finalized and an officer or the principal contact provides the commissioner a written statement authorizing issuance of the plates, the organization shall deposit \$2,000.00 with the commissioner. Of this deposit, \$500.00 shall be retained by the department to recover costs of developing the organization plate. Notwithstanding 32 V.S.A. § 502, 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. Upon application, special plates shall be issued to a registrant of a vehicle registered at the pleasure car rate or of a truck registered for less than 26,001 pounds (but excluding trucks registered under the International Registration Plan) who furnishes the commissioner satisfactory proof that he or she is a member of an organization that has satisfied the requirements of this subdivision (b)(2). For each of the first 100 applicants to whom sets of plates are issued, the \$15.00 special plate fee shall not be collected and shall be subtracted from the balance of this the 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 \$1,500.00 balance of the deposit is depleted, applicants shall be required to pay the \$15.00 fee as provided for in subdivision (1)(2)(B) of this subsection. Notwithstanding 32 V.S.A. § 502, 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, but any organization from recovering may recover up to \$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.~~

(D) When an individual's membership in a qualifying organization ceases or is terminated, the individual shall surrender any special registration plates issued under this subsection to the commissioner forthwith. However, a retired member of the Vermont national guard may ~~retain~~ renew or, upon payment of a \$10.00 fee, acquire, the special guard plates after notification of eligibility for retired pay has been received.

* * *

(d) Special Vanity or special organization number plates, whether new or renewed, shall be issued in any combination or succession of numerals and letters, provided the total of the numbers and letters on any plate taken together does not exceed seven, and further provided the requested combination of letters and numerals does not duplicate or resemble a regular issue registration

plate. The commissioner may adopt rules for the issuance of vanity or special organization number plates to ensure that all plates serve the primary purpose of vehicle identification. The commissioner may revoke any plate described in ~~subdivisions (1) through (7)~~ of this subsection and shall not issue ~~special number~~ plates with the following ~~combination~~ combinations of letters or numbers that objectively, in any language:

(1) ~~Combinations of letters or numbers with any connotation, in any language, that is~~ are vulgar, derogatory, profane, racial epithets, scatological, or obscene, or constitute racial or ethnic epithets, or are “fighting words” inherently likely to provoke violent reaction when addressed to an ordinary citizen;

(2) ~~Combinations of letters or numbers that connote, in any language, breast, genitalia, pubic area, or buttocks or relate to sexual or eliminatory functions. — Additionally, “69” formats are prohibited unless used in combination with the vehicle make, for example, “69 CHEV.”;~~

(3) ~~Combinations of letters or numbers that connote, in any language:~~

(A) ~~any illicit drug, narcotic, intoxicant, or related paraphernalia;~~

(B) ~~the sale, the user, or the purveyor of such substance;~~

(C) ~~the physiological state produced by such a substance. refer to any intoxicant or drug; to the use, nonuse, distribution, or sale of an intoxicant or drug; or to a user, nonuser, or purveyor of an intoxicant or drug;~~

(4) ~~Combinations of letters or numbers that refer, in any language, to a race, religion, color, deity, ethnic heritage, gender, gender identity, sexual orientation, or disability status, or political affiliation; provided, however, the commissioner shall not refuse a combination of letters or numbers that is a generally accepted reference to a race or ethnic heritage (for example, IRISH);~~

(5) ~~Combinations of letters or numbers that suggest, in any language, a government or governmental agency;~~

(6) ~~Combinations of letters or numbers that suggest, in any language, a privilege not given by law in this state; or~~

(7) ~~Combinations of letters or numbers that form, in any language, a slang term, abbreviation, phonetic spelling, or mirror image of a word described in subdivisions (1) through (6) of this subsection.~~

* * *

(j) The commissioner of motor vehicles shall, upon proper application, issue special plates to Vermont veterans, as defined in 38 U.S.C. § 101(2), and to members of the United States Armed Forces, as defined in 38 U.S.C.

§ 101(10), for use ~~only~~ on vehicles registered at the pleasure car rate, on vehicles registered at the motorcycle rate, and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan. The type and style of the ~~veterans'~~ plate shall be determined by the commissioner, except that an American flag, or a veteran- or military-related emblem selected by the commissioner and the Vermont office of veterans' affairs shall appear on one side of the plate. At a minimum, emblems shall be available to recognize recipients of the Purple Heart, Pearl Harbor survivors, former prisoners of war, and disabled veterans. An applicant shall apply on a form prescribed by the commissioner, and the applicant's ~~status both as a veteran and~~ eligibility as a member of one of the groups recognized will be certified by the office of veterans' affairs. The plates shall be reissued only to the original holder of the plates or the surviving spouse. The commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of ~~veterans'~~ plates under this subsection shall be processed in the order received by the department subject to normal workflow considerations. The costs associated with developing new emblems shall be borne by the department of motor vehicles.

* * *

* * * Replacement Number Plates * * *

Sec. 4. 23 V.S.A. § 514 is amended to read:

§ 514. REPLACEMENT NUMBER PLATES

* * *

(b) Any replacement number plate shall be issued at a fee of \$10.00. However, if the commissioner, in his or her discretion, determines that a plate has become illegible as a result of deficiencies in the manufacturing process or by use of faulty materials, the replacement fee shall be waived.

* * * Issuance of Licenses to Foreign Citizens * * *

Sec. 5. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

* * *

(d) In addition to any other requirement of law or rule, a citizen of a foreign country shall produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence for inspection and copying as a part of the application process for an operator license, junior operator license, or learner permit. Notwithstanding any other law or rule to the

contrary, an operator license, junior operator license, or learner permit issued to a citizen of a foreign country shall expire coincidentally with his or her authorized duration of stay. ~~A license or permit issued under this section may not be issued to be valid for a period of less than 180 days.~~

* * * Penalty for Failure to Maintain Financial Responsibility * * *

Sec. 6. 23 V.S.A. § 800 is amended to read:

§ 800. MAINTENANCE OF FINANCIAL RESPONSIBILITY

(a) No owner ~~of a motor vehicle required to be registered,~~ or operator ~~of a motor vehicle~~ required to be licensed or issued a learner's permit, shall operate or permit the operation of the vehicle upon the highways of the state without having in effect an automobile liability policy or bond in the amounts of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one accident. In lieu thereof, evidence of self-insurance in the amount of \$115,000.00 must be filed with the commissioner of motor vehicles. ~~Such financial responsibility, and~~ shall be maintained and evidenced in a form prescribed by the commissioner. The commissioner may require that evidence of financial responsibility be produced before motor vehicle inspections are performed pursuant to the requirements of section 1222 of this title.

(b) A person who violates this section shall be assessed a civil penalty of not less than \$250.00 and not more than ~~\$100.00~~ \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title.

* * * Proof of Financial Responsibility * * *

Sec. 7. 23 V.S.A. § 801 is amended to read:

§ 801. PROOF OF FINANCIAL RESPONSIBILITY REQUIRED

(a) The commissioner shall require proof of financial responsibility to satisfy any claim for damages, by reason of personal injury to or the death of any person, of at least \$25,000.00 for one person and \$50,000.00 for two or more persons killed or injured and \$10,000.00 for damages to property in any one accident, as follows:

* * *

(3) From the operator of a motor vehicle involved in an accident which has resulted in bodily injury or death to any person or whereby the motor vehicle then under his or her control or any other property is damaged in an aggregate amount to the extent of ~~\$1,000.00~~ \$3,000.00 or more, excepting, however,

(A) an operator furnishing the commissioner with satisfactory proof that a standard provisions automobile liability insurance policy, issued by an insurance company authorized to transact business in this state insuring the person against public liability and property damage, in the amounts required under this section with respect to proof of financial responsibility, was in effect at the time of the accident; or

(B) ~~if the operator was~~ a nonresident operator holding a valid license issued by the state of his or her residence at the time of the accident, who furnishes satisfactory proof, in the form of a certificate issued by an insurance company authorized to transact business in the state of his or her residence, when accompanied by a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action upon the policy arising out of the accident, certifying that insurance covering the legal liability of the operator to satisfy any claim or claims for damage to person or property, in an amount equal to the amounts required under this section with respect to proof of financial responsibility, was in effect at the time of the accident.

* * * Civil Suspensions for DUI Violations * * *

Sec. 8. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration of 0.08 or more; suspension periods. For a first suspension under this chapter:

* * *

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, at the time of operating, attempting to operate or being in actual physical control, the commissioner shall suspend the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle for a period of 90 days and until the person complies with section 1209a of this title. However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another.

(b) Form of officer's affidavit. A law enforcement officer's affidavit in support of a suspension under this section shall be in a standardized form for use throughout the state and shall be sufficient if it contains the following statements:

* * *

(5) The officer obtained an evidentiary test (noting the time and date the test was taken) and the test indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, or the person refused to submit to an evidentiary test.

* * *

(c) Notice of suspension. On behalf of the commissioner of motor vehicles, a law enforcement officer requesting or directing the administration of an evidentiary test shall serve notice of intention to suspend and of suspension on a person who refuses to submit to an evidentiary test or on a person who submits to a test the results of which indicate that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, at the time of operating, attempting to operate or being in actual physical control of a vehicle in violation of section 1201 of this title. The notice shall be signed by the law enforcement officer requesting the test. ~~The notice shall also serve as a temporary operator's license and shall be valid until the effective date of suspension indicated on the notice. At the time the notice is given to the person, the person shall surrender, and the law enforcement officer shall take possession and custody of, the person's license or permit and forward it to the commissioner.~~ A copy of the notice shall be sent to the commissioner of motor vehicles and a copy shall be mailed or given to the defendant within three business days of the date the officer receives the results of the test. If mailed, the notice is deemed received three days after mailing to the address provided by the defendant to the law enforcement officer. A copy of the affidavit of the law enforcement officer shall also be mailed first class mail or given to the defendant within seven days of the date of notice.

* * *

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the court shall schedule a final hearing on the merits to be held within 21 days of the date of

the preliminary hearing. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following:

* * *

(D) whether the test was taken and the test results indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, at the time of operating, attempting to operate or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the department of health shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated;

* * *

(i) Finding by the court. The court shall electronically forward a report of the hearing to the commissioner. Upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, or upon a finding by the court that the law enforcement officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, at the time the person was operating, attempting to operate or in actual physical control, the person's operating license, or nonresident operating privilege, or the privilege of an unlicensed operator to operate a vehicle shall be suspended or shall remain suspended for the required term and until the person complies with section 1209a of this title. Upon a finding in favor of the person, the commissioner shall cause the suspension to be canceled and removed from the record, without payment of any fee.

* * *

(n) Presumption. In a proceeding under this section, if ~~there was~~ at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration of 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was 0.08 or more, or 0.02 or more if the person was operating a school bus as defined in subdivision 4(34) of this title, or 0.04 or more if the person was operating a commercial motor vehicle as defined in subdivision 4103(4) of this title, respectively, at the time of operating, attempting to operate, or being in actual physical control.

* * *

(p) Suspensions to run concurrently. Suspensions imposed under this section or any comparable statute of any other jurisdiction and sections ~~1206 and~~ 1208, ~~and~~ 1216 of this title or any comparable statutes of any other jurisdiction, or any suspension resulting from a conviction for a violation of section 1091 of this title from the same incident, shall run concurrently and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this state. In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.

* * *

~~(s) A person who has received a notice of suspension under this section shall not apply for or receive a duplicate operator's license while the matter is pending. A person who violates this subsection shall be fined not more than \$500.00. [Repealed.]~~

* * *

* * * Civil and Criminal Suspensions – Same Incident * * *

Sec. 9. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE

* * *

(i) Suspensions imposed under this section or any comparable statute of any other jurisdiction shall run concurrently with suspensions imposed under sections 1205, 1206, and 1208 of this title or any comparable statutes of any other jurisdiction or with any suspension resulting from a conviction for a

violation of section 1091 of this title from the same incident, and a person shall receive credit for any elapsed period of a suspension served in Vermont against a later suspension imposed in this state. In order for suspension credit to be available against a later suspension, the suspension issued under this section must appear and remain on the individual's motor vehicle record.

* * * Prohibition on Reaffixing Inspection Stickers * * *

Sec. 10. 23 V.S.A. § 1223 is amended to read:

§ 1223. PROHIBITIONS

A person shall not affix or cause to be affixed to a motor vehicle, trailer, or semi-trailer a certification of inspection that was not assigned by an official inspection station to such motor vehicle, trailer, or semi-trailer. No person shall reaffix or cause to be reaffixed an official sticker once removed; instead, replacement stickers shall be affixed as prescribed by the rules for replacement sticker agents. A person shall not knowingly operate a motor vehicle, trailer, or semi-trailer to which a certification of inspection is affixed if the certification of inspection was not assigned by an official station to that vehicle, trailer, or semi-trailer.

* * * Titling Exemptions * * *

Sec. 11. 23 V.S.A. § 2012 is amended to read:

§ 2012. EXEMPTED VEHICLES

No certificate of title need be obtained for:

* * *

(6) A motorcycle which has less than 300 cubic centimeters of engine displacement or a motorcycle powered by electricity with less than 20 kilowatts of engine power;

* * *

Sec. 12. 23 V.S.A. § 3807 is amended to read:

§ 3807. EXEMPTED VESSELS, SNOWMOBILES, AND ALL-TERRAIN VEHICLES

No certificate of title need be obtained for:

(1) any vessel under 16 feet in length;

(2) any snowmobile or all-terrain vehicle of a model year prior to 2004 or that is more than 15 years old;

* * *

* * * Satisfaction and Release of Security Interests * * *

Sec. 13. 23 V.S.A. § 2023 is amended to read:

§ 2023. TRANSFER OF INTEREST IN VEHICLE

(a) ~~¶~~ If an owner transfers his or her interest in a vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate or as the commissioner prescribes, and of the odometer reading or hubometer reading or clock meter reading of the vehicle at the time of delivery in the space provided therefor on the certificate, and cause the certificate and assignment to be mailed or delivered to the transferee or to the commissioner. Where title to a vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

- (1) TEN ENT (tenants by the entirety);
- (2) JTEN (joint tenants);
- (3) TEN COM (tenants in common);
- (4) PTNRS (partners); or
- (5) TOD (transfer on death).

(b) Upon request of the owner or transferee, a lienholder in possession of the certificate of title shall, unless the transfer was a breach of his or her security agreement, either deliver the certificate to the transferee for delivery to the commissioner or, upon receipt of notice from the transferee of the owner's assignment, the transferee's application for a new certificate, and the required fee, mail or deliver ~~them~~ the certificate, application, and fee to the commissioner. The delivery of the certificate does not affect the rights of the lienholder under his or her security agreement. If a dealer accepts a vehicle with a preexisting security interest as part of the consideration for a sale or trade from the dealer, the dealer shall mail or otherwise tender payment to satisfy the security interest within five days of the sale or trade.

* * *

(e) Notwithstanding other provisions of the law, whenever the estate of an individual who dies intestate consists principally of an automobile, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the same shall automatically and by virtue hereof pass to said surviving spouse. Registration and titling of the vehicle in the name of the surviving spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(1) Notwithstanding other provisions of the law, and except as provided in subdivision (2) of this subsection, whenever the estate of an individual consists in whole or in part of a motor vehicle, and the person's will or other testamentary document does not specifically address disposition of motor vehicles, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the motor vehicle shall automatically pass to the surviving spouse. Registration and ~~title~~ titling of the motor vehicle in the name of the surviving spouse shall be effected by payment of a transfer fee of \$7.00. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(2) This subsection shall apply to no more than two motor vehicles, and shall not apply if the motor vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

* * *

Sec. 14. 23 V.S.A. § 2045 is amended to read:

§ 2045. RELEASE OF SECURITY INTEREST

(a) Upon ~~the~~ satisfaction of a security interest in a vehicle for which the lienholder possesses the certificate of title ~~is in the possession of the lienholder, he or she the lienholder~~ shall, within ~~10~~ 15 business days after ~~demand and, in any event, within 30 days,~~ a request for release of the security interest, fully execute a release of ~~his or her~~ the security interest, in the space provided therefor on the certificate or as in the form the commissioner prescribes, and mail or deliver the certificate and release to the next lienholder named therein, or, if none, to the owner or any person ~~who delivers to the lienholder an authorization from~~ authorized by the owner to receive the certificate (hereafter, "owner's designee"). The owner ~~or the owner's designee~~, other than a dealer holding the vehicle for resale, shall promptly cause the certificate and release to be mailed or delivered to the commissioner, who shall release the lienholder's rights on the certificate or issue a new certificate.

(b) Upon ~~the~~ satisfaction of a the security interest ~~in a vehicle for which of a subordinate lienholder who does not possess~~ the certificate of title ~~is in the possession of a prior lienholder, the subordinate lienholder whose security interest is satisfied~~ shall, within ~~10~~ 15 business days after ~~demand and, in any event, within 30 days,~~ a request for release of the security interest, fully execute a release in the form the commissioner prescribes and deliver the release to the owner or ~~any person who delivers to the lienholder an authorization from~~ the owner to receive it owner's designee. The lienholder in possession of the certificate of title shall either deliver the certificate to the owner, or the ~~person authorized by him,~~ owner's designee for delivery to the

commissioner or, ~~upon receipt of~~ if the lienholder in possession receives the release, mail or deliver it with the certificate to the commissioner, who shall release the subordinate lienholder's rights on the certificate or issue a new certificate. A subordinate lienholder whose security interest is fully satisfied but receives the certificate of title pursuant to subsection (a) of this section shall, within three business days of its receipt, mail or deliver the title to the owner or the owner's designee.

(c) For purposes of subsections (a) and (b) of this section, a release not sent by electronic means is deemed fully executed when it is completed and placed in the United States mail postage prepaid or delivered to the person requesting the release as shown on the form so requesting it.

(d) A lienholder that fails to satisfy the requirements of subsection (a) or (b) of this section shall, upon written demand sent by certified mail, be liable to pay the owner or the owner's designee \$25.00 per day for each day that the requirements of subsection (a) or (b) remain unsatisfied, up to a maximum of \$2,500.00, in addition to any other remedies that may be available at law or equity. If the lienholder fails to pay the amount owed under this subsection within 60 days following the written demand, the owner or the owner's designee may bring a civil action and, if the lienholder is found to have violated subsection (a) or (b) of this section, the amount owed under this subsection shall be trebled, resulting in an award of up to \$7,500.00, and reasonable attorney's fees and costs shall be awarded.

* * * Title-related Offenses * * *

Sec. 15. 23 V.S.A. § 2083 is amended to read:

§ 2083. OTHER OFFENSES

(a) A person who:

(1) ~~With fraudulent intent, permits another, who~~ Knowing that another person is not entitled, to use or have possession of possess a certificate of title, knowingly permits that person to use or possess the certificate, shall be subject to the penalties prescribed in subdivision (5) of this subsection;

(2) ~~Willfully~~ Knowingly fails to mail or deliver a certificate of title or application for a certificate of title to the commissioner within 20 days after the transfer or creation or satisfaction of a security interest shall be subject to the penalties prescribed in subdivision (5) of this subsection;

(3) ~~Willfully~~ Knowingly fails to deliver to his or her transferee a certificate of title within 20 days after the transfer shall be subject to the penalties prescribed in subdivision (5) of this subsection;

(4) ~~Willfully~~ Knowingly and without authority signs a name other than his or her own on any title, or ~~inaccurately states or knowingly alters or inaccurately states~~ the chain of ownership or other information required on any title, or knowingly fails to return a certificate of title that has been fraudulently made, or knowingly has unauthorized possession of blank certificates of title or manufacturer's certificates of origin, shall be subject to the penalties prescribed in subdivision (5) of this subsection;

(5) ~~Willfully~~ Knowingly violates any provision of this chapter, except as provided in subdivision (6) of this subsection or section 2082 of this title, shall be fined not more than \$2,000.00, or imprisoned for not more than two years, or both; or

(6) ~~Willfully~~ Knowingly represents as his or her own, or sells or transfers a motor vehicle or vessel ~~on to~~ which he or she does not hold legal title ~~to~~ or is not authorized ~~to sell or transfer the vehicle or vessel~~ by the titleholder to sell or transfer shall be fined not more than \$5,000.00, or imprisoned for not more than five years, or both, for each offense.

(b) ~~A~~ Absent a showing of a knowing failure to deliver as provided in subdivision (a)(3) of this section, a person shall not willfully fail who fails to deliver to his or her transferee a certificate of title within 10 days after the transfer. ~~A person who violates this subsection~~ commits a traffic violation and shall be assessed a civil penalty of not more than \$1,000.00.

* * * Taxable Cost Definition * * *

Sec. 16. 32 V.S.A. § 8902 is amended to read:

§ 8902. DEFINITIONS

Unless otherwise expressly provided, the words and phrases used in this chapter shall be construed to mean:

* * *

(5) "Taxable cost" means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

* * *

(B) the amount received from the sale of a motor vehicle last registered in his or her name, the amount not to exceed the average book value of the same make, type, model, and year of manufacture as designated by the

manufacturer and as shown in the Official Used Car Guide, National Automobile Dealers Association (New England edition), or any comparable publication, provided such sale occurs within three months of the taxable purchase. However, this three-month period shall be extended day-for-day for any time that a member of a guard unit or of the United States Armed Forces, as defined in 38 U.S.C. § 101(10), spends outside Vermont due to activation or deployment, and an additional 60 days following the person's return from activation or deployment. Such amount shall be reported on forms supplied by the commissioner of motor vehicles;

* * *

* * * Repeal of Zone Registration * * *

Sec. 17. REPEAL

23 V.S.A. § 412a (zone registration) is repealed.

* * * Renewal Notice for Nondriver Identification Cards * * *

Sec. 18. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(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 \$17.00 at the time application for an identification card is made.

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a \$20.00 fee. At least 30 days before an identification card will expire, the commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

* * * Record Retention and Record Formats * * *

Sec. 19. 23 V.S.A. § 102(c) is amended to read:

(c) ~~The original records enumerated in subsection (a) of this section shall be maintained for two years and may thereafter be maintained on microfilm or by electronic imaging. [Repealed.]~~

Sec. 20. 23 V.S.A. § 2027(c) is amended to read:

(c) The commissioner shall file and retain for five years every surrendered certificate of title, the file to be maintained so as to permit the tracing of title of the vehicle designated therein. ~~The original records shall be maintained for two years and may thereafter be maintained on microfilm.~~

Sec. 21. 23 V.S.A. § 3810(b) is amended to read:

(b)(1) The commissioner shall maintain at his or her central office, a record of all certificates of title issued by him or her:

(A) under a distinctive title number assigned to the vessel, snowmobile, or all-terrain vehicle;

(B) under the identification number of the vessel, snowmobile, or all-terrain vehicle;

(C) alphabetically, under the name of the owner; and, in the discretion of the commissioner, by any other method he or she determines.

(2) ~~The original records may be maintained on microfilm. [Repealed.]~~

Sec. 22. 23 V.S.A. § 3820(c) is amended to read:

(c) The commissioner shall file and retain every surrendered certificate of title for five years. The file shall be maintained so as to permit the tracing of title of the vessel, snowmobile, or all-terrain vehicle designated. ~~The records may be maintained on microfilm.~~

* * * Ignition Interlock Restricted Driver's Licenses; Fees * * *

Sec. 23. 23 V.S.A. § 1213(a), (b), and (c) are added to read:

(a) First offense. A person whose license or privilege to operate is suspended for a first offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon receipt of a \$115.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated,

financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving education program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(2), 1206(a), or 1216(a)(1) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$115.00.

(b) Second offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(m), 1208(a), or 1216(a)(2) of this title upon receipt of a \$115.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$115.00.

(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The commissioner shall issue an ignition interlock RDL to a person eligible under section 1205(m), 1208(b), or 1216(a)(2) of this title upon receipt of a \$115.00 application fee, and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated, financial responsibility as provided in section 801 of this title, and enrollment in an alcohol and driving rehabilitation program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(b), or 1216(a)(2) of this title. An ignition interlock RDL shall expire upon

reinstatement of a person's regular license or privilege to operate or shall expire unless renewed yearly. The commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be \$115.00.

Sec. 24. REPEAL

23 V.S.A. § 1213(a), (b), and (c) within Sec. 9 of No. 126 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

Sec. 25. EFFECTIVE DATES

(a) This section and Sec. 16 (taxable cost definition) of this act shall take effect on passage. Sec. 16 shall apply retroactively to October 1, 2009.

(b) Sec. 24 (repeal of ignition interlock subsections (a)–(c)) shall take effect on June 30, 2011.

(c) Sec. 5 (foreign citizen licenses) shall take effect on January 1, 2012.

(d) Secs. 8 (DUI civil suspension) and 9 (under age 21 civil violation) shall take effect on July 2, 2011.

(e) Sec. 18 (nondriver identification renewal) shall take effect on July 1, 2012.

(f) All other sections shall take effect on July 1, 2011.

(Committee vote: 10-0-1)

(No Senate amendments)

Rep. Weston of Burlington, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Transportation** and when further amended as follows:

In Sec. 23, 23 V.S.A. § 1213(a), (b) and (c), by striking “\$115.00” wherever it appears and inserting in lieu thereof “\$125.00”

(Committee Vote: 11-0-0)

J.R.S. 26

Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

Rep. Lanpher of Vergennes, for the Committee on **Transportation**, recommends the House propose to the Senate to amend the resolution by striking all after the title and inserting in lieu thereof the following:

Whereas, the St. Johnsbury and Lake Champlain Railroad was completed in 1877 as a 93-mile rail line extending from St. Johnsbury in the east to Swanton in the west, and

Whereas, the rail line continued as a privately owned commercial transportation corridor until the state of Vermont purchased it in 1973, renaming it the Lamoille Valley Railroad (LVR), and

Whereas, in 1995 and 1997, severe flooding caused major damage to the tracks and ties of the railroad, and

Whereas, at the agency of transportation's (AOT's) request, the regional planning commissions, local chambers of commerce, and economic development officials, operating as the Mountain Valley Corridor Consortium, assumed responsibility for conducting the LVR corridor proposal process, and the proposal of the Vermont Association of Snow Travelers (VAST) to create a four-season recreational corridor and alternative transportation path was selected, and

Whereas, in accordance with Sec. 16 of No. 141 of the Acts of the 2001 Adj. Sess. (2002), the AOT was directed to obtain federal approval for discontinuance of rail service, as required under the Surface Transportation Act, and to gain approval to designate the LVR rail bed for interim trail use, and subject to receiving the federal approval, to enter into leases with VAST to construct the four-season recreational corridor and alternative transportation path and with St. Johnsbury and Swanton for municipally managed recreation trails on small segments of the LVR located in those towns, and

Whereas, in Sec. 78 of No. 93 of the Acts of the 2005 Adj. Sess. (2006), the general assembly authorized the establishment of the Lamoille Valley Rail Trail (LVRT) project and the acceptance of federal funding that was authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Pub.L. No. 109-59) which provided \$5.3 million of federal funds, and

Whereas, also in 2006, AOT entered into a long-term lease agreement with VAST to build and maintain the LVRT, and

Whereas, the LVRT extends through Act 250 districts 5, 6, and 7, and on September 30, 2009 the majority of the coordinators for those districts determined that an Act 250 permit is required, and

Whereas, the proposed LVRT project provides an unprecedented opportunity to enhance the protection of natural and cultural resources within the project corridor through the repair of existing areas of trail washout and soil erosion, improved stream crossings, the cleanup of existing hazards, eliminating existing encroachments, and the refurbishment of existing drainage infrastructure, combined with implementation of ongoing maintenance activities, and

Whereas, the economic, environmental, and recreational tourism benefits of the LVRT would be of enormous benefit to Vermonters and especially the towns along its path, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly reaffirms its enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path, *and be it further*

Resolved: That the executive branch of Vermont state government is urged to demonstrate similarly enthusiastic support, including:

1) That the agencies of transportation and of natural resources aid VAST in the efficient and timely acquisition of the necessary permits.

2) That the agencies of commerce and community development, of natural resources, and of transportation assist VAST in the securing of the remaining funding necessary to proceed with the full conversion of the rail bed.

3) That the agency of transportation adhere to all commitments it made in the 2006 lease agreement with VAST, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to VAST Executive Director Bryant Watson, to Secretary of Transportation Brian Searles, to Secretary of Natural Resources Deborah Markowitz, and to Secretary of Commerce and Community Development Lawrence Miller.

(Committee Vote: 11-0-0)

(For Text of Senate Resolution see House Journal 4/12/11)

Favorable

H. 454

An act relating to the administration and issuance of vital records.

(Rep. Devereux of Mount Holly will speak for the Committee on **Government Operations.**)

Rep. Clarkson of Woodstock, for the Committee on **Ways and Means**, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

S. 91

An act relating to motor vehicle operation and entertainment pictures

Rep. Corcoran of Bennington, for the Committee on **Transportation**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 11-0-0)

(No Senate Amendments)

Senate Proposal of Amendment

H. 88

An act relating to uniform child custody jurisdiction and enforcement

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

Sec. 1. 15 V.S.A. chapter 20 is added to read:

CHAPTER 20. UNIFORM CHILD CUSTODY

JURISDICTION AND ENFORCEMENT

Subchapter 1. General Provisions

§ 1061. DEFINITIONS

As used in this chapter:

(1) “Abandoned” means left without provision for reasonable and necessary care or supervision.

(2) “Child” means an individual who has not attained 18 years of age.

(3) “Child custody determination” means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, or modification order. The term does not include an order relating to child

support or other monetary obligation of an individual. The term includes “parental rights and responsibilities” and “parent child contact” as those terms are defined in section 664 of this title.

(4) “Child custody proceeding” means a proceeding in which legal custody or parental rights, physical custody, or visitation or parent child contact with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under subchapter 3 of this chapter.

(5) “Commencement” means the filing of the first pleading in a proceeding.

(6) “Court” means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(7) “Home state” means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) “Initial determination” means the first child custody determination concerning a particular child.

(9) “Issuing court” means the court that makes a child custody determination for which enforcement is sought under this chapter.

(10) “Issuing state” means the state in which a child custody determination is made.

(11) “Modification” means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(13) “Person acting as a parent” means a person, other than a parent, who:

(A) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(B) has been awarded legal custody by a court or claims a right to legal custody under the law of Vermont.

(14) “Physical custody” means the physical care and supervision of a child.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Warrant” means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

(17) “with or without the child” means that the court may order that the child be represented by an attorney or guardian ad litem.

§ 1062. PROCEEDINGS GOVERNED BY OTHER LAW

This chapter does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

§ 1063. APPLICATION TO INDIAN TRIBES; INTERNATIONAL APPLICATION

(a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(b) A Vermont court shall treat a foreign country as if it were a state of the United States for the purpose of applying this subchapter and subchapter 2 of this chapter.

(c) Except as otherwise provided in subsection (d) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under subchapter 3 of this chapter.

(d) A Vermont court need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

§ 1064. EFFECT OF CHILD CUSTODY DETERMINATION

A child custody determination made by a Vermont court that had jurisdiction under this chapter binds all persons who have been served in accordance with the Vermont laws or notified in accordance with section 1066

of this title or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

§ 1065. PRIORITY

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

§ 1066. NOTICE TO PERSONS OUTSIDE STATE

(a) Notice required for the exercise of jurisdiction when a person is outside Vermont may be given in a manner prescribed by the law of Vermont for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of Vermont or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

§ 1067. APPEARANCE AND LIMITED IMMUNITY

(a) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in Vermont for another proceeding or purpose solely by reason of having participated or of having been physically present for the purpose of participating in the proceeding.

(b) A person who is subject to personal jurisdiction in Vermont on a basis other than physical presence is not immune from service of process in Vermont. A party present in Vermont who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

c) The immunity granted by subsection (a) of this section shall not:

(1) extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in Vermont; or

(2) be construed to prevent the arrest of a person pursuant to a valid warrant.

§ 1068. COMMUNICATION BETWEEN COURTS

(a) A Vermont court may communicate with a court in another state concerning a proceeding arising under this chapter.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

§ 1069. TAKING TESTIMONY IN ANOTHER STATE

(a) A party to a child custody proceeding may, in addition to other procedures available to a party, offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in Vermont for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A Vermont court may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A Vermont court shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a Vermont court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

§ 1070. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS

(a) A Vermont court may request the appropriate court of another state to:

(1) hold an evidentiary hearing;

(2) order a person to produce or give evidence pursuant to procedures of that state;

(3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(4) forward to the Vermont court a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and

(5) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a Vermont court may hold a hearing or enter an order described in subsection (a) of this section.

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) of this section may be assessed against the parties according to Vermont law.

(d) A Vermont court shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Subchapter 2. Jurisdiction

§ 1071. INITIAL CHILD CUSTODY JURISDICTION

(a) Except as otherwise provided in section 1074 of this title, a Vermont court has jurisdiction to make an initial child custody determination only if:

(1) Vermont is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from Vermont, but a parent or person acting as a parent continues to live in Vermont;

(2) A court of another state does not have jurisdiction under subdivision (1) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that Vermont is the more appropriate forum under section 1077 or 1078 of this title, and:

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with Vermont other than mere physical presence; and

(B) substantial evidence is available in Vermont concerning the child's care, protection, training, and personal relationships;

(3) All courts having jurisdiction under subdivision (1) or (2) of this subsection have declined to exercise jurisdiction on the grounds that a Vermont court is the more appropriate forum to determine the custody of the child under section 1077 or 1078 of this title; or

(4) No court of any other state would have jurisdiction under the criteria specified in subdivision (1), (2), or (3) of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a Vermont court.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

§ 1072. EXCLUSIVE; CONTINUING JURISDICTION

(a) Except as otherwise provided in section 1074 of this title, a Vermont court which has made a child custody determination consistent with section 1071 or 1073 of this title has exclusive, continuing jurisdiction over the determination until:

(1) a Vermont court determines that neither the child nor the child and one parent nor the child and a person acting as a parent have a significant connection with Vermont, and that substantial evidence is no longer available in Vermont concerning the child's care, protection, training, and personal relationships; or

(2) a Vermont court or a court of another state determines that the child, the child's parents, and any person acting as a parent do not currently reside in Vermont.

(b) A Vermont court which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 1071 of this title.

§ 1073. JURISDICTION TO MODIFY DETERMINATION

Except as otherwise provided in section 1074 of this title, a Vermont court may not modify a child custody determination made by a court of another state unless a Vermont court has jurisdiction to make an initial determination under subdivision 1071(a)(1) or (2) of this title and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 1072 of this title or that a Vermont court would be a more convenient forum under section 1077 of this title; or

(2) a Vermont court or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not currently reside in the other state.

§ 1074. TEMPORARY EMERGENCY JURISDICTION

(a) A Vermont court has temporary emergency jurisdiction if the child is present in Vermont, and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under this chapter, and a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under sections 1071–1073 of this title. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, a child custody determination made under this section becomes a final determination, if it so provides, and Vermont becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under this chapter, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 1071–1073 of this title, any order issued by a Vermont court under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under sections 1071–1073 of this title. The order issued in Vermont remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A Vermont court which has been asked to make a child custody determination under this section upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under sections 1071–1073 of this title shall immediately communicate with the other court. A Vermont court which is exercising jurisdiction pursuant to sections 1071–1073 of this title, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of another state under a statute similar to this section, shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

§ 1075. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER

(a) Before a child custody determination is made under this chapter, notice and an opportunity to be heard in accordance with the standards of section 1066 of this title shall be given to all persons entitled to notice under Vermont law as in child custody proceedings between Vermont residents, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) This chapter does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by Vermont law as in child custody proceedings between Vermont residents.

§ 1076. SIMULTANEOUS PROCEEDINGS

(a) Except as otherwise provided in section 1074 of this title, a Vermont court may not exercise its jurisdiction under this subchapter if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a Vermont court is a more convenient forum under section 1077 of this title.

(b) Except as otherwise provided in section 1074 of this title, a Vermont court, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 1079 of this title. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the Vermont court shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the Vermont court is a more appropriate forum, the Vermont court shall dismiss the proceeding.

(c) In a proceeding to modify a child custody determination, a Vermont court shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for

enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

§ 1077. INCONVENIENT FORUM

(a) A Vermont court which has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances, and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or a request of another court.

(b) Before determining whether it is an inconvenient forum, a Vermont court shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) the length of time the child has resided outside Vermont;

(3) the distance between the Vermont court and the court in the state that would assume jurisdiction;

(4) the relative financial circumstances of the parties;

(5) any agreement of the parties as to which state should assume jurisdiction;

(6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) the familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a Vermont court determines that it is an inconvenient forum, and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A Vermont court may decline to exercise its jurisdiction under this chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other

proceeding.

§ 1078. JURISDICTION DECLINED BY REASON OF CONDUCT

(a) Except as otherwise provided in section 1074 of this title or other Vermont law, if a Vermont court has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 1071–1073 of this title determines that Vermont is a more appropriate forum under section 1077 of this title; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 1071–1073 of this title.

(b) If a Vermont court declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 1071–1073 of this title.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against Vermont unless authorized by law other than this chapter.

§ 1079. INFORMATION TO BE SUBMITTED TO COURT

(a) In accordance with Vermont law regarding the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(1) has participated, as a party or witness or in any other capacity, in any

other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(2) knows of any other proceeding that could affect the current proceeding, including any proceeding for enforcement and any proceeding relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of or visitation with the child and, if so, give the names and addresses of those persons.

(b) If the information required by subsection (a) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subdivisions (a)(1)–(3) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court’s jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

(f) As used in the section, the term “party” shall not include, in a proceeding under chapter 51 or 53 of Title 33, a state’s attorney, the commissioner for children and families, or the child.

§ 1080. APPEARANCE OF PARTIES AND CHILD

(a) In a child custody proceeding in Vermont, the court may order a party to the proceeding who is in Vermont to appear before the court in person with or without the child. The court may order any person who is in Vermont and who has physical custody or control of the child to appear in person with the

child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside Vermont, the court may order that a notice given pursuant to section 1066 of this title include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside Vermont is directed to appear under subsection (b) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Subchapter 3. Enforcement

§ 1081. DEFINITIONS

As used in this subchapter:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

§ 1082. ENFORCEMENT UNDER HAGUE CONVENTION

Under this subchapter, a Vermont court may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

§ 1083. DUTY TO ENFORCE

(a) A Vermont court shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and if the determination has not been modified in accordance with this chapter.

(b) A Vermont court may utilize any remedy available under Vermont law

to enforce a child custody determination made by a court of another state. The remedies provided in this subchapter are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

§ 1084. TEMPORARY VISITATION

(a) A Vermont court which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If a Vermont court makes an order under subdivision (a)(2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in subchapter 2 of this chapter. The order remains in effect until an order is obtained from the other court or until the period expires.

§ 1085. REGISTRATION OF CHILD CUSTODY DETERMINATION

(a) A child custody determination issued by a court of another state may be registered in Vermont, with or without a simultaneous request for enforcement, by sending to the family division of the superior court in the county in which a person listed in subdivision (3) of this subsection or the child resides:

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) except as otherwise provided in section 1079 of this title, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a) of this section, the court administrator shall:

(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) serve notice upon the persons named pursuant to subdivision (a)(3) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b)(2) of this section shall state that:

(1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a Vermont court;

(2) a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and

(3) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order must request a hearing before the court in the county in which such person or the child resides within 20 days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(2) the child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law, and the person requesting registration and all persons served shall be notified of the confirmation.

(f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

§ 1086. ENFORCEMENT OF REGISTERED DETERMINATION

(a) A Vermont court may grant any relief normally available under Vermont law to enforce a registered child custody determination made by a court of another state.

(b) A Vermont court shall recognize and enforce but may not modify, except in accordance with subchapter 2 of this chapter, a registered child custody determination of a court of another state.

§ 1087. SIMULTANEOUS PROCEEDINGS

If a proceeding for enforcement under this subchapter is commenced in a Vermont court and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under subchapter 2 of this chapter, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement shall continue unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

§ 1088. EXPEDITED ENFORCEMENT OF CHILD CUSTODY DETERMINATION

(a) A petition under this subchapter shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination shall state:

(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this chapter and, if so, identify the court, the case number, and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known;

(5) whether relief in addition to the immediate physical custody of the child and in addition to attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(6) if the child custody determination has been registered and confirmed under section 1085 of this title, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless

that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and will order the payment of fees, costs, and expenses under section 1092 of this title, and the order may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under section 1085 of this title and:

(A) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 1084 of this title but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter.

(e) Except as otherwise provided in section 1090 of this title, the petition and order shall be served by any method authorized by Vermont law upon the respondent and any person who has physical custody of the child.

§ 1089. HEARING AND ORDER

(a) Unless the court issues a temporary emergency order pursuant to section 1074 of this title, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under section 1085 of this title and that:

(A) the issuing court did not have jurisdiction under subchapter 2 of this chapter;

(B) the child custody determination for which enforcement is sought

has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 1066 of this title, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 1085 of this title but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under subchapter 2 of this chapter.

(b) The court may award the fees, costs, and expenses authorized under section 1091 of this title and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the grounds that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this subchapter.

§ 1090. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD

(a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or to be removed from Vermont.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or to be removed from Vermont, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by subsection 1088(b) of this title.

(c) A warrant to take physical custody of a child shall:

(1) recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) direct law enforcement officers to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout Vermont. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

§ 1091. COSTS, FEES, AND EXPENSES

(a) The court may award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care expenses during the course of the proceedings.

(b) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than this chapter.

§ 1092. RECOGNITION AND ENFORCEMENT; APPEALS

(a) A Vermont court shall accord full faith and credit to an order issued by another state and consistent with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under subchapter 2 of this chapter.

(b) An appeal may be taken from a final order in a proceeding under this subchapter in accordance with the Vermont Rules of Appellate Procedure. Unless the court enters a temporary emergency order under section 1074 of this title, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

§ 1093. ROLE OF ATTORNEY GENERAL; ROLE OF LAW ENFORCEMENT

(a) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the attorney general or a state's attorney may take any lawful action, including resort to a proceeding under this subchapter or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request to do so from a court in a pending child custody proceeding;

(3) a reasonable belief that a criminal statute has been violated; or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) The attorney general or a state's attorney acting under this section acts on behalf of the court and shall not represent any party.

(c) At the request of the attorney general or a state's attorney acting under this section, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist the attorney general or state's attorney with responsibilities under this section.

§ 1094. COSTS AND EXPENSES

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the attorney general or state's attorney and law enforcement officers under section 1093 of this title.

Subchapter 4. Miscellaneous Provisions

§ 1095. APPLICATION AND CONSTRUCTION

In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 1096. EFFECTIVE DATE AND TRANSITIONAL PROVISION

This chapter shall take effect July 1, 2011. A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of this chapter is governed by the law in effect at the time the motion or other request was made.

Sec. 2. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

Notwithstanding any other provision of law to the contrary, the family division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(7) All uniform child custody proceedings filed pursuant to chapter 49 20 of Title 15.

* * *

Sec. 3. 15 V.S.A. § 665 is amended to read:

§ 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF THE CHILD

* * *

(e) The jurisdiction granted by this section shall be limited by the Uniform Child Custody Jurisdiction and Enforcement Act, if another state has jurisdiction as provided in that act. For the purposes of interpreting that act and any other provision of law which refers to a custodial parent, including but not limited to 13 V.S.A. § 2451, the parent with physical responsibility shall be considered the custodial parent.

Sec. 4. REPEAL

Chapter 19 of Title 15 (Uniform Child Custody Jurisdiction Act) is repealed.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

(For text see House Journal 2/15 - 2/16/11)

H. 443

An act relating to the state's transportation program

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

Sec. 1. TRANSPORTATION PROGRAM

(a) The state's proposed fiscal year 2012 transportation program appended to the agency of transportation's proposed fiscal year 2012 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) "agency" means the agency of transportation;

(2) "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) “TIB debt service fund” refers to the transportation infrastructure bonds debt service fund established in 32 V.S.A. § 951a; and

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

* * * Town Highway Bridge * * *

Sec. 2. TOWN HIGHWAY BRIDGE

The following modifications are made to the town highway bridge program:

(1) Development and engineering funding for the Fairfield BRO 1448(22) project in the amount of \$16,000.00 in federal funds, \$2,000.00 in transportation funds, and \$2,000.00 in local funds is deleted.

(2) A new project is added for the reconstruction or replacement of bridge #48 on TH 30 over Wanzer Brook in the town of Fairfield. Development and evaluation spending in the amount of \$16,000.00 in federal funds, \$2,000.00 in transportation funds, and \$2,000.00 in local funds is authorized for the project.

(3) Authorized spending on the Brattleboro-Hinsdale BRF 2000(19)SC project is amended to read:

| <u>FY12</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| PE | 100,000 | 0 | -100,000 |
| ROW | 75,000 | 0 | -75,000 |
| Construction | 0 | 0 | 0 |
| Total | 175,000 | 0 | -175,000 |
| <u>Sources of funds</u> | | | |
| State | 0 | 0 | 0 |
| TIB fund | 35,000 | 0 | -35,000 |
| Federal | 140,000 | 0 | -140,000 |
| Local | 0 | 0 | 0 |
| Total | 175,000 | 0 | -175,000 |

(4) Authorized spending on the Stratton culvert TH3 0103 project is amended to read:

| <u>FY12</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| PE | 40,000 | 40,000 | 0 |
| ROW | 0 | 0 | 0 |
| Construction | 0 | 0 | 0 |
| Total | 40,000 | 40,000 | 0 |
| <u>Sources of funds</u> | | | |

| | | | |
|----------|--------|--------|---------|
| State | 36,000 | 1,000 | -35,000 |
| TIB fund | 0 | 35,000 | 35,000 |
| Federal | 0 | 0 | 0 |
| Local | 4,000 | 4,000 | 0 |
| Total | 40,000 | 40,000 | 0 |

* * * Park and Ride * * *

Sec. 2a. PROGRAM DEVELOPMENT – PARK AND RIDE

Authorized spending on the municipal park and ride program within the program development — park and ride program is amended to read:

| <u>FY12</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Construction | 250,000 | 300,000 | 50,000 |
| Total | 250,000 | 300,000 | 50,000 |
| <u>Sources of funds</u> | | | |
| State | 250,000 | 300,000 | 50,000 |
| Total | 250,000 | 300,000 | 50,000 |

* * * Town Highway Emergency Fund * * *

Sec. 2b. TOWN HIGHWAY EMERGENCY FUND

Authorized spending on the town highway emergency program is amended to read:

| <u>FY12</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Grants | 750,000 | 735,000 | -15,000 |
| Total | 750,000 | 735,000 | -15,000 |
| <u>Sources of funds</u> | | | |
| State | 750,000 | 735,000 | -15,000 |
| Total | 750,000 | 735,000 | -15,000 |

* * * Rail * * *

Sec. 3. RAIL

The following modification is made to the rail program: A new project is added to upgrade the western rail corridor to the standards required to support 286,000 pound freight traffic and inter-city passenger rail service. The western rail corridor includes connections from points in New York to the corridor between Bennington, Rutland, Burlington, Essex Junction, and St. Albans to points in Canada.

Sec. 4. Sec. 18 of No. 164 of the Acts of 2007 Adj. Sess. (2008) is amended to read:

Sec. 18. RAIL

The following modifications are made to the rail program:

(1) Authorized spending on the three-way partnership program is amended to read as follows. ~~In future budget years, funding for the program shall be limited to the costs of specific projects.~~

* * *

* * * Vermont Local Roads * * *

Sec. 5. TOWN HIGHWAY VERMONT LOCAL ROADS

Authorized spending on the Vermont local roads program is amended to read:

| <u>FY12</u> | <u>As Proposed</u> | <u>As Amended</u> | <u>Change</u> |
|-------------------------|--------------------|-------------------|---------------|
| Grants | 375,000 | 390,000 | 15,000 |
| Total | 375,000 | 390,000 | 15,000 |
| <u>Sources of funds</u> | | | |
| State | 235,000 | 235,000 | 0 |
| Federal | 140,000 | 155,000 | 15,000 |
| Total | 375,000 | 390,000 | 15,000 |

* * * Bike and Pedestrian Facilities * * *

Sec. 6. PROGRAM DEVELOPMENT – BIKE AND PEDESTRIAN FACILITIES

The following modification is made to the program development – bike and pedestrian facilities program: Notwithstanding the authorized project or activity spending approved for the bike and pedestrian program, the secretary shall transfer \$10,000.00 in transportation funds authorized for spending within the program to the Vermont Association of Snow Travelers (VAST) for expenditure on the Lamoille Valley Rail Trail project, STP LVRT(1). VAST may use these funds to satisfy a portion of the local match requirement for the federal earmark for this project, and shall provide the agency an accounting of its use of the funds by June 30, 2012.

* * * Central Garage * * *

Sec. 7. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2012, the amount of \$1,120,000.00 is transferred from the transportation fund to the central garage fund created in 19 V.S.A. § 13.

* * * Cancellation of Projects * * *

Sec. 8. CANCELLATION OF PROJECTS

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of

projects), the general assembly approves cancellation of the following projects:

(1) Program development — interstate bridges:

(A) Berlin-Montpelier IM 089-1(17) (rehabilitation of bridges #36N&S, #37N&S, #38N&S, #39, #40N&S, and #41N&S on I-89);

(B) Bethel-Williamstown IR 089-1(12) (deck replacement and structural improvements to several bridges on I-89);

(C) Middlesex-Waterbury IR 089-2(16) (deck replacement and structural improvements to several bridges on I-89);

(D) Brattleboro IR 091-1(23) (at PE and/or ROW phase) (deck replacement on bridges #9N&S on I-91);

(E) Colchester-Highgate IM IR 089-3(18) (at PE and/or ROW phase) (deck replacement and substructure improvements to several bridges on I-89);

(F) Vernon-Putney IR 091-1(17) (at PE and/or ROW phase) (deck replacement and substructure improvements on several bridges along I-91);

(G) Guilford-Brattleboro IM 091-1(32) (proposed) (rehabilitation of bridges #2N&S, #4N&S, #5N&S, #7, #11N&S, and #12 on I-91);

(H) Hartford-Newbury IM 091-2(68) (proposed) (rehabilitation of bridges #45N&S, #46, #47N&S, #48N&S, #49N&S, and #51N&S on I-91);

(I) Hartford-Sharon-Royalton IR 089-1(10) (proposed) (deck replacement and structural improvements to several interstate bridges);

(J) Milton IM 089-3() (proposed) (rehabilitation of bridges #82, #84N&S, #85, #89, #90, #91, #92N&S, and #93 on I-89);

(K) Richmond IM 089-2(27) (proposed) (rehabilitation of bridges #52N&S, #53N&S, #54, #55N&S, #56N&S, and #57N&S on I-89);

(L) Rockingham-Weathersfield IR 091-1(24) (proposed) (replacement and substructure improvements to several bridges on I-91);

(M) Sharon-Royalton IR 089-1(9) (proposed) (deck replacement and substructure improvements to several bridges on I-89); and

(N) Windsor-Hartland IR 091-1(21) (proposed) (deck replacement and substructure improvements to several bridges on I-91).

(2) Program development — state highway bridges:

(A) Middlebury BHF 5900(4) (rehabilitation of bridge #2 on Merchants Row (TH 8) over Vermont Railway);

(B) Middlebury BHF 0161(9) (rehabilitation of bridge #102 on

VT 30 over Vermont Railway);

(C) Plymouth BRS 0149(3)S (replacement of bridge #8 on VT 100A over Hollow Brook; at PE and/or ROW phase).

(3) Town highway bridges:

(A) Readsboro BRO 1441(28) (replacement of bridge #21 on TH 4 over the West Branch of the Deerfield River);

(B) Fairfield BRO 1448(22) (replacement of bridge #48 on TH 30 over Wanzer Brook; at PE and/or ROW phase);

(C) Northfield BRO 1446(25) (replacement of bridge #50 on TH 25 over Stoney Brook; at PE and/or ROW phase).

(4) Program development — roadway:

(A) Bennington M 1000(10) (VT 67A) (district has constructed some improvements to intersection);

(B) Bridgewater-Woodstock NH 020-2(33)S (US 4) (project scope defined before adoption of Vermont design standards in 1997);

(C) Cavendish STP 0146(9) SC (VT 131) (Cavendish selectboard supports cancellation of project but would like some signage improvements to enhance safety);

(D) Cavendish-Ludlow NH-F 025-1(30) (VT 103) (FHWA requested VTrans to close this project in 2007);

(E) Concord-Lunenburg STP 0218() SC (TH 4) (project set up for scoping in 1997 but no funds were ever programmed);

(F) Dorset-Wallingford NH 019-2(20) SC (US 7) (project set up for scoping only and scoping report was completed in 1997);

(G) Dover STP 013-1(12) SC (VT 100) (project set up for scoping only and scoping report was completed in 1997);

(H) Duxbury STP F 013-4(11)S (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(I) Hartford-Newbury IM 019-2(70) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(J) Hinesburg STP 0199() SC (TH 4/FAS 0199) (project set up for scoping in 1997 but no funds were ever programmed);

(K) Killington STP 022-1(19) SC (VT 100) (project set up for scoping only and the scoping report was completed in 1997);

(L) Marlboro NH F 010-1(25) (VT 9) (project scope defined before adoption of Vermont design standards in 1997);

(M) Newbury STP 026-2() (US 302) (origination of project unknown; project has not been programmed with any funds);

(N) Pownal-Bennington F 019-1(16)C/1 (US 7) (project scope defined before adoption of Vermont design standards in 1997);

(O) Pownal-Bennington F 019-1(16)C/2 (US 7) (project scope defined before adoption of Vermont design standards in 1997);

(P) Readsboro-Whitingham STP RS 0102(13) (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(Q) Ryegate-St. Johnsbury IM 091-2(74) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(R) Ryegate-St. Johnsbury IM 091-2(75) (I-91 guardrail/ledge) (high-priority safety projects have been completed along this segment of I-91);

(S) St. Johnsbury-Lyndon IM 091-3(43) (I-91 drainage/fence) (high-priority safety projects have been completed along this segment of I-91);

(T) St. Johnsbury-Lyndon IM 091-3(44) (I-91 guardrail/ledge) (high-priority safety projects have been completed along this segment of I-91);

(U) Townshend STP 015-1(19)S (VT 30) (project set up in 1999 to modify the glare barrier and landscape in the vicinity of BR 3 on VT 30; no design activity or local interest in project since inception);

(V) Vergennes ST 017-1()S (VT 22A) (VTrans granted city funds to reconstruct and city contracted the work out);

(W) Waitsfield-Moretown-Duxbury STP F 013-4(12)S (VT 100) (project scope defined before adoption of Vermont design standards in 1997);

(X) Wallingford F 025-1(31) (VT 103) (project scope defined before adoption of Vermont design standards in 1997);

(Y) Waterford IM 093-1(11) (I-93 drainage/fence) (high-priority safety projects completed along this segment of I-93);

(Z) Waterford IM 093-1(12) (I-93 guardrail/ledge) (high-priority safety projects completed along this segment of I-93); and

(AA) Williamstown STP RS 0204(3) (VT 64).

* * * FY 2012 Western Rail Corridor Improvements * * *

Sec. 9. WESTERN RAIL CORRIDOR GRANT APPLICATION; FY 2012

CONTINGENT BONDING AUTHORITY

(a) The general assembly finds that intercity passenger rail along Vermont's western rail corridor is of critical importance to the transportation mobility and economic prosperity of the state. The western rail corridor includes connections from points in New York to the corridor between Bennington, Rutland, Burlington, Essex Junction, and St. Albans to points in Canada.

(b) The agency is encouraged to apply for a federal grant to cover, in whole or in part, the cost of upgrading the state's western rail corridor for intercity passenger rail service. In the grant application, the agency is authorized to identify the bonds authorized by this section as a source of state match funds. Upon its completion, the agency shall send an electronic copy of the grant application to the joint fiscal office.

(c) In the event the state is awarded a federal grant as referenced in subsection (b) of this section, the treasurer is authorized in fiscal year 2012 to issue transportation infrastructure bonds in an amount up to \$15,000,000.00 for the purpose of providing any state matching funds required by the federal grant. The treasurer is authorized to increase the issue of transportation infrastructure bonds in the event the treasurer determines that:

(1) the creation and funding of a permanent debt service reserve is advisable to support the successful issuance of the transportation infrastructure bonds; and

(2) the balance of the TIB fund and the TIB debt service fund as of the end of fiscal year 2011 is insufficient to fund such a permanent debt service reserve.

(d) In the event the state is awarded a federal grant as referenced in subsection (b) of this section:

(1) authority to spend the federal grant funds is added to the fiscal year 2012 transportation program – rail program and the amount of federal funds awarded is appropriated to the fiscal year 2012 transportation – rail program; and

(2) if transportation infrastructure bonds are issued pursuant to subsection (c) of this section to fund the project, authority to spend the bond proceeds on the project in an amount needed to match the federal funds authorized in subdivision (d)(1) of this subsection is added to the 2012 fiscal year transportation program – rail program and that amount is appropriated to the fiscal year 2012 transportation – rail program.

Sec. 10. FISCAL YEAR END 2011 TRANSPORTATION FUND SURPLUS

Subject to the funding of the transportation fund stabilization reserve in

accordance with 32 V.S.A. § 308a and notwithstanding 32 V.S.A. § 308c (transportation fund surplus reserve), any surplus in the transportation fund as of the end of fiscal year 2011 up to a maximum amount of \$1,000,000.00 may be transferred to the TIB debt service fund by order of the secretary of transportation, with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

Sec. 11. FISCAL YEAR END 2011 TIB FUND SURPLUS

Any surplus in the transportation infrastructure bond fund as of the end of fiscal year 2011 up to a maximum amount of \$1,000,000.00 may be transferred to the TIB debt service fund by order of the secretary of transportation, with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

Sec. 12. AUTHORITY TO REDUCE FISCAL YEAR 2011 APPROPRIATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2011 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may reduce fiscal year 2011 transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, and transfer in fiscal year 2011 the amount of the reductions to the TIB debt service fund for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

(b) The secretary's authority under subsection (a) of this section to reduce appropriations is limited to appropriations, the reduction of which, by itself, will not have the effect of significantly delaying the planned fiscal year 2011 work schedule of a project which formed the basis of the project's funding in fiscal year 2011.

(c) When any appropriation is reduced pursuant to this section, the secretary shall report the reduction to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

Sec. 13. CHANGE TO CONSENSUS REVENUE FORECAST

In the event the July 2011 consensus revenue forecast of fiscal year 2012 transportation fund or TIB fund revenue is increased above the January 2011 forecast, the increase up to \$2,000,000.00 may be transferred to the TIB debt service fund, by order of the secretary of transportation with the approval of the secretary of administration, for the purpose of providing the funds the treasurer deems likely to be needed to satisfy any debt service reserve requirement of transportation infrastructure bonds that may be issued pursuant to the authority granted in Sec. 9 of this act, to pay the issuance costs of such bonds, or to pay debt service obligations due on such bonds in fiscal years 2012 and 2013.

Sec. 14. AUTHORITY TO REDUCE FISCAL YEAR 2012 APPROPRIATIONS

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2012 transportation program, the secretary of transportation, with the approval of the secretary of administration and subject to the provisions of subsection (b) of this section, may reduce fiscal year 2012 transportation fund appropriations, other than appropriations for the town highway state aid, structures, and class 2 roadway programs, or TIB fund appropriations, and transfer in fiscal year 2012 the amount of the reductions to the TIB debt service fund for the purpose of providing the funds the treasurer deems likely to be needed to pay debt service obligations of transportation infrastructure bonds authorized by Sec. 9 of this act in fiscal year 2013.

(b) The secretary's authority under subsection (a) of this section to reduce appropriations is limited to appropriations, the reduction of which, by itself, in the context of any spending authorized for the project in the fiscal year 2012 transportation program will not have the effect of significantly delaying the planned work schedule of the project which formed the basis of the project's funding in fiscal years 2012 and 2013.

(c) The agency shall expedite the procedures required to determine the eligibility and certification of federal toll credits with respect to potentially qualifying capital expenditures made by Vermont entities through the end of fiscal year 2011 which, subject to compliance with federal maintenance of effort requirements, would be available for use by the state in fiscal year 2013.

The fiscal year 2013 transportation program shall reserve up to \$3,000,000.00 of such potentially available federal toll credits and federal formula funds and authorize the secretary to utilize the federal toll credits and federal formula funds to accomplish the objectives of this section.

(d) When any appropriation is reduced pursuant to this section, the secretary shall report the reduction to the joint fiscal office and to the house and senate committees on transportation when the general assembly is in session, and when the general assembly is not in session, to the joint transportation oversight committee.

* * * White River Junction Railroad Station * * *

Sec. 15. ACQUISITION OF WHITE RIVER JUNCTION RAILROAD STATION

(a) The agency is authorized to acquire the White River Junction railroad station from Rio Blanco Corporation or its successors in interest for a purchase price of up to \$875,000.00. The subject property is a 6,774-square-foot commercial building sited on approximately 0.73 acres of land, is located at 100–106 Railroad Row in the village of White River Junction within the town of Hartford, and is all the same property conveyed to Rio Blanco Corporation by two deeds: Release Deed from Central Vermont Railway, Inc., dated February 1, 1995, and recorded at Book 219, pages 45–50, and Release Deed from Boston & Maine Corporation dated February 2, 1995, and recorded at Book 219, pages 51–60, both in the land records of the town of Hartford.

(b) A new project is added to the fiscal year 2011 and 2012 transportation program — rail program for purchase of the White River Junction railroad station.

(c) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority in the fiscal year 2011 and 2012 transportation programs, authority to spend fiscal year 2011 and 2012 appropriations of transportation or TIB funds of up to \$875,000.00 is added to the state's fiscal year 2011 and 2012 transportation program — rail program for purchase of the White River Junction railroad station.

(d) The agency shall promptly report to the joint transportation oversight committee and to the joint fiscal office any action taken under the authority granted in subsection (a) of this section.

(e) Following conveyance of the White River Junction railroad station to the state of Vermont, the agency shall administer the property in accordance with 5 V.S.A. chapter 56 (intercity rail passenger service).

* * * Aviation Program Plan * * *

Sec. 16. AVIATION PROGRAM PLAN

(a) By January 15, 2012, the secretary of transportation shall develop a business plan to achieve the goal of each state-owned airport operating at a profit or, at a minimum, without a state subsidy, by June 30, 2015. In developing this plan, the secretary shall review the aviation programs of other states; study whether aircraft registration fees, hangar fees, landing fees for noncommercial aircraft, and other service fees would yield profits for the state; estimate the net profits that would be generated at various fee levels and for various fee types; and review any other subject matter the secretary deems relevant to advancing the goal of financially self-sustaining state-owned airports. If the agency determines that a state-owned airport is unlikely to become financially self-sustaining by June 30, 2015, the plan shall include recommendations for the sale or closure or both of any such airport or an explanation as to why any such airport should not be sold or closed.

(b) By January 15, 2012, the secretary shall submit the business plan required under subsection (a) of this section to the house and senate committees on transportation and any recommendations for proposed legislation needed to implement the plan.

* * * Municipal Airports * * *

Sec. 17. 5 V.S.A. § 695 is amended to read:

§ 695. FEDERAL ASSISTANCE

~~No municipality in this state, whether acting alone or jointly with another municipality or with the state shall submit to the Federal Aviation Administration of the United States any project application under the provisions of any federal statute, unless the project and the project application have been first approved by the secretary which approval shall not be unreasonably withheld. No A municipality shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the Federal Airport Act or amendments to that act, but it shall designate may petition the secretary to serve as its agent ~~and in its behalf~~ to accept, receive, receipt account for, and disburse all funds granted by the United States for an airport project. ~~It~~ If the secretary agrees to serve as agent, the municipality shall enter into an agreement with the secretary prescribing the terms and conditions of the agency relationship in accordance with any applicable federal or state laws, rules and or regulations and applicable laws of this state.~~

* * * State Aid for Town Highway Roadways and Structures * * *

Sec. 18. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(e) State aid for town highway structures. There shall be an annual appropriation for grants to municipalities for maintenance, including actions to extend life expectancy, and for construction of sidewalks, bridges, culverts, and other structures, including causeways and retaining walls, intended to preserve the integrity of sidewalks and the traveled portion of class 1, 2, and 3 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of ~~\$3,490,000.00~~ \$5,833,500.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway structures program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid for town highway structures may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

(f), (g) [Deleted.]

(h) Class 2 town highway roadway program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. Each fiscal year, the agency shall approve qualifying projects with a total estimated state share cost of ~~\$4,240,000.00~~ \$7,248,750.00 at a minimum as new grants. The agency's proposed appropriation for the program shall take into account the estimated amount of qualifying invoices submitted to the agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the town highway class 2 roadway program exceed the amount appropriated, the agency shall advise the governor of the need to request a supplemental appropriation from the general assembly to fund the additional project cost, provided that the agency has previously committed to completing those projects. Funds received as grants for state aid under the class 2 town highway roadway program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

* * *

Sec. 19. 19 V.S.A. § 309b(a) is amended to read:

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover 10 percent of the project costs, or unless a grant or portion of a grant is for sidewalk construction, in which event the local match shall be equal to the grant amount awarded or to the portion of the grant to be used for sidewalk construction. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

* * * Utility Adjustments * * *

Sec. 20. UTILITY ADJUSTMENTS

Notwithstanding chapter 16 of Title 19, during fiscal years 2011, 2012, and 2013, the agency of transportation is authorized to pay from a federal earmark for a highway project the costs of adjustments to municipal utilities located within a state highway right-of-way needed to accommodate the project, provided that the earmark involves no state matching funds and no commitment of state or additional federal funds, and provided that the utility adjustment costs are otherwise eligible for federal participation.

* * * Scenic Byways and Roads * * *

Sec. 21. The title of 10 V.S.A. chapter 19 is amended to read:

CHAPTER 19. SCENERY PRESERVATION COUNCIL

Sec. 22. 10 V.S.A. § 425 is amended to read:

§ 425. ~~SCENERY PRESERVATION~~ BYWAYS ADVISORY COUNCIL

(a) The ~~scenery preservation~~ byways advisory council shall:

(1) upon request, advise and consult with the agency of transportation, organizations, municipal planning commissions or legislative bodies, or regional planning commissions concerning byway program grants and in the designation of municipal scenic roads or byways;

(2) recommend for designation state scenic roads or byways after holding a public meeting to determine local support for designation;

(3) encourage and assist in fostering public awareness, and understanding of, and public participation in promoting, the objectives and functions of scenery preservation and in stimulating public participation and

interest current intrinsic scenic and other qualities within byways and scenic road corridors.

(b) ~~The scenery preservation byways advisory council shall consist of seven~~ eight members: the secretary of natural resources or his or her designee; the secretary of transportation or his or her designee; the commissioner of tourism and marketing or his or her designee; and five members appointed by the governor. The terms of the members appointed by the governor shall be for three years, except that he or she shall appoint the first members so that the terms of the members end in one year, two years, and three years. The governor shall designate an appointed member to serve as ~~chairman~~ chair at the governor's pleasure. Except as provided in this section, no state employee or member of any state commission or any federal employee or member of any federal commission shall be eligible for membership on the ~~scenery preservation byways advisory council~~. Members of the council who are not full-time state employees shall be entitled to a per diem as provided in 32 V.S.A. § 1010(b) and reimbursement for their actual necessary expenses. ~~The council shall meet no more than two times per year, and meetings may be called by the chair of the council or the secretary of transportation or his or her designee~~ may call meetings of the council.

(c) ~~The transportation board shall, in consultation with the scenery preservation council, and considering the criteria recommended in subdivision (b)(5) of this section, prepare, adopt and promulgate standards, and criteria for variances therefrom, pursuant to chapter 25 of Title 19, to carry out the purposes of this chapter. The standards shall include, but shall not be limited to, descriptions of techniques for construction, including roadside grading and planting and preservation of intimate roadside environments as well as scenic outlooks. The standards shall further prescribe minimum width, alignment and surface treatment with particular reference to the legislative findings of this act. The standards shall include methods of traffic control, such as signs, speed limits, signals and warnings, which shall not, within appropriate safety considerations, jeopardize the scenic or historic value of such roads. These standards shall be revised as necessary taking into consideration increased weight, load and size of vehicles making use of scenic roads, such as, but not limited, to forest product vehicles, agribusiness vehicles and school buses. No provision of the scenic road law may deny necessary improvement to or maintenance of scenic roads over which such vehicles must travel~~ Rehabilitation or reconstruction of byways or state scenic roads shall be conducted in accordance with the agency of transportation's Vermont Design Standards, as amended. Signs along byways and scenic roads shall be in accordance with the Federal Highway Administration's Manual on Uniform Traffic Control Devices, as amended.

(d) ~~Provisions of this chapter shall apply only within the highway right of way. [Repealed.]~~

(e) ~~All actions, including promulgation of rules, regulations or recommendations for designation, shall be made pursuant to the provisions of chapter 25 of Title 3. [Repealed.]~~

Sec. 23. 19 V.S.A. § 2501 is amended to read:

§ 2501. STATE SCENIC ROADS; DESIGNATION AND DISCONTINUANCE

(a) On the recommendation of the ~~scenery preservation~~ byways advisory council, the transportation board may designate or discontinue any state highway, or portion of a state highway, as a state scenic road. The board shall hold a hearing on the recommendation and shall submit a copy of its decision together with its findings to the ~~scenery preservation~~ byways advisory council within 60 days after receipt of the recommendation. The hearing shall be held in the vicinity of the proposed scenic highway.

(b) Annually, the council shall provide information to the agency of commerce and community development on designated scenic roads for inclusion on state maps.

(c) A state scenic road shall not be reconstructed or improved unless the reconstruction or improvement ~~conforms to the standards established by the agency of transportation pursuant to 10 V.S.A. § 425~~ is conducted in accordance with the agency of transportation's Vermont Design Standards, as amended.

Sec. 24. 19 V.S.A. § 2502 is amended to read:

§ 2502. TOWN SCENIC ROADS; DESIGNATION AND DISCONTINUANCE

(a) On recommendation of the planning commission of a municipality, or on the initiative of the legislative body of a municipality, a legislative body may, after one public hearing warned for the purpose, designate or discontinue any town highway or portion of a town highway as a town scenic highway. Such action by the legislative body may be petitioned by the registered voters of the municipality pursuant to the provisions of 24 V.S.A. § 1973.

(b) A town scenic road may be reconstructed or improved in a manner ~~consistent with the standards established by the transportation board, pursuant to 10 V.S.A. § 425~~ consistent with the agency of transportation's Vermont Design Standards, as amended. A class 1, 2 or 3 scenic highway shall still be eligible to receive aid pursuant to the provisions of this title.

(c) ~~The legislative body of a municipality may appeal for a variance from standards promulgated by the transportation board. In these appeals, the board's decision shall be final. [Repealed.]~~

Sec. 25. 30 V.S.A. § 218c(d)(2) is amended to read:

(2) Prior to the adoption of any transmission system plan, a utility preparing a plan shall host at least two public meetings at which it shall present a draft of the plan and facilitate a public discussion to identify and evaluate nontransmission alternatives. The meetings shall be at separate locations within the state, in proximity to the transmission facilities involved or as otherwise required by the board, and each shall be noticed by at least two advertisements, each occurring between one and three weeks prior to the meetings, in newspapers having general circulation within the state and within the municipalities in which the meetings are to be held. Copies of the notices shall be provided to the public service board, the department of public service, any entity appointed by the public service board pursuant to subdivision 209(d)(2) of this title, the agency of natural resources, the division for historic preservation, the department of health, the ~~scenery preservation~~ byways advisory council, the agency of transportation, the attorney general, the chair of each regional planning commission, each retail electricity provider within the state, and any public interest group that requests, or has made a standing request for, a copy of the notice. A verbatim transcript of the meetings shall be prepared by the utility preparing the plan, shall be filed with the public service board and the department of public service, and shall be provided at cost to any person requesting it. The plan shall contain a discussion of the principal contentions made at the meetings by members of the public, by any state agency, and by any utility.

Sec. 26. 30 V.S.A. § 248(a)(4)(C) is amended to read:

(C) At the time of filing its application with the board, copies shall be given by the petitioner to the attorney general and the department of public service, and, with respect to facilities within the state, the department of health, agency of natural resources, historic preservation division, ~~scenery preservation council, state planning office,~~ agency of transportation, the agency of agriculture, food and markets and to the chairperson or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located. At the time of filing its application with the board, the petitioner shall give the byways advisory council notice of the filing.

* * * Rest Areas and Welcome Centers; Funding * * *

Sec. 27. APPORTIONMENT STUDY

The joint fiscal office, in consultation with the commissioner of buildings and general services or designee and the secretary of transportation or designee, shall study how the cost of maintaining, staffing, and operating rest areas, information centers, and welcome centers could be apportioned between the general fund and the transportation fund. The joint fiscal office shall submit a report of its findings to the joint transportation oversight committee by November 1, 2011.

* * * State Highway Condemnation Law Study Committee * * *

Sec. 28. STATE HIGHWAY CONDEMNATION LAW STUDY COMMITTEE

(a) A study committee is established, consisting of a member of the house committee on transportation designated by the speaker, a member of the house committee on judiciary designated by the speaker, a member of the senate committee on transportation designated by the committee on committees, a member of the senate committee on judiciary designated by the committee on committees, a representative of the Vermont Bar Association designated by the association, a representative of the Vermont League of Cities and Towns designated by the league, a representative of the Vermont Society of Land Surveyors designated by the society, and the secretary of transportation or designee who shall serve as chair.

(b) The chair shall call the first meeting of the committee to be held by September 1, 2011, and the committee is authorized to hold up to five in-person meetings. The agency of transportation shall provide administrative support for the committee, and the office of legislative council shall provide staff service to the committee. The secretary of transportation or designee and staff of the office of legislative council shall prepare the report required under subsection (e) of this section based on the findings of the committee, and the committee shall terminate upon delivery of this report.

(c) The committee shall investigate possible changes in the state's highway condemnation law set forth in chapter 5 of Title 19 to achieve improved integration with the transportation planning process, federal and state environmental reviews, legislative oversight of the transportation program under 19 V.S.A. § 10g, and the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601 et seq. The committee also shall investigate the effect of possible changes to chapter 5 of Title 19 on other provisions of law that reference and rely upon the procedures set forth in that chapter.

(d) For attendance at a meeting when the general assembly is not in session, legislative members of the committee shall be entitled to per diem

compensation and expense reimbursement as provided in 2 V.S.A. § 406(a).

(e) The committee shall deliver a report of its findings, including any recommendations for proposed legislation, to the house and senate committees on transportation and on judiciary by January 15, 2012.

* * * Sign and Travel Information Law * * *

Sec. 29. 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:

* * *

(16) ~~{Repealed.}~~ Signs displaying a message of congratulations, condolences, birthday wishes, or displaying a message commemorating a personal milestone or event; provided, however, any such message is maintained for not more than two weeks.

* * *

Sec. 30. TRAVEL INFORMATION COUNCIL – RULEMAKING AND RECOMMENDATIONS

(a) By July 1, 2012, the travel information council shall, pursuant to the rulemaking authority granted in 10 V.S.A. § 484(b), adopt rules as to what constitutes flashing intermittent or moving lights or animated or moving parts within the meaning of 10 V.S.A. § 495(a)(3). In adopting these rules, the travel information council shall consider reliable empirical studies of the effect of changing or flashing signs on traffic safety; the current state of sign technology and expected future developments in sign technology; and the findings set forth in 10 V.S.A. § 482 concerning the value of the scenic resources of the state, the importance of providing information regarding services, accommodations, and points of interest to the traveling public, and the hazard created by the proliferation of outdoor advertising. The agency of transportation shall provide staff and administrative support during the rulemaking process.

(b) The travel information council shall study whether, consistent with the legislative findings set forth in 10 V.S.A. § 482, and based on the council's experience enforcing 10 V.S.A. chapter 21, the list of exempt signs at 10 V.S.A. § 494 should be amended. The council shall report its findings to the house and senate committees on transportation and to the house and senate committees on natural resources and energy by January 15, 2012.

* * * Motor Fuel Transportation Infrastructure Assessment * * *

Sec. 31. 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 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, exclusive of: all federal and state taxes, the petroleum distributor licensing fee established by 10 V.S.A. § 1942, and the motor fuel transportation infrastructure assessment authorized by this section. 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 amounts upon each gallon of motor fuel used within the state by him or her.

* * * Public Transit Advisory Council * * *

Sec. 32. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) A public transit advisory council shall be created by the secretary of transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

- (1) the secretary of transportation or designee;
- (2) ~~the executive director of the Vermont public transportation association;~~
- (~~3~~) three representatives of the Vermont public transportation association;
- (~~4~~)(3) a representative of the Chittenden County transportation authority;
- (~~5~~)(4) the secretary of human services or designee;
- (~~6~~)(5) the commissioner of ~~employment and training~~ labor or designee;
- (~~7~~)(6) the secretary of commerce and community development or

designee;

~~(8)~~(7) a representative of the Vermont center for independent living;

~~(9)~~(8) a representative of the ~~council~~ community of Vermont elders;

~~(10)~~(9) a representative of private bus operators and taxi services;

~~(11)~~(10) a representative of Vermont intercity bus operators;

~~(12)~~(11) a representative of the Vermont association of planning and development agencies;

~~(13)~~(12) a representative of the Vermont league of cities and towns;

~~(14)~~(13) a citizen appointed by the governor;

~~(15)~~(14) a member of the senate, appointed by the committee on committees; and

~~(16)~~(15) a member of the house of representatives, appointed by the speaker.

* * *

* * * Public Transportation Planning; Annual Reporting * * *

Sec. 33. 24 V.S.A. § 5089(b) is amended to read:

(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. 34. 24 V.S.A. § 5092 is amended to read:

§ 5092. REPORTS

The agency of transportation, in cooperation with the public transit advisory council, shall develop an annual report of financial and performance data of all public transit systems that receive operating subsidies in any form from the state or federal government, including but not limited to subsidies related to the

elders and persons with disabilities transportation program for service and capital equipment. Financial and performance data on the elders and persons with disabilities transportation program shall be a separate category in the report. The report shall be modeled on the Federal Transit Administration's national transit database program with such modifications as appropriate for the various services, ~~including the~~ and guidance found in ~~the most current short-range public transportation plans and~~ the most current state policy plan. The report shall describe any action taken by the agency pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards. The report shall be available to the general assembly by January 15 of each year.

* * * Temporary Siting of Meteorological Stations * * *

Sec. 35. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) For purposes of this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The public service board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the state if it is in compliance with the criteria of this section and the board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the board:

(1) Shall develop a simple application form and shall require that completed applications be filed with the board, the department of public service, the agency of natural resources, the agency of transportation, and the municipality in which the meteorological station is proposed to be located.

* * *

* * * Transportation Program; Project Dates * * *

Sec. 36. 19 V.S.A. § 10g(o) is added to read:

(o) For projects initially approved by the general assembly for inclusion in the state transportation program after January 1, 2009, the agency's proposed transportation program prepared pursuant to subsection (a) of this section and the official transportation program prepared pursuant to subsection (f) of this

section shall include the year in which such projects were first approved by the general assembly.

* * * Possession of Valid Operator's License * * *

Sec. 37. 23 V.S.A. § 611 is amended to read:

§ 611. POSSESSION OF LICENSE CERTIFICATE

Every licensee shall have his or her operator's license certificate in his or her immediate possession at all times when operating a motor vehicle. However, no person charged with violating this section or section 610 of this title shall be convicted if he or she produces in court or to the ~~arresting~~ enforcement officer an operator's license certificate theretofore issued to him or her ~~and valid which~~, at the time of his or her ~~arrest or within 14 days following its expiration~~ citation, was valid or had expired within the prior 14 days.

* * * Parking for Blind and Disabled * * *

Sec. 38. 23 V.S.A. § 304a(d) is amended to read:

(d) A person who is blind or who has an ambulatory disability may park and may park without fee for ~~not more than~~ 10 continuous days in a parking zone which is restricted as to the length of time parking is permitted, except that a person who is blind or who has an ambulatory disability may park and may park without fee for 24 continuous hours in a state or municipally owned parking garage whether or not the garage restricts the length of time that parking is permitted. This section shall not apply to zones in which parking, standing, or stopping of all vehicles is prohibited, which are reserved for special vehicles, or where parking is prohibited by any parking ban. As a condition to this privilege, the vehicle shall display the special handicapped plate or placard issued by the commissioner or a special registration license plate or placard issued by any other jurisdiction.

Sec. 39. 20 V.S.A. § 2904 is amended to read:

§ 2904. PARKING SPACES

Any parking facility on the premises of a public building shall contain at least the number of parking spaces required by ADAAG standards, and in any event at least one parking space, as ~~free~~ designated parking for individuals with ambulatory disabilities or blind individuals patronizing the building. The space or spaces shall be accessibly and proximately located to the building, and, subject to 23 V.S.A. § 304a(d), shall be provided free of charge. Consideration shall be given to the distribution of spaces in accordance with the frequency and persistence of parking needs. Such spaces shall be designated by a clearly visible sign that cannot be obscured by a vehicle parked

in the space, by the international symbol of access and, where appropriate, by the words “van accessible”; shall otherwise conform to ADAAG standards; and shall be in accordance with the standards established under section 2902 of this title.

Sec. 40. 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 \$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 \$23.00. The commissioner ~~shall~~ may 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) \$11.00 to the transportation fund.

(2) ~~\$6.00~~ \$12.00 to the department of fish and wildlife for deposit into, or apportionment among, the nongame wildlife account created in 10 V.S.A. § 4048.

~~(3) \$6.00 to the department of fish and wildlife for deposit into,~~ the watershed management account created in 10 V.S.A. § 4050, or any other account related to restoring and protecting Vermont’s wildlife and major

watershed areas.

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

(1) ~~\$10.00~~ \$20.00 to the department of fish and wildlife for deposit into, or apportionment among, the nongame wildlife account created in 10 V.S.A. § 4048.

~~(2) \$10.00 to the department of fish and wildlife for deposit into,~~ the watershed management account created in 10 V.S.A. § 4050, or any other account related to restoring and protecting Vermont's wildlife and major watershed areas.

~~(3)~~(2) \$3.00 to the transportation fund.

Sec. 41. EFFECTIVE DATES

(a) This section, Secs. 9 (western rail corridor grant application), 12 (authority to reduce fiscal year 2011 appropriations), 15 (White River Junction railroad station), 16 (aviation program plan), 20 (utility adjustments), and 29-30 (sign law provisions) shall take effect on passage.

(b) Sec. 36 (transportation program project dates) shall take effect on January 1, 2012.

(c) Sec. 19 (town highway structures match) shall take effect on July 2, 2011.

(d) All other sections of this act shall take effect on July 1, 2011.

Sec. 42. SUNSET

Sec. 29 (exempt signs) shall be repealed on July 1, 2012.

(For text see House Journal March 31, 2011)

H. 446

An act relating to capital construction and state bonding

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

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) Notwithstanding any other provision of law, this act, unlike previous acts relating to capital construction and state bonding, appropriates capital funds for the next two years. This temporary move to a biennial capital budgeting cycle is designed to accelerate the construction dates of larger

projects and thus create jobs for Vermonters sooner than would be possible under a one-year capital budgeting cycle.

(b) It is the intent of the general assembly that:

(1) this move to a biennial capital budgeting cycle shall apply only to FY 2012 and FY 2013.

(2) any decision to move permanently to a biennial capital budgeting cycle shall receive study and consideration at a later date prior to implementation.

(3) of the \$153 million authorized by this act, no more than \$85,635,157 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(4) in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a capital construction and state bonding adjustment bill. It is the intent of the general assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

(c) On or before January 15, 2012, each entity to which funds are appropriated under this act shall submit to the house committees on corrections and institutions and the senate committee on institutions a brief report on the status of each project. The report shall be no more than one page in length for each project.

* * * Capital Appropriations * * *

Sec. 2. STATE BUILDINGS

(a) Of the total sums appropriated to the department of buildings and general services, the commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled until 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.

(b) The following sums are appropriated in FY 2012:

- | | |
|--|----------------|
| <u>(1) Statewide, asbestos and lead abatement:</u> | <u>100,000</u> |
| <u>(2) Statewide, building reuse and planning:</u> | <u>125,000</u> |
| <u>(3) Statewide, contingency:</u> | <u>300,000</u> |
| <u>(4) Statewide, elevator repairs and upgrades:</u> | <u>50,000</u> |
| <u>(5) Statewide, major maintenance. Of this amount, up to \$360,000 may</u> | |

be used for window sills and frames in coordination with the ARRA-funded window replacement project in Waterbury. For the purposes of this act, major maintenance shall mean deferred maintenance, planned capital renewal, and routine maintenance as these terms are defined in the memorandum of explanation of terminology dated April 14, 2011 from BGS to the chairs of the institutions committees:

9,000,000

(6) Statewide, BGS engineering, project management, and architectural project costs. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:

2,428,802

(7) Statewide, physical security enhancements:

150,000

(8) Brattleboro, state office building, HVAC replacement and renovations:

3,275,000

(9) Burlington, 108 Cherry St., HVAC upgrades:

1,000,000

(10) Montpelier, 116 State St., restore building envelope:

1,000,000

(11) Burlington, for Burlington International Airport to continue the process of planning and designing a new aviation technical center.

150,000

(12) Montpelier, 120 State St., restroom renovations:

250,000

(13) Montpelier, 120 State St., planning and design for building renovations:

250,000

(14) Newport, Hebard state office building, façade replacement and water intrusion prevention:

350,000

(15) Newport, Northern State Correctional Facility, maintenance shop:

350,000

(16) Springfield Correctional Facility, exterior mechanical building:

350,000

(17) Springfield, MA, exposition center building upgrades:

300,000

(18) St. Albans, Northwest State Correctional Facility, maintenance shop:

350,000

(19) St. Johnsbury, Caledonia Community Work Camp wood boiler and generator upgrade:

400,000

(20) Waterbury, powerhouse fuel tank replacement:

400,000

(21) Waterbury, wood-chip-fired boiler facility planning:

500,000

(22) Montpelier, upgrade and repairs to existing heat plant:

1,900,000

(c) The following sums are appropriated in FY 2013:

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| <u>(1) Statewide, asbestos and lead abatement:</u> | <u>100,000</u> |
| <u>(2) Statewide, contingency:</u> | <u>300,000</u> |
| <u>(3) Statewide, elevator repairs and upgrades:</u> | <u>50,000</u> |
| <u>(4) Statewide, major maintenance, as that term is defined in subdivision (b)(5) of this act:</u> | <u>8,000,000</u> |
| <u>(5) Statewide, BGS engineering, project management, and architectural project costs. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:</u> | <u>2,482,802</u> |
| <u>(6) Statewide, physical security enhancements:</u> | <u>150,000</u> |
| <u>(7) Burlington, 108 Cherry St., HVAC upgrades:</u> | <u>1,000,000</u> |

(d) For the project described in subdivision (b)(13), the commissioner shall present a design plan to the committees on institutions on or before January 15, 2012.

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| <u>Appropriation – FY 2012</u> | <u>\$22,978,802</u> |
| <u>Appropriation – FY2013</u> | <u>\$12,028,802</u> |
| <u>Total Appropriation – Section 2</u> | <u>\$35,007,604</u> |

Sec. 3. ADMINISTRATION

(a) Of the funds 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:

- (1) \$100,000 is appropriated in FY 2012.
- (2) \$100,000 is appropriated in FY 2013.

(b) The sum of \$7,000,000 is appropriated to Vermont Telecommunications Authority (VTA) in FY 2012 for the project described in Sec. 49 of this act.

(c) The sum of \$4,800,000 is appropriated to VTA in FY 2013 for the project listed in subsection (b) of this section, provided that VTA successfully achieves the outcomes listed in Sec. 49(i) of this act, as determined by the house committees on commerce and economic development and on corrections and institutions, the senate committees on economic development, housing and general affairs and on finance, and the joint fiscal committee.

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| <u>Appropriation – FY 2012</u> | <u>\$7,100,000</u> |
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Appropriation – FY 2013 \$4,900,000
Total Appropriation – Section 3 \$12,000,000

Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2012 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) Health laboratory, continuation of design, permitting, bidding, and construction phases for co-location of department of health laboratory with the UVM Colchester research facility: 14,000,000

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

(3) Vermont state hospital, continuation of planning and design: 1,000,000

(4) Corrections, continuation of suicide prevention project: 100,000

(5) Corrections, security upgrades: 100,000

(6) Corrections, removal of existing dam at the Southeast State Correctional Facility in Windsor and upgrade of the facility's potable and fire suppression water supply: 1,000,000

(b) The sum of \$1,400,000 is appropriated to the department of buildings and general services in FY 2012 for the department of corrections master plan outlined in Sec. 38 of this act.

(c) The following sums are appropriated in FY 2013 to the department of buildings and general services for the agency of human services for the projects described in this subsection:

(1) Corrections, rehabilitate VCI print shop: 143,920

(2) Corrections, removal of existing dam at the Southeast State Correctional Facility in Windsor and upgrade of the facility's potable and fire suppression water supply: 400,000

(3) Vermont state hospital, continuation of planning and design: \$1,609,346

(d) \$14,000,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of human services to continue the project described in subdivision (a)(1) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on the health laboratory project as soon as possible, it is the intent of the general assembly that these are committed funds

not subject to budget adjustment.

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| <u>Appropriation – FY 2012</u> | <u>\$17,700,000</u> |
| <u>Appropriation – FY2013</u> | <u>\$16,153,266</u> |
| <u>Total Appropriation – Section 4</u> | <u>\$33,853,266</u> |

Sec. 5. JUDICIARY

(a) \$200,000 is appropriated in FY 2012 to the department of buildings and general services on behalf of the Judiciary to perform repairs and upgrades to bring county courthouse facilities into ADA compliance. The department shall perform these repairs in accordance with the County Courts Americans with Disabilities Act Audits Reports submitted by the department to the general assembly pursuant to Sec. 235a of No. 154 of the Acts of the 2009 Adj. Sess. (2010).

(b) \$200,000 is appropriated in FY 2013 to continue the project described in subsection (a) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work as soon as possible, it is the intent of the general assembly that these are committed funds not subject to capital budget adjustment.

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| <u>Total Appropriation – Section 5</u> | <u>\$400,000</u> |
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Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2012 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) Vermont archeology heritage center; rehabilitation of unused space at the Vermont history center and associated moving costs: 400,000

(3) Historic property stabilization and rehabilitation fund: 100,000

(b) \$200,000 is appropriated in FY 2013 to the department of buildings and general services for the agency of commerce and community development major maintenance at historic sites statewide; provided such maintenance shall be under the supervision of the department of buildings and general services: 200,000

(c) The following sums are appropriated in FY 2012 to the agency of commerce and community development for the following projects:

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| <u>(1) Underwater preserves:</u> | <u>50,000</u> |
| <u>(2) Placement and replacement of roadside historic site markers:</u> | <u>15,000</u> |
| <u>(d) The following sums are appropriated in FY 2013 to the agency of commerce and community development for the following projects:</u> | |
| <u>(1) Underwater preserves:</u> | <u>25,000</u> |
| <u>(2) Placement and replacement of roadside historic site markers:</u> | <u>15,000</u> |
| <u>Appropriation – FY 2012</u> | <u>\$815,000</u> |
| <u>Appropriation – FY 2013</u> | <u>\$240,000</u> |
| <u>Total Appropriation – Section 6</u> | <u>\$1,055,000</u> |

Sec. 7. BUILDING COMMUNITIES GRANTS

(a) The following sums are appropriated in FY 2012 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: 250,000
- (2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation grant program. Of this sum, up to \$20,000 may be used for the Barn Census Project: 250,000
- (3) To the Vermont council on the arts for the cultural facilities grant program: 250,000
- (4) To the department of buildings and general services for the recreational facilities grant program: 250,000
- (5) To the department of buildings and general services for the human services and educational facilities competitive grant program: 250,000
- (6) For the agricultural fairs capital projects competitive grant program: 250,000

(b) The following sums are appropriated in FY 2013 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: 250,000
- (2) To the agency of commerce and community development, division for historic preservation, for the historic barns preservation

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| <u>grant program:</u> | <u>250,000</u> |
| <u>(3) To the Vermont council on the arts for the cultural facilities grant program:</u> | <u>250,000</u> |
| <u>(4) To the department of buildings and general services for the recreational facilities grant program:</u> | <u>250,000</u> |
| <u>(5) To the department of buildings and general services for the human services and educational facilities competitive grant program:</u> | <u>250,000</u> |
| <u>(6) For the agricultural fairs capital projects competitive grant program:</u> | <u>250,000</u> |
| <u>Appropriation – FY 2012</u> | <u>\$1,500,000</u> |
| <u>Appropriation – FY 2013</u> | <u>\$1,500,000</u> |
| <u>Total Appropriation – Section 7</u> | <u>\$3,000,000</u> |

Sec. 8. EDUCATION

(a) \$7,000,000 is appropriated in FY 2012 to the department of education for funding the state share of completed school construction projects pursuant to 16 V.S.A. § 3448. The appropriation shall be allocated according to the priorities established by the state board of education for fiscal year 2012, excluding emergency projects and asset renewal projects. Major addition or renovation projects shall receive 30 percent of the remaining amount owed by the state. Technical education projects shall each receive 33 percent of the remaining amount owed by the state. Of the balance remaining of the appropriation once all major addition or renovation and technical education projects are paid, renewable energy projects shall receive an equal percentage of the amount owed by the state.

(b) \$7,000,000 is appropriated in FY 2013 pursuant to 16 V.S.A. § 3448. It is the intent of the general assembly that these are committed funds not subject to capital budget adjustment

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| <u>Total Appropriation – Section 8</u> | <u>\$14,000,000</u> |
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Sec. 9. AUSTINE SCHOOL

The sum of \$500,000 is appropriated in FY 2012 to the department of buildings and general services for the final phase of renovation of Holton Hall at the Austine School. This shall be the last capital funding for this project.

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| <u>Total Appropriation – Section 9</u> | <u>\$500,000</u> |
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Sec. 10. UNIVERSITY OF VERMONT

(a) \$1,800,000 is appropriated in FY 2012 to the University of Vermont for

construction, renovation, and major maintenance.

(b) \$1,800,000 is appropriated in FY 2013 for the project described in subsection (a) of this section. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 10 \$3,600,000

Sec. 11. VERMONT STATE COLLEGES

(a) \$1,800,000 is appropriated in FY 2012 to Vermont State Colleges for construction, renovation, and major maintenance.

(b) \$1,800,000 is appropriated in FY 2013 to Vermont State Colleges for construction, renovation, and major maintenance. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project.

Total Appropriation – Section 11 \$3,600,000

Sec. 12. NATURAL RESOURCES

(a) The following sums are appropriated to the agency of natural resources in FY 2012 for:

(1) the water pollution control fund for the following projects:

(A) Clean water state/EPA revolving loan fund (CWSRF) match: 1,460,400

(B) Combined sewer overflow project in Springfield, several areas: 210,000

(C) Principal and interest on short-term borrowing associated with delayed grant funding for the Pownal project: 550,000

(D) Springfield loan conversion: 100,000

(E) Administrative support – engineering, oversight, and program management. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project: 275,000

(2) the drinking water state revolving fund for the following projects:

(A) Engineering oversight and project management. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project: 275,000

(B) Balance of match to federal FY 2010 EPA grant: 2,515,253

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| (C) <u>Partial match to federal FY 2011 EPA grant:</u> | <u>271,460</u> |
| <u>(3) the following water pollution control TMDL and wetland protection projects:</u> | |
| (A) <u>Ecosystem restoration and protection:</u> | <u>2,500,000</u> |
| (B) <u>Waterbury waste treatment facility phosphorous removal:</u> | <u>2,700,000</u> |
| <u>(4) the following dam safety and hydrology projects:</u> | |
| (A) <u>Wolcott Pond dam repair and maintenance:</u> | <u>150,000</u> |
| (B) <u>Waterbury dam maintenance:</u> | <u>175,000</u> |
| <u>(5) The following sum is appropriated to the agency of natural resources for the department of forests, parks and recreation for statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects. Up to \$100,000 of these funds may be used to work with the Vermont youth conservation corps on appropriate forests, parks and recreation projects:</u> | <u>2,500,000</u> |
| <u>(6) the following department of fish and wildlife projects:</u> | |
| (A) <u>general infrastructure projects:</u> | <u>250,000</u> |
| (B) <u>removal of unsafe dilapidated structures. Of this amount, up to \$50,000 may be used for improvements to state-owned shooting ranges:</u> | <u>150,000</u> |
| (C) <u>fish culture station improvements:</u> | <u>550,000</u> |
| (D) <u>fishing access improvements:</u> | <u>100,000</u> |
| <u>(b) The following sums are appropriated to the agency of natural resources in FY 2013 for:</u> | |
| <u>(1) the water pollution control fund for the following projects:</u> | |
| (A) <u>Clean water state/EPA revolving loan fund (CWSRF) match:</u> | <u>2,000,400</u> |
| (B) <u>Combined sewer overflow projects:</u> | |
| (i) <u>St. Albans, 1272 Order (Combined Sewer Overflow Abatement):</u> | <u>250,000</u> |
| (ii) <u>Hartford and White River Junction, Nutt Lane overflow:</u> | <u>125,000</u> |
| (C) <u>Principal and interest on short-term borrowing</u> | |

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| <u>associated with delayed grant funding for the Pownal project:</u> | <u>500,000</u> |
| <u>(D) Springfield loan conversion:</u> | <u>100,000</u> |
| <u>(E) Administrative support – engineering, oversight, and program management. It is the intent of the general assembly to evaluate in the second year of the biennium the appropriate amount for future funding of this project:</u> | <u>300,000</u> |
| <u>(2) the following projects:</u> | |
| <u>(A) the drinking water state revolving fund for balance of match to federal FY 2011 EPA grant:</u> | <u>2,433,140</u> |
| <u>(B) Engineering oversight and program management:</u> | <u>300,000</u> |
| <u>(3) ecosystem restoration and protection:</u> | <u>2,500,000</u> |
| <u>(4) the department of forests, parks and recreation for statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects. Up to \$100,000 of these funds may be used to work with the Vermont youth conservation corps on appropriate forests, parks and recreation projects:</u> | <u>2,500,000</u> |
| <u>(5) the following department of fish and wildlife projects:</u> | |
| <u>(A) fish culture station improvements:</u> | <u>550,000</u> |
| <u>(B) fishing access improvements:</u> | <u>100,000</u> |
| <u>(C) for the Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure:</u> | <u>25,000</u> |
| <u>Appropriation – FY 2012</u> | <u>14,732,113</u> |
| <u>Appropriation – FY 2013</u> | <u>11,683,540</u> |
| <u>Total Appropriation – Section 12</u> | <u>\$26,415,653</u> |

Sec. 13. MILITARY

(a) \$400,000 is appropriated in FY 2012 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.

(b) \$350,000 is appropriated in FY 2013 for the purpose described in subsection (a) of this section.

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| <u>Total Appropriation – Section 13</u> | <u>\$750,000</u> |
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Sec. 14. PUBLIC SAFETY

(a) \$50,000 is appropriated in FY 2012 to the department of public safety for the purchase of equipment for the fire service training center of Vermont in Pittsford.

(b) \$50,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

(c) \$2,500,000 is appropriated in FY 2012 to the department of buildings and general services for the department of public safety for the design, construction, and fit-up of a new public safety field station to consolidate the Brattleboro and Rockingham barracks.

(d) \$2,500,000 is appropriated in FY 2013 for the project described in subsection (c) of this section. For the purpose of allowing the department of buildings and general services to enter into contractual agreements and complete work on this project as soon as possible, it is the intent of the general assembly that these are committed funds not subject to budget adjustment.

(e) \$10,000 is appropriated in FY 2012 for an architectural assessment of the Vermont State Police barracks in Middlesex to determine the most cost-effective way to modify the existing facilities to enhance officer and suspect safety by incorporating an existing garage to aid in criminal transport, creating an updated holding cell, and creating a contained processing and booking area that is separate from staff work space.

(f) For a future project to consolidate Vermont State Police facilities currently located in Bradford and St. Johnsbury into one location, the commissioners of the departments of public safety and of buildings and general services shall explore land opportunities adjacent to exit 18 on I-91 in Barnet. If an appropriate site is identified, the commissioner of buildings and general services may acquire an option on the land, pursuant to the authority granted in 29 V.S.A. § 152(3)(B).

(g)(1) Prior to entering into any new lease for the division of fire safety and on or before January 15, 2012, the department of public safety in collaboration with the department of buildings and general services shall submit to the house committee on corrections and institutions and the senate committee on institutions for approval a study of the cost savings and impact to programs and services that are likely to result if the Rutland and Springfield regional offices are consolidated. At a minimum, the study shall consider whether the consolidation would:

(A) affect the quality of services to the public.

(B) create geographical hardships for the public or employees.

(C) decrease the effective delivery of services and, if there is a

decrease, whether this loss negates any potential cost savings.

(D) affect department operations.

(E) affect employee morale.

(F) create hardships for the communities that will lose the regional offices.

(2) The study shall also consider how the consolidation would affect the inventory of existing state-owned property and whether technology could be used to link supervisors with their employees and, if so, whether this technology is available currently within the department.

Appropriation – FY 2012 \$2,560,000

Appropriation – FY 2013 \$2,550,000

Total Appropriation – Section 14 \$5,110,000

Sec. 15. CRIMINAL JUSTICE TRAINING COUNCIL; FIRE TRAINING SERVICE COUNCIL

No capital funds other than those to be used for major maintenance shall be appropriated for the criminal justice training council or the fire training council until the two entities enter into a memorandum of understanding regarding governance, efforts to consolidate, and a strategic plan for working together in the future.

Sec. 16. AGRICULTURE, FOOD AND MARKETS

(a) \$1,300,000 is appropriated in FY 2012 to the agency of agriculture, food and markets for the best management practice implementation cost share program, to continue to reduce nonpoint source pollution in Vermont. Cost share funds shall not exceed \$75,000 or 90 percent of the total cost of a project. Whenever possible, state funds shall be combined with federal funds to complete projects.

(b) \$1,400,000 is appropriated in FY 2013 for the program described in subsection (a) of this section.

Total Appropriation – Section 16 \$2,700,000

Sec. 17. VERMONT PUBLIC TELEVISION

(a) \$500,000 is appropriated in FY 2012 to Vermont Public Television for the state match for the federally mandated conversion of its transmission network to digital format.

(b) \$300,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

Total Appropriation – Section 17 \$800,000

Sec. 18. VERMONT RURAL FIRE PROTECTION

(a) \$100,000 is appropriated in FY 2012 to the department of public safety, division of fire safety for the Vermont rural fire protection task force to continue the dry hydrant program.

(b) \$100,000 is appropriated in FY 2013 to continue the dry hydrant program.

Total Appropriation – Section 18 \$200,000

Sec. 19. VERMONT VETERANS' HOME

(a) \$200,000 is appropriated in FY 2012 to the department of buildings and general services for the Vermont Veterans' Home to replace the nurse call system on B and C wings of the facility.

(b) \$100,000 is appropriated in FY 2012 to the department of buildings and general services for the Vermont Veterans' Home to design an upgrade of the kitchen and dietary storage areas to be code compliant and to improve the food preparation and delivery systems.

Total Appropriation – Section 19 \$300,000

Sec. 20. VERMONT CENTER FOR CRIME VICTIM SERVICES

(a) \$50,000 is appropriated in FY 2012 to the Vermont Center for Crime Victim Services for Americans with Disabilities Act improvements at domestic and sexual violence shelters and nonshelter programs. The Vermont Center for Crime Victim Services shall continue to file annually and in the manner prescribed the report required by Sec. 20 of No. 161 of the Acts of the 2009 Adj. Sess. (2010).

(b) \$35,000 is appropriated in FY 2013 for the project described in subsection (a) of this section.

Total Appropriation – Section 20 \$85,000

Sec. 21. INFORMATION AND INNOVATION

\$5,780,000 is appropriated in FY 2013 to the department of information and innovation for the upgrade of the financial and human resources computer system. The department shall report back to the general assembly on or before January 15, 2012 regarding how the appropriations granted in Sec. C.100 of H.441 of the 2011 Session (the appropriations bill) have been used for this project.

Total Appropriation – Section 21 \$5,780,000

Sec. 22. HOUSING AND CONSERVATION BOARD

The amount of \$4,000,000 is appropriated in FY 2012 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 and supportive housing for persons with disabilities including persons with chronic mental illness and transitional and supportive housing for individuals and families who might otherwise be homeless;

(2) consider the need for creating public inebriate beds and transitional housing in unserved areas of the state;

(3) 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;

(4) leverage federal and private funds to the maximum extent feasible. If less than \$3,200,000 of the state's private use bond cap is made available to VHCB for loans to eligible affordable housing projects or if federal law prevents the state from combining the 9 percent housing tax credit with this capital appropriation, 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 by Sec. ____ of No. ____ of 2011 (H.441; the appropriations bill); and

(5) Of this appropriation, \$600,000 shall be allocated to the agency of human services for two housing projects in Burlington to serve the agency's clients. The agency of human services shall enter into a memorandum of understanding with the Burlington Housing Authority on how the units in these projects can best be utilized for agency of human services clients.

(6) on or before January 31, 2012, provide its annual report to the senate committee on institutions and the house committee on corrections and institutions on how the funds appropriated by this section and by the FY 2012 Appropriations Act were spent or obligated.

Total Appropriation – Section 22

\$4,000,000

Sec. 22a. PUBLIC INEBRIATES TASK FORCE

The public inebriates task force established pursuant to Sec. 17 of No 179 of the Acts of the 2007 Adj. Sess. (2008) shall work with the Vermont housing

and conservation board to provide public inebriate beds. The task force shall develop a plan to assemble support services and related annual funding, and assemble a facility with two to four beds, in one or more of the unserved areas of the state. The task force shall report the plan and its progress to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2012.

Sec. 23. VERMONT INTERACTIVE TELEVISION

(a) \$299,242 is appropriated in FY 2012 to Vermont Interactive Television for the purchase of equipment necessary for systems and unit upgrades at Vermont Interactive Television sites.

(b) \$299,241 is appropriated in FY 2013 to Vermont Interactive Television for the project described in subsection (a) of this section.

Total Appropriation – Section 23 \$598,483

* * * Financing This Act * * *

Sec. 24. 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. 2 of this act:

(1) of the amount appropriated by Sec. 12(a) of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (public safety): 6,303.13

(2) of the amount appropriated by Sec. 1 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (20 Houghton): 10,260.00

(3) of the amount appropriated by Sec. 6 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (human resources grants): 3,969.35

(4) of the amount appropriated by Sec. 15 of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Pittsford fire service training facility): 400,000.00

(5) of proceeds from the sale of property authorized by Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008) (Thayer school): 100,001.00

(6) of the amount appropriated by Sec. 1 of No. 43 of the Acts of 2009 (engineering staff): 74,472.91

Total Reallocations and Transfers – Section 24 \$595,006.39

Sec. 25. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The state treasurer is authorized to issue general obligation bonds in the amount of \$153,160,000 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.

Total Revenues – Section 25

\$153,160,000

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The department of buildings and general services, in consultation with the Rutland City mayor or designee, shall study the feasibility of selling the Asa Bloomer building and parking garage located in Rutland City, including the operations, maintenance, and security of the garage, separately or together for a single sale or together in perpetuity pursuant to 29 V.S.A. § 166 and shall make a recommendation to the committees on institutions on or before January 14, 2012.

(b) The commissioner of buildings and general services on behalf of the division for historic preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by section 30 of this act:

(1) Fuller farmhouse at the Hubbardton Battlefield state historic site, authority to sell or enter into a long-term lease with covenants.

(2) Hyde log cabin in Grand Isle, authority to donate property free of covenants to Grand Isle or, in the alternative, to donate the building to Hyde Park, or in the alternative to sell the property.

(3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to sell or enter into a long-term lease with covenants on the land.

(4) Eureka Schoolhouse in Springfield, authority to transfer with covenants to a local organization or, in the alternative, to sell the property.

(5) Bradley Law Office in Westminster, authority to transfer with covenants to a local organization.

(c) The commissioner of buildings and general services is authorized to sell the Vermont health laboratory at 195 Colchester Avenue in Burlington pursuant to 29 V.S.A. § 166. Net proceeds of the sale shall be reallocated to fund future capital projects.

(d) The commissioner of buildings and general services is authorized to use funds appropriated under this act for capital projects requiring additional

support that were funded with capital or general appropriations made in prior years.

(e) On or before January 15, 2012, the commissioner of buildings and general services shall report to the house committee on corrections and institutions and the senate committee on institutions on whether it is in the best interest of the state and to what extent it is feasible to locate the department of education offices at a single site.

Sec. 27. REPEAL OF AUTHORITY TO SELL REDSTONE

Subdivision (g)(2) of Sec. 25 of No. 43 of the Acts of 2009 (authority to sell the Redstone building) is repealed.

Sec. 27a. REDSTONE FEASIBILITY STUDY

The commissioner of buildings and general services shall provide a feasibility study to the senate committee on institutions and the house committee on corrections and institutions on or before January 15, 2012 on whether it is in the best interest of the state for the Redstone building located at 26 Terrace Street in Montpelier to remain in the state's inventory for the support of state government, public functions, state museums, or any other use consistent with functions of state government, including apartment housing for the chief executive. The commissioner may propose a plan that includes partnering with nonprofit entities to restore and renovate the building to accommodate the proposal and retain the property's historic value.

Sec. 28. Sec. 26 of No. 52 of the Acts of 2007 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

The commissioner of buildings and general services is authorized, with the approval of the secretary of administration, to sell the properties listed in this subsection pursuant to 29 V.S.A. § 166. ~~Of proceeds from the sales \$50,000 is appropriated to the Friends of the State House for renovations to the state house. The remainder is~~ Proceeds from the sale are appropriated to the department of buildings and general services for construction and renovation of building 617 in Essex to house the department of health and department of public safety forensics laboratories future capital projects.

* * *

Sec. 28a. Sec. 25 of No. 43 of the Acts of 2009 is amended to read:

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(i) In Sec. 32(d) of No. 200 of the Acts of the 2007 Adj. Sess. (2008), the

general assembly authorized the commissioner of buildings and general services to sell, lease, subdivide, convert into condominiums, or any combination thereof the Thayer school building located at 1193 North Avenue in Burlington. The commissioner is hereby further authorized to transfer title by warranty deed for sale of the building and to convey the Thayer school property by warranty deed and to renegotiate or redevelop the terms of the property development agreement, including the state's present and future ownership interest in the real property and the scope and nature of the development agreement. If a proposal to renegotiate or redevelop the terms of the property development agreement is created when the general assembly is not convened, the proposal shall be presented to the chairs of the institutions committees to review and approve.

Sec. 29. Sec. 25(f) of No. 161 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(f) 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. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.

Sec. 30. 29 V.S.A. § 155 is added to read:

§ 155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate the excess funds for other purposes in the next enacted capital appropriations bill.

(b) Monies in the fund shall be available to the department for the stabilization or rehabilitation of state-owned historic property pursuant to a program created jointly by the department of buildings and general services and the division for historic preservation of the agency of commerce and community development.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on

institutions concerning deposits into and disbursements from the fund occurring in the previous calendar year, the properties sold and stabilized or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

(d) Annually, the list presented to the general assembly of state-owned property the commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the commissioner has identified as underutilized state-owned historic property pursuant to subsection (b) of this section.

(e) For purposes of this section, "historic property" has the same meaning as defined in 22 V.S.A. § 701.

Sec. 31. TRANSITION; FUNDING

(a) On or before July 15, 2011, the department of buildings and general services and the division for historic preservation shall develop a proposal for the program required in Sec. 30, 29 V.S.A. § 155(b), of this act and shall present the proposal to the chairs of the house committee on corrections and institutions and the senate committee on institutions. The chairs shall review the proposal and recommend to the joint fiscal committee whether or not to approve the proposal. After review of the proposal and the chairs' recommendations, the joint fiscal committee shall approve the proposal, disapprove the proposal, or direct the departments to amend and resubmit the proposal to the chairs by a date certain.

(b) The division for historic preservation shall consider the feasibility of expanding the program required in Sec. 30, 29 V.S.A. § 155(b), of this act to include the stabilization or rehabilitation of historic properties that are not owned by the state. The division shall present its recommendations in the form of proposed legislation to the house committee on corrections and institutions and the senate committee on institutions on or before January 15, 2012.

(c) Of the funds appropriated in Sec. 6(a)(3) of this act, the sum of \$100,000.00 is allocated in fiscal year 2012 to the historic property stabilization and rehabilitation special fund created in Sec. 30 of this act.

Sec. 32. INFORMATION CENTERS

The secretaries of transportation and commerce and community development and the commissioner of buildings and general services shall study and recommend on or before January 15, 2012 a future program for delivery of travel information services to motorists and the promotion of Vermont businesses and products to the motoring public.

Sec. 33. BICYCLE RACKS AT STATE BUILDINGS

(a) It is the intent of the general assembly that the department of buildings and general services consider installation of bicycle parking during the design of any state-owned buildings for projects under the jurisdiction of the department of buildings and general services.

(b) By September 30, 2011, the commissioner of buildings and general services, in consultation with statewide or regional bicycle organizations, shall:

(1) assess state-owned buildings under the jurisdiction and control of the department to determine the possibility of utilizing existing space for bicycle parking, as well as determining the location, type, and existence of current bicycle parking options. To the extent feasible, the commissioner shall identify areas at the capital complex in Montpelier and the state office complex in Waterbury where bicycle parking could be added. The commissioner shall consider the costs and savings associated with converting existing indoor space for bicycle parking and the installation costs of adding various types of outdoor bicycle parking options. Based on availability of existing space, ease of conversion of that space, and the availability and costs of creating additional outdoor bicycle parking, the commissioner shall create a priority list of changes that may be implemented to increase the number of bicycle parking options at state-owned buildings.

(2) create an inventory of existing spaces for bicycle parking at state-owned buildings under the jurisdiction and control of the department and make that inventory available to the public via the department's website.

(3) report the information produced as a result of the requirements of subdivisions (1) and (2) of this subsection to the house committee on corrections and institutions and the senate committee on institutions.

Sec. 34. RESTROOMS IN STATE BUILDINGS

By September 30, 2011, the commissioner of buildings and general services shall ensure that any single-occupancy restroom with an outer door that can be locked by the occupant in a building owned by the state which is under the commissioner's jurisdiction shall be available for use regardless of the gender of the user.

* * * Capital Budget Reporting * * *

Sec. 35. 32 V.S.A. § 309 is amended to read:

§ 309. CAPITAL BUDGET REPORT

(a) Consolidated capital budget request. In addition to the general operating budget request to be submitted by the governor to the general assembly pursuant to this chapter, the governor shall submit to the general assembly, not later than the ~~second week~~ third Tuesday of every annual

session, a consolidated capital budget request for the following fiscal year, which encompasses all undertakings that may require state general obligation debt financing, including transportation projects as follows:

* * *

* * * Tort Claims Against the State * * *

Sec. 36. 12 V.S.A. § 5601(b) is amended to read:

(b) ~~Effective July 1, 1989, the maximum liability of the state under this section shall be \$250,000.00 to any one person and the maximum aggregate liability shall be \$500,000.00 to all persons arising out of each occurrence.~~ Effective July 1, ~~1990~~ 2011, the maximum liability of the state under this section shall be ~~\$250,000.00~~ \$500,000.00 to any one person and the maximum aggregate liability shall be ~~\$1,000,000.00~~ \$2,000,000.00 to all persons arising out of each occurrence.

Sec. 36a. 12 V.S.A. § 5606 is amended to read:

§ 5606. INDEMNIFICATION OF EMPLOYEES

* * *

(b) The maximum liability of the state under this section shall be ~~\$250,000.00~~ 500,000.00 to any one person and the maximum aggregate liability shall be ~~\$1,000,000.00~~ 2,000,000.00 to all persons arising out of each occurrence.

* * *

* * * Human Services * * *

Sec. 37. VERMONT STATE HOSPITAL

(a) Of the funds appropriated in Sec. 271(a)(3) of No. 215 of the Acts of the 2005 Adj. Sess. (2006) (appropriations), up to \$482,646 may be used for planning and design for the replacement of services currently being provided at Vermont State Hospital in Waterbury. In reallocating these funds, the general assembly affirms the priority need to close the existing facility.

(b) The commissioner of mental health shall report orally to the mental health oversight committee at regular intervals when the general assembly is not in session on the status of planning and design for replacement of services currently being provided at Vermont State Hospital in Waterbury.

(c) On or before January 15, 2012, the commissioners of the departments of buildings and general services and of mental health shall report to the house committees on appropriations, on corrections and institutions, and on human services and to the senate committees on appropriations, on institutions, and on

health and welfare on the status of planning and design for this project, a proposal for further stages of development, and future appropriations that will be needed to continue that development.

Sec. 38. DEPARTMENT OF CORRECTIONS MASTER PLAN

(a) For the purpose of reducing the number of out-of-state beds at a cost savings to the state, the department of corrections shall:

(1) switch male and female populations between certain facilities by:

(A) changing the role of the Chittenden Regional Correctional Facility from housing a predominantly male to a predominantly female population. The department shall modify the facility for females.

(B) changing the role of the Northwest State Correctional Facility from housing a predominantly female population to a predominantly male population and restore the number of beds at that facility to 247.

(2) modify the Southeast State Correctional Facility into a 50-bed work camp and a 50-bed general population facility.

(b) As part of the transfer required by subdivision (a)(1) of this section, the department of corrections shall:

(1) train correctional facility staff in gender-responsive practices prior to the transfer.

(2) continue to provide prearrestment lodging at the Chittenden Regional Correctional Facility for a male until his first appearance in court. If the male is remanded into custody, he shall move to another facility.

(3) ensure individuals are released in accordance with 28 V.S.A. § 808(a) for the purpose of facilitating furlough or outside programming.

(4) continue to engage with community partners to develop a continuum of services to assist in a reentry of individuals that reduces recidivism. This continuum of services shall include employment, parenting, education, and risk reduction programs.

(c) The department of corrections shall report to the corrections oversight committee no later than August 15, 2011 on the following:

(1) trends pertaining to incarcerated women in this state, including population, sentencing, and detention.

(2) the range of work opportunities available for incarcerated individuals and the number of participants.

(3) the range of program opportunities available for incarcerated

individuals and the number of participants. Program opportunities shall be defined broadly to include gardening, substance abuse, parenting, education, and risk reduction programs.

(4) the feasibility of expanding house arrest measures to initially avoid incarceration for misdemeanors and nonviolent felonies.

(d) It is the intent of the general assembly to:

(1) ensure that the incarcerated individuals who in the interest of public safety can be supervised safely in the community are reintegrated into the community with the appropriate status.

(2) in the second year of the biennium evaluate the move required by subsection (a) of this section and consider strategies to reduce the number of women incarcerated.

* * * Natural Resources * * *

Sec. 39. LAKE CHAMPLAIN WALLEYE ASSOCIATION;
REALLOCATION

Of the funds appropriated in Sec. 11(g)(1) of No. 52 of the Acts of 2007, the Lake Champlain Walleye Association, Inc. is authorized to redirect the sum of \$21,150 to purchase walleye-rearing infrastructure upgrades.

Sec. 40. NATURAL RESOURCES; CONSOLIDATION; EXCESS
PROPERTY

The agency of natural resources shall conduct an inventory of unused building space within its properties, study how unused and underutilized buildings may be consolidated to provide more efficient agency operations and energy usage across the agency, and consider what buildings, if any, might be sold following consolidation. On or before January 15, 2012, the agency of natural resources shall report to the house committee on corrections and institutions and the senate committee on institutions on the matters listed in this section and any legislative changes that would need to occur to facilitate the consolidation process.

* * * Military Department * * *

Sec. 41. DEPARTMENT OF MILITARY; REALLOCATION

Of the funds appropriated in Sec. 13 of No. 161 of the Acts of the 2009 Adj. Sess. (2010), the department of military is authorized to use up to \$600,000 as necessary to fund the state's share of land acquisition in Bennington for new construction and for major maintenance and renovation projects at state armories. To the extent possible, these funds shall be used to match federal funds and the department of military is authorized to accept federal funds.

* * * Education * * *

Sec. 42. 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, ~~2011~~ 2013.

* * * Fuels for Schools * * *

Sec. 43. 16 V.S.A. § 3448 is amended to read:

§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION PROJECTS; RENEWABLE ENERGY

(a) Construction aid.

* * *

(3) Priorities. Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the state board shall assign points to the project so that the project can be placed on a priority list based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to rule of the board and provided the scope of the project remains the same, it shall gain points due to length of time on the list and may gain points for any other reason. The points shall be assigned so that:

(A) First priority is given to emergency projects in excess of \$100,000.00 which address threats to the safety and health of students or employees created by unanticipated circumstances or events.

(B) Second priority is given to construction projects in excess of \$10,000.00 which address a need occasioned by deterioration of an existing building or equipment pursuant to subdivision (2)(A) of this subsection, and which extend the useful life of the building but which do not make extensive additions or ~~extensive~~ alterations to existing school facilities in which students are provided services. Examples of projects given priority under this subdivision are replacement, addition, or repair to utilities; projects which address environmental quality issues; repair of a roof; replacement of an existing space-heating, water-heating, cooling, or refrigeration system that uses fossil fuels with a system for the same purpose that uses or primarily relies

upon biomass, a geothermal/ground source, wind, or solar energy, or replacement of a system with a more efficient fossil-fuel system that reduces fuel use by 10 percent or more or utilizes new technologies such as microturbines, cogeneration, fuel cells, or distributed generation; and replacement or upgrading of mechanical equipment.

(C) Remaining projects are given priority based on consideration of the relative degree of need pursuant to subdivision (2)(A) of this subsection.

* * *

Sec. 44. FUELS FOR SCHOOLS; ELIGIBILITY FOR STATE AID FOR CAPITAL CONSTRUCTION COSTS

Notwithstanding Sec. 36 of No. 52 of the Acts of 2007, Sec. 45 of No. 200 of the Acts of the 2007 Adj. Sess. (2008), and Sec. 22 of No. 54 of the Acts of 2009 (suspending state construction aid to schools), the commissioner of education may accept, review, and approve applications for state aid under chapter 123 of Title 16 for projects under 16 V.S.A. 3448(a)(3)(B) that involve:

(1) the replacement of an existing space-heating, water-heating, cooling, or refrigeration system that uses fossil fuels with:

(A) a system for the same purpose that uses or primarily relies upon biomass, a geothermal/ground source, wind, or solar energy; or

(B) a more efficient fossil-fuel system that reduces fuel use by 10 percent or more or utilizes new technologies such as microturbines, cogeneration, fuel cells, or distributed generation; or

(2) replacement or upgrading of mechanical equipment.

* * * Transportation * * *

Sec. 45. TRANSPORTATION; CONSOLIDATION; EXCESS PROPERTY

The agency of transportation shall conduct an inventory of unused building space within its properties, study how unused and underutilized buildings may be consolidated to provide more efficient operations and energy usage across the agency, and consider what buildings, if any, might be sold following consolidation. On or before January 15, 2012, the agency of transportation shall report to the house committee on corrections and institutions and the senate committee on institutions on the matters listed in this section and any legislative changes that would need to occur to facilitate the consolidation process.

Sec. 45a. FINDINGS

Two local civic leaders, John Boylan and John Worth, played instrumental roles in establishing a state airport in Island Pond (town of Brighton). However, in an effort to shorten the airport's name, John Worth was not recognized.

Sec. 45b. RENAMING OF JOHN H. BOYLAN AIRPORT

Notwithstanding any provisions of law to the contrary, the Vermont Board of Libraries is authorized to rename the "John H. Boylan Airport" in Island Pond (town of Brighton).

Sec. 46. TELECOMMUTING BY STATE WORKERS

(a) The general assembly finds that:

(1) Telework is an innovative management option that allows selected employees to work from home or from a state office location close to the employee's home.

(2) Telework offers a working environment that can reduce distractions, and result in greater worker productivity and job performance.

(3) The goal of a telework program is to improve employee morale and job satisfaction as well as to reduce absenteeism and sick leave usage.

(4) A telework program can help retain valued employees and recruit top-quality employees while improving quality of life and protecting the environment.

(b) The secretary of administration shall authorize a pilot project to evaluate the efficacy of permitting some state employees to work from home or from an alternative work location closer to the employee's home. For purposes of this section, "telework" means working from a location other than an employee's principal state-owned duty station during the employee's standard work day. The pilot project shall be based on guidelines developed by the secretary of administration.

* * * Energy Use on State Properties * * *

Sec. 47. STATE ENERGY USE

(a) The general assembly recognizes and applauds the ongoing efforts of the state to pursue all practicable measures to reduce overall energy consumption.

(b) It is the intent of the general assembly that each agency, board, department, commission, committee, branch, or authority of the state:

(1) reduce its energy consumption, including the amount of fuel used by its employees to travel to and from meetings during the work day, by five

percent each year; and

(2) increase its use of renewable energy.

(c) The secretary of administration is charged with coordinating this initiative. The secretary or designee shall track the state's progress in meeting these goals and, for the purpose of encouraging success, shall have the authority to implement incentive programs, to consult with public and nonpublic entities about strategies, and to require the relevant subdivisions of the state government to take necessary actions. The secretary may use incentives received by the state from an electric energy efficiency entity to cover the costs associated with tracking or encouraging success in meeting these goals.

(d) On or before January 15, 2012, the secretary of administration shall recommend to the general assembly and the governor strategies for investing in energy efficiency and renewable energy.

Sec. 48. 29 V.S.A. § 168 is amended to read:

§ 168. STATE RESOURCE MANAGEMENT; REVOLVING FUND

(a) Resource management. The department shall be responsible for administering the interest of the state in all resource conservation measures, including equipment replacement, studies, weatherization, and construction of improvements affecting the use of energy resources. All resource conservation measures taken for the benefit of departments or agencies to which this section applies shall, beginning on July 1, 2004, be made and executed by and in the name of the commissioner.

(b) Revolving fund.

(1) There is established a resource management revolving fund to provide revenue for implementation of resource conservation measures anticipated to generate a life cycle cost benefit to the state. All state agencies responsible for development and operations and maintenance of state infrastructure shall have access to the revolving fund on a priority basis established by the commissioner.

(2) The fund shall consist of:

(A) ~~Moneys~~ Monies appropriated to the fund, or which are paid to it under authorization of the emergency board.

(B) ~~Moneys~~ Monies saved by the implementation of resource management conservation measures.

(C) Fees for administrative costs paid by departments and agencies, which shall be fixed by the commissioner subject to the approval of the

secretary of administration.

(D) Monies associated with all incentives received by the state of Vermont from an entity appointed under 30 V.S.A. § 209(d)(2) (electric energy efficiency entities).

(3) ~~Moneys~~ Monies from the fund shall be expended by the commissioner for resource conservation measures anticipated to generate a life cycle cost benefit to the state and all necessary costs involved with the administration of state agency energy planning as determined by the commissioner.

(4) The commissioner shall establish criteria to determine eligibility for funding of resource conservation measures.

(5) Agencies or departments receiving funding shall repay the fund through their regular operating budgets according to a schedule established by the commissioner. Repayment shall include charges of fees for administrative costs over the term of the repayment.

(6) The commissioner of finance and management may anticipate receipts to this fund and issue warrants based thereon.

(7) The commissioner of buildings and general services shall maintain accurate and complete records of all receipts by and expenditures from the fund.

(8) All balances remaining at the end of a fiscal year shall be carried over to the following year.

Sec. 49. ADMINISTRATION; VERMONT TELECOMMUNICATIONS AUTHORITY

(a) The sums appropriated in Sec. 3 of this act to the Vermont telecommunications authority (VTA) shall be used to develop infrastructure to meet the cellular and broadband needs of unserved and underserved Vermonters. Such infrastructure may include:

(1) Fiber optic facilities.

(2) Telecommunications towers or other support structures.

(3) Equipment needed to deliver cellular service.

(4) Equipment needed to deliver broadband Internet services having combined download and upload speeds of at least five megabits per second.

(b) Funds appropriated under this section may be used for direct investments in infrastructure, to be owned by the VTA, and for grants to retail service providers.

(c) To the extent possible, the VTA shall leverage the funds with bonding or borrowing capacity or other available sources of public or private funding.

(d) Infrastructure owned and leased by the VTA under this section, including towers and fiber optic facilities, shall be available for use by as many retail service providers as the technology will permit to prevent the state from establishing a monopoly service territory for one provider, and shall be available for use by providers on a nondiscriminatory basis and according to published terms and conditions.

(e) Prior to the construction or installation of VTA-owned fiber optic facilities under this section, the VTA shall consult with the secretary of administration or designee to identify those areas of the state having the greatest need for fiber optic facilities and to determine the extent of needed state investment in new fiber optic facilities, and shall issue a request for public comment. In making the determinations required under this subsection, the VTA and the secretary shall consider:

(1) The location and availability of existing fiber optic networks, to the extent such information is available, and the terms and conditions for the use of those networks.

(2) The availability of broadband and cellular services in various parts of the state, the likelihood of planned expansions to services known to the VTA, and the need for fiber optic facilities to support expansion of services in unserved and underserved areas.

(3) The speed of broadband services available in various parts of the state for residential, business, and institutional uses, and the increase in speed that new fiber optic facilities would support.

(4) Prior investments of public and private funds in the development of fiber optic facilities.

(5) The technical and economic feasibility of potential fiber optic routes.

(6) The objectives of the telecommunications plan adopted by the department of public service under 30 V.S.A. § 202d.

(f) Fiber optic facilities owned by the VTA pursuant to this section shall include fiber strands which may be used by a retail service provider to deliver broadband Internet access directly to homes, businesses, and institutional users (last-mile connectivity), in addition to strands which may be used to interconnect with other broadband and cellular facilities (middle mile).

(g) With respect to fiber optic facilities owned by the VTA pursuant to this section, the VTA may contract with an entity to provide transport services, provided that:

(1) The entity is not owned or controlled by a single broadband provider and is otherwise carrier neutral.

(2) The transport services are offered to any provider of broadband Internet access on a nondiscriminatory basis and according to published terms and conditions.

(3) Dark fiber leases and indefeasible rights of use are made available to providers on a nondiscriminatory basis and according to published terms and conditions. For purposes of this subdivision, "dark fiber" means fiber that is not in use; and "indefeasible right of use" means an exclusive, long-term use of fiber optic capacity.

(h) Grants awarded to retail service providers under this section shall be to support the capital cost of equipment and facilities used to provide broadband Internet access or cellular service in unserved areas of the state. Prior to awarding a grant, the VTA shall find that the grant is economically necessary to provide service in an unserved area and is likely to result in a lower long-term cost to the state than would direct investment in VTA-owned infrastructure. In addition, in awarding grants, the VTA shall adhere to the competitive bidding process established under 30 V.S.A. § 8078, except where inconsistent with the provisions of this section, and shall solicit public comment prior to issuing a request for proposals.

(i) The VTA shall ensure that any investments made or grants awarded under this section are in furtherance of the goals stated in 30 V.S.A. § 8060(b) and shall use the telecommunications measures established pursuant to No. 146 of the Acts of the 2009 Adj. Sess. (2010) (an act relating to implementation of challenges for change) to track the progress made in attaining those goals through such investments and grants. Beginning October 1, 2011, and for the next succeeding two years, on a quarterly basis, the VTA shall submit to the house committees on commerce and economic development and on corrections and institutions, the senate committees on economic development, housing and general affairs and on finance, and the joint fiscal committee a progress report reflecting the outcomes and measures as applied to the projects funded under this section. This report shall include location specific information on the progress of deployment of telecommunications technology that does not require the utilization of towers.

* * * Authorization of Borrowing by Assistant Judges of
Orleans County * * *

Sec. 50. ORLEANS COUNTY; BORROWING AUTHORIZED;
ASSISTANT JUDGES

Notwithstanding 24 V.S.A. § 82, the assistant judges of Orleans County

may borrow a sum not to exceed \$325,000.00 to pay for a sheriff's department facility in Derby, as authorized by 24 V.S.A. § 77(a). Notes or other evidence of indebtedness not exceeding that amount, payable in not more than ten years from the date of execution, may be issued by the county treasurer on behalf of the County of Orleans. All such notes or evidence of indebtedness shall contain on their face a statement of the purpose for which they are issued and of the authority conferred by this section and shall be evidence of the county's liability to the bona fide holder of the instrument. The form, denominations, maturities, interest rates, and other terms, conditions, and details of the note or other evidence of indebtedness shall be determined by resolution of the assistant judges of Orleans County. Notes or other evidence of indebtedness issued under the provisions of this section shall be paid from county funds raised by taxation pursuant to 24 V.S.A. § 133.

Sec. 51. DURATION OF AUTHORITY; ORLEANS COUNTY BORROWING

The authority to borrow conferred by Sec. 50 of this act shall terminate on January 1, 2012. Any funds borrowed and notes or other forms of indebtedness issued prior to that date shall be subject to the terms of this act until repaid.

* * * Treasurer* * *

Sec. 52. 24 V.S.A. § 4572 is amended to read:

§ 4572. MEMBERSHIP; VACANCIES

The bank established by section 4571 of this title shall consist of the following five directors: the state treasurer, or his or her designee, who shall be a director ex officio, and four directors appointed by the governor with the advice and consent of the senate for terms of two years. The four directors appointed by the governor must be residents of the state and must be qualified voters therein for at least one year next preceding the time of appointment. The governor shall first appoint two directors to serve until February 1, 1971 and two directors to serve until February 1, 1972. Each director shall hold office for the term of his or her appointment and until his or her successor shall have been appointed and qualified. A director shall be eligible for reappointment. Any vacancy in a directorship occurring other than by expiration of term shall be filled in the same manner as the original appointment, except that the advice and consent of the senate shall not be required if it is not in session, but for the unexpired term only.

Sec. 53. 16 V.S.A. § 3852 is amended to read:

§ 3852. VERMONT EDUCATIONAL AND HEALTH BUILDINGS

FINANCING AGENCY; CREATION; MEMBERS

(a) A board of ~~thirteen~~ 13 members known as the Vermont educational and health buildings financing agency is created. It is a body corporate and politic constituting a public instrumentality of the state. The commissioner of education, the secretary of human services, the state treasurer, or his or her designee, and the secretary of administration shall be members ex officio. The governor, with the advice and consent of the senate, shall appoint seven members for six-year terms. The members appointed by the governor shall appoint two additional members whose term of office shall be two years.

* * *

Sec. 54. 16 V.S.A. § 2831 is amended to read:

§ 2831. MEMBERSHIP; VACANCIES

The corporation shall be governed and all of its powers exercised by a board of directors consisting of 11 members. The governor shall appoint five members as follows: one person to be the financial aid officer of an institution of postsecondary education in the state of Vermont; one person to be a guidance counselor from a Vermont secondary school, and three members representing the general public. In making the appointments of the members representing the general public, the governor shall give due consideration to the board's needs for expertise and experience in the management of a financial institution. The state treasurer or his or her designee shall be a member. The speaker of the Vermont house of representatives and the committee on committees of the Vermont senate shall each appoint one member from their respective legislative bodies to serve on the board. The board shall elect three additional members. All members shall be of full age, citizens of the United States and residents of Vermont. All appointments shall be for terms of six years with the exception of legislative members whose terms shall expire at the end of six years or when their service in the Vermont legislature is completed, whichever shall first occur. The date of the expiration of the term of appointment in each case shall be June 30. Vacancies which may occur by reason of death or resignation shall be filled in the same manner as original appointments.

Sec. 55. 10 V.S.A. § 632a(f) is amended to read:

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the agency under this section, there may be appropriated annually and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an

amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to restore each such fund to the amount required by this section, ~~and the sum, and the governor shall, on or before March 1, submit a request for appropriations in the amount~~ so certified, and such amount may be appropriated and, if appropriated, shall be paid to the agency during the then-current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the agency under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the agency for deposit in each fund a sum as shall be certified by the chair of the agency to the governor, the president of the senate, and the speaker of the house as is necessary to establish each pledged equity fund to an amount equal to the amount determined by the agency at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment as determined by the agency pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house a certificate stating the sum required to bring each fund to the amount required by this section or to otherwise satisfy the state's commitment with respect to each fund, ~~and the sum~~ the governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated and, such amount, if appropriated, shall be paid to the agency during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed \$155,000,000.00 at any time, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the agency in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the agency pursuant to subsection (d) of this section, and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. 55a. 16 V.S.A. § 2867 is amended to read:

§ 2867. RESERVE AND PLEDGED EQUITY FUNDS

* * *

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the corporation under this section, there may be appropriated annually and paid to the corporation for deposit in each such fund such sum as shall be certified by the chair of the corporation to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such fund to the amount aforesaid, and the ~~sum~~ governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then current state fiscal year. In order to assure the funding of the pledged equity fund requirement in each pledged equity fund established by the corporation under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the corporation for deposit in each such fund, such sum as shall be certified by the chair of the corporation, to the governor, the president of the senate and the speaker of the house, as is necessary to establish each such pledged equity fund to an amount equal to the amount determined by the corporation at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment, as determined by the corporation pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to bring each such fund to the amount aforesaid or to otherwise satisfy the state's commitment with respect to each such fund, and the ~~sum~~ governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not

exceed \$50,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the corporation in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the corporation pursuant to subsection (d) of this section and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Sec. 55b. 24 V.S.A. § 4675 is amended to read:

§ 4675. ANNUAL APPROPRIATION

In order to assure the maintenance of the required debt service reserve in each reserve fund established pursuant to this chapter, there shall be appropriated annually and paid to the bank for deposit in each reserve fund, such sum as shall be certified by the chair of the bank to the governor or to the governor-elect, as is necessary to restore such fund to an amount equal to the required debt service reserve. ~~The chairman~~ chair shall annually, on or before February 1, make and deliver to the governor or to the governor-elect, his or her certificate stating the sum required to restore the fund to the amount aforesaid, and the governor or governor-elect shall, on or before March 1, submit a request for appropriations for the sum so certified, and the sum so certified shall be appropriated and paid to the bank during the then current state fiscal year.

* * * Effective Dates; Statutory Revision * * *

Sec. 56. EFFECTIVE DATES; STATUTORY REVISION

(a) This act shall take effect on passage, except:

(1) Sec. 36 (liability of the state) shall take effect July 1, 2011;

(2) Secs. 2(c) (BGS, FY 2013), 3(a)(2) (maps, FY 2013), 3(c) (VTA, FY 2013), 4(c) and 4(d) (human services, FY 2013), 5(b) (judiciary, FY 2013), 6(b) (BGS for commerce and community development, FY 2013), 6(d) (commerce and community development, FY 2013), 7(b) (building community grants, FY 2013), 8(b) (education, FY 2013), 10(b) (University of Vermont, FY 2013), 11(b) (Vermont State Colleges, FY 2013), 12(b) (natural resources, FY 2013), 13(b) (military, FY 2013), 14(b) and 14(d) (public safety, FY 2013), 16(b) (agriculture, FY 2013), 17(b) (Vermont Public Television, FY 2013), 18(c) (Vermont rural fire protection, FY 2013), 20(b) (Vermont Center for Crime Victim Services, FY 2013), 21 (department of information and innovation), and 23(b) (Vermont Interactive Television, FY 2013) shall take effect on June 1, 2012.

(b) Pursuant to the statutory revision authority provided in 16 V.S.A. chapter 13, after passage of this act and H.441 of this session (appropriations bill), the office of legislative council shall revise Sec. 22(4) of this act to refer to the appropriate section and act number of H.441 as enacted.

(For text see House Journal March 31, 2011 and April 1, 2011)

Consent Calendar

Concurrent Resolutions

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

H.C.R. 142

House concurrent resolution congratulating Michael Smith on his winning the 2011 CVPS-Zetterstrom Environmental Award

H.C.R. 143

House concurrent resolution congratulating the St. Francis Xavier of Winooski boys' basketball team on winning the 2011 New England Catholic Youth Organization seventh- and eighth-grade parish division championship

H.C.R. 144

House concurrent resolution congratulating Middlebury Union High School on being named a 2011 Fit & Healthy Kids School Wellness Award gold-level winner

H.C.R. 145

House concurrent resolution honoring the town of Ludlow on its 250th anniversary

H.C.R. 146

House concurrent resolution honoring the town of Plymouth on its 250th anniversary

H.C.R. 147

House concurrent resolution commemorating the incorporation of Vermont towns observing their 250th anniversary in 2011

H.C.R. 148

House concurrent resolution in memory of Karen Ann Quill of Burlington

H.C.R. 149

House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on being named one of the top 500 home health agencies in the United States

H.C.R. 150

House concurrent resolution congratulating former Jamaica town clerk and treasurer Warren Patrick on his centennial birthday

H.C.R. 151

House concurrent resolution congratulating the 2011 Champlain Valley Union High School Redhawks Division I championship boys' hockey team

H.C.R. 152

House concurrent resolution honoring Frank Thornton of Charlotte

H.C.R. 153

House concurrent resolution recognizing the role of registered nurses in the delivery of health care in Vermont

H.C.R. 154

House concurrent resolution commemorating the 250th anniversary of the town of Pittsford

H.C.R. 155

House concurrent resolution congratulating Revitalizing Waterbury on its 20th anniversary

H.C.R. 156

House concurrent resolution designating April as Fair Housing Month in Vermont

H.C.R. 157

House concurrent resolution congratulating the 2011 Twinfield Union High School Trojans Division IV championship boys' basketball team

H.C.R. 158

House concurrent resolution congratulating L. Raymond Massucco on being named the Great Falls Regional Chamber of Commerce 2011 Person of the Year

H.C.R. 159

House concurrent resolution honoring Joan Goodrich for her exemplary higher education leadership in Vermont