

House Calendar

Monday, April 25, 2011

111th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until April 25, 2011

Favorable with Amendment

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)

ACTION CALENDAR

Third Reading

H. 454

An act relating to the administration and issuance of vital records

S. 91

An act relating to motor vehicle operation and entertainment pictures

Favorable with amendment

H. 51

An act relating to expanding the issuance of gold star registration plates

Rep. Bohi of Hartford, for the Committee on **Transportation**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 304(k) is amended to read:

(k)(1) The commissioner of motor vehicles shall, upon proper application, issue special gold star and next-of-kin plates to gold star family members, as defined for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan, as follows:

(A) Gold star plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces who lost their lives under the circumstances described in 10 U.S.C. § 1126, for use only on vehicles registered at the pleasure car rate and on trucks registered for less than 26,001 pounds and excluding vehicles registered under the International Registration Plan 1126(a).

(B) Next-of-kin plates shall be issued to the widow or widower, parents, and next of kin as defined in 10 U.S.C. § 1126(d) of members of the armed forces not eligible for gold star plates under subdivision (A) of this subdivision (1) who lost their lives while serving on active duty or on active duty for training, or while assigned in a reserve or national guard unit in drill status, or as a result of injury or illness incurred during such service or assignment.

(2) The type and style of the gold star ~~plate~~ and next-of-kin plates shall be determined by the commissioner and the Vermont office of veterans' affairs, except that a gold star shall appear on one side of ~~the plate~~ gold star plates and a distinct emblem shall be approved for next-of-kin plates. An applicant shall apply on a form prescribed by the commissioner, and the

applicant's eligibility will be certified by the office of veterans' affairs. A plate shall be reissued only to the original holder of the plate. The commissioner may adopt rules to implement the provisions of this subsection. Except for new or renewed registrations, applications for the issuance of gold star or next-of-kin plates shall be processed in the order received by the department subject to normal workflow considerations.

and that after passage the title of the bill be amended to read: "An act relating to gold star and next-of-kin registration plates".

(**Committee Vote: 10-0-1**)

S. 36

An act relating to the surplus lines insurance multi-state compliance compact

Rep. Font-Russell of Rutland City, for the Committee on Commerce and Economic Development, 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:

***** Surplus Lines Insurance Multi-state Compliance Compact *****

Sec. 1. 8 V.S.A. chapter 138A is added to read:

CHAPTER 138A. SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT

§ 5050. FINDINGS

The general assembly makes the following findings of fact:

(1) The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203, was signed into law on July 21, 2010. Title V, Subtitle B of that act is known as the Non-Admitted and Reinsurance Reform Act of 2010 (NRRA). NRRA states that:

(A) the placement of non-admitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home state; and

(B) any law, regulation, provision, or action of any state that applies or purports to apply to non-admitted insurance sold to, solicited by, or negotiated with an insured whose home state is another state shall be preempted with respect to such application; except that any state law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a non-admitted insurer shall not be preempted.

(2) In compliance with NRRA, no state other than the home state of an insured may require any premium tax payment for non-admitted insurance; and no state other than an insured's home state may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate non-admitted insurance with respect to such insured.

(3) NRRA intends that the states may enter into a compact or otherwise establish procedures to allocate among the states the premium taxes paid to an insured's home state; and that each state adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance.

(4) After the expiration of the two-year period beginning on the date of the enactment of NRRA, a state may not collect any fees relating to licensing of an individual or entity as a surplus lines licensee in the state unless the state has in effect at such time laws or regulations that provide for participation by the state in the national insurance producer database of the National Association of Insurance Commissioners (NAIC), or any other equivalent uniform national database, for the licensure of surplus lines licensees and the renewal of such licenses.

(5) A need exists for a system of regulation that will provide for surplus lines insurance to be placed with reputable and financially sound non-admitted insurers, and that will permit orderly access to surplus lines insurance in this state and encourage insurers to make new and innovative types of insurance available to consumers in this state.

(6) Protecting the revenue of this state and other compacting states may be accomplished by facilitating the payment and collection of premium tax on non-admitted insurance and providing for allocation of premium tax for non-admitted insurance of multi-state risks among the states in accordance with uniform allocation formulas.

(7) The efficiency of the surplus lines market may be improved by eliminating duplicative and inconsistent tax and regulatory requirements among the states, and by promoting and protecting the interests of surplus lines licensees who assist such insureds and non-admitted insurers, thereby ensuring the continued availability of non-admitted insurance to consumers.

(8) Regulatory compliance with respect to non-admitted insurance placements may be streamlined by providing for exclusive single-state regulatory compliance for non-admitted insurance of multi-state risks, thereby providing certainty regarding such compliance to all persons who have an

interest in such transactions, including insureds, regulators, surplus lines licensees, other insurance producers, and surplus lines insurers.

(9) Coordination of regulatory resources and expertise between state insurance departments and other state agencies, as well as state surplus lines stamping offices, with respect to non-admitted insurance will be improved under the surplus lines insurance multi-state compliance compact.

(10) By July 21, 2011, if Vermont does not enter into a compact or other reciprocal agreement with other states for the purpose of collecting, allocating, and disbursing premium taxes and fees attributable to multi-state risks, the state could lose up to 20 percent of its surplus lines premium tax collected annually. In fiscal year 2010, Vermont's surplus lines premium tax was \$938,636.54. A revenue loss of 20 percent would be \$187,727.31.

§ 5051. INTENT; AUTHORITY TO ENTER OTHER AGREEMENT

(a) It is the intent of the general assembly to enact the surplus lines insurance multi-state compliance compact as provided under this chapter, and also to authorize the commissioner of banking, insurance, securities, and health care administration to enter into another agreement pursuant to subsections (b) and (c) of this section if the compact does not take effect.

(b) During the interim of the 2011–2012 legislative biennium and subject to subsection (c) of this section, if the surplus lines insurance multi-state compliance compact does not take effect under section 5065 of this title then, in accordance with NRRA, the commissioner of banking, insurance, securities, and health care administration may enter into a cooperative agreement, reciprocal agreement, or multi-state agreement with another state or states to provide for the reporting, payment, collection, and allocation of premium fees and taxes imposed on non-admitted insurance. The commissioner may also enter into other cooperative agreements with surplus lines stamping offices and other similar entities located in other states related to the capturing and processing of insurance premium and tax data. The commissioner is further authorized to participate in any clearinghouse established under any such agreement or agreements for the purpose of collecting and disbursing to reciprocal states any funds collected and applicable to properties, risks, or exposures located or to be performed outside of this state. To the extent that other states where portions of the insured properties, risks, or exposures are located have failed to enter into a compact or reciprocal allocation procedure with Vermont, the net premium tax collected shall be retained by Vermont.

(c) Prior to entering into a cooperative agreement, reciprocal agreement, or multi-state agreement with another state or states pursuant to subsection (b) of this section, the commissioner shall:

(1) Determine that the agreement is in Vermont's financial best interest; does not create an undue administrative burden on the state; and is consistent with the requirements of NRRA.

(2) Obtain the prior approval of the joint fiscal committee, in consultation with the chairs of the senate committee on finance and the house committees on ways and means and on commerce and economic development.

(d) By July 21, 2011, if a clearinghouse is not established or otherwise in operation in order to implement NRRA, all payments and taxes that otherwise would be payable to such a clearinghouse shall be submitted to the commissioner or with a voluntary domestic organization of surplus lines brokers with which the commissioner has contracted for the purpose of collecting and allocating all payments and taxes.

(e) The commissioner may adopt rules deemed necessary to carry out the purposes of this section.

§ 5052. PURPOSES

The purposes of this compact are to:

(1) implement the express provisions of NRRA;

(2) protect the premium tax revenues of the compacting states through facilitating the payment and collection of premium tax on non-admitted insurance; protect the interests of the compacting states by supporting the continued availability of such insurance to consumers; and provide for allocation of premium tax for non-admitted insurance of multi-state risks among the states in accordance with uniform allocation formulas to be developed, adopted, and implemented by the commission;

(3) streamline and improve the efficiency of the surplus lines market by eliminating duplicative and inconsistent tax and regulatory requirements among the states; and promote and protect the interest of surplus lines licensees who assist such insureds and surplus lines insurers, thereby ensuring the continued availability of surplus lines insurance to consumers;

(4) streamline regulatory compliance with respect to non-admitted insurance placements by providing for exclusive single-state regulatory compliance for non-admitted insurance of multi-state risks, in accordance with rules to be adopted by the commission, thereby providing certainty regarding such compliance to all persons who have an interest in such transactions, including insureds, regulators, surplus lines licensees, other insurance producers, and surplus lines insurers;

(5) establish a clearinghouse for receipt and dissemination of premium tax and clearinghouse transaction data related to non-admitted insurance of multi-state risks, in accordance with rules adopted by the commission;

(6) improve coordination of regulatory resources and expertise between state insurance departments and other state agencies as well as state surplus lines stamping offices with respect to non-admitted insurance;

(7) adopt uniform rules to provide for premium tax payment, reporting, allocation, data collection and dissemination for non-admitted insurance of multi-state risks and single-state risks, in accordance with rules adopted by the commission, thereby promoting the overall efficiency of the non-admitted insurance market;

(8) adopt uniform mandatory rules with respect to regulatory compliance requirements for:

(A) foreign insurer eligibility requirements; and

(B) surplus lines policyholder notices;

(9) establish the surplus lines insurance multi-state compliance compact commission;

(10) coordinate reporting of clearinghouse transaction data on non-admitted insurance of multi-state risks among compacting states and contracting states; and

(11) perform these and such other related functions as may be consistent with the purposes of the compact.

§ 5053. DEFINITIONS

For purposes of this chapter:

(1) “Admitted insurer” means an insurer that is licensed, or authorized, to transact the business of insurance under the laws of the home state. It shall not include a domestic surplus lines insurer as may be defined by applicable state law.

(2) “Affiliate” means with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

(3) “Allocation formula” means the uniform methods adopted by the commission by which insured risk exposures will be apportioned to each state for the purpose of calculating premium taxes due.

(4) “Bylaws” means the bylaws established by the commission for its governance, or for directing or controlling the commission’s actions or conduct.

(5) “Clearinghouse” means the commission’s operations involving the acceptance, processing, and dissemination, among the compacting states, contracting states, surplus lines licensees, insureds and other persons, of premium tax and clearinghouse transaction data for non-admitted insurance of multi-state risks, in accordance with this compact and rules adopted by the commission.

(6) “Clearinghouse transaction data” means the information regarding non-admitted insurance of multi-state risks required to be reported, accepted, collected, processed, and disseminated by surplus lines licensees for surplus lines insurance and insureds for independently procured insurance under this compact and rules adopted by the commission. Clearinghouse transaction data includes information related to single-state risks if a state elects to have the clearinghouse collect taxes on single-state risks for such state.

(7) “Commission” means the surplus lines insurance multi-state compliance compact commission established by this compact.

(8) “Commissioner” means the chief insurance regulatory official of a state including, commissioner, superintendent, director, or administrator, or their designees.

(9) “Compact” means the surplus lines insurance multi-state compliance compact established under this chapter.

(10) “Compacting state” means any state which has enacted this compact legislation and which has not withdrawn pursuant to subsection 5065(a), or been terminated pursuant to subsection 5065(b), of this chapter.

(11) “Contracting state” means any state which has not enacted this compact legislation but has entered into a written contract with the commission to use the services of and fully participate in the clearinghouse.

(12) “Control.” An entity has “control” over another entity if:

(A) the entity directly or indirectly or acting through one or more other persons own, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(13)(A) “Home state” means, with respect to an insured:

(i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(ii) if 100 percent of the insured risk is located out of the state referred to in subdivision (A)(i) of this subsection, the state to which the

greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term "home state" means the home state, as determined pursuant to subdivision (A) of this subsection, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(14) "Independently procured insurance" means insurance procured by an insured directly from a surplus lines insurer or other non-admitted insurer as permitted by the laws of the home state.

(15) "Insurer eligibility requirements" means the criteria, forms, and procedures established to qualify as a surplus lines insurer under the law of the home state provided that such criteria, forms, and procedures are consistent with the express provisions of NRRA on and after July 21, 2011.

(16) "Member" means the person or persons chosen by a compacting state as its representative or representatives to the commission provided that each compacting state shall be limited to one vote.

(17) "Multi-state risk" means a risk with insured exposures in more than one state.

(18) "Non-admitted insurance" means surplus lines insurance and independently procured insurance.

(19) "Non-admitted insurer" means an insurer that is not authorized or admitted to transact the business of insurance under the law of the home state.

(20) "Noncompacting state" means any state which has not adopted this compact.

(21) "NRRA" means the Non-Admitted and Reinsurance Reform Act of 2010 which is Title V, Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203.

(22) "Policyholder notice" means the disclosure notice or stamp that is required to be furnished to the applicant or policyholder in connection with a surplus lines insurance placement.

(23) "Premium tax" means with respect to non-admitted insurance, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.

(24) “Principal place of business” means with respect to determining the home state of the insured, the state where the insured maintains its headquarters and where the insured’s high-level officers direct, control and coordinate the business activities of the insured.

(25) “Purchasing group” means any group formed pursuant to the Liability Risk Retention Act of 1986, Pub.L. 99-63, which has as one of its purposes the purchase of liability insurance on a group basis, purchases such insurance only for its group members and only to cover their similar or related liability exposure and is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, services, premises or operations and is domiciled in any state.

(26) “Rule” means a statement of general or particular applicability and future effect adopted by the commission designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the commission which shall have the force and effect of law in the compacting states.

(27) “Single-state risk” means a risk with insured exposures in only one state.

(28) “State” means any state, district, or territory of the United States of America.

(29) “State transaction documentation” means the information required under the laws of the home state to be filed by surplus lines licensees in order to report surplus lines insurance and verify compliance with surplus lines laws, and by insureds in order to report independently procured insurance.

(30) “Surplus lines insurance” means insurance procured by a surplus lines licensee from a surplus lines insurer or other non-admitted insurer as permitted under the law of the home state. It shall also mean excess lines insurance as may be defined by applicable state law.

(31) “Surplus lines insurer” means a non-admitted insurer eligible under the law of the home state to accept business from a surplus lines licensee. It shall also mean an insurer which is permitted to write surplus lines insurance under the laws of the state where such insurer is domiciled.

(32) “Surplus lines licensee” means an individual, firm, or corporation licensed under the law of the home state to place surplus lines insurance.

§ 5054. ESTABLISHMENT OF THE COMMISSION; VENUE

(a) The compacting states hereby create and establish a joint public agency

known as the surplus lines insurance multi-state compliance compact commission.

(b) Pursuant to section 5055 of this chapter, the commission shall have the power to adopt mandatory rules which establish exclusive home state authority regarding non-admitted insurance of multi-state risks, allocation formulas, clearinghouse transaction data, a clearinghouse for receipt and distribution of allocated premium tax and clearinghouse transaction data, and uniform rulemaking procedures and rules for the purpose of financing, administering, operating, and enforcing compliance with the provisions of this compact, its bylaws, and rules.

(c) Pursuant to section 5055 of this chapter, the commission shall have the power to adopt mandatory rules establishing foreign insurer eligibility requirements and a concise and objective policyholder notice regarding the nature of a surplus lines placement.

(d) The commission is a body corporate and politic, and an instrumentality of the compacting states.

(e) The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

(f) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

§ 5055. AUTHORITY TO ESTABLISH MANDATORY RULES

The commission shall adopt mandatory rules establishing:

(1) allocation formulas for each type of non-admitted insurance coverage, which allocation formulas must be used by each compacting state and contracting state in acquiring premium tax and clearinghouse transaction data from surplus lines licensees and insureds for reporting to the clearinghouse created by the compact commission. Such allocation formulas will be established with input from surplus lines licensees and be based upon readily available data with simplicity and uniformity for the surplus line licensee as a material consideration.

(2) Uniform clearinghouse transaction data reporting requirements for all information reported to the clearinghouse.

(3) Methods by which compacting states and contracting states require surplus lines licensees and insureds to pay premium tax and to report clearinghouse transaction data to the clearinghouse, including processing

clearinghouse transaction data through state stamping and service offices, state insurance departments, or other state designated agencies or entities.

(4)(A) That non-admitted insurance of multi-state risks shall be subject to all of the regulatory compliance requirements of the home state exclusively. Home state regulatory compliance requirements applicable to surplus lines insurance shall include but not be limited to:

(i) persons required to be licensed to sell, solicit, or negotiate surplus lines insurance;

(ii) insurer eligibility requirements or other approved non-admitted insurer requirements;

(iii) diligent search; and

(iv) state transaction documentation and clearinghouse transaction data regarding the payment of premium tax as set forth in this compact and rules to be adopted by the commission.

(B) Home state regulatory compliance requirements applicable to independently procured insurance placements shall include but not be limited to providing state transaction documentation and clearinghouse transaction data regarding the payment of premium tax as set forth in this compact and rules adopted by the commission.

(5) That each compacting state and contracting state may charge its own rate of taxation on the premium allocated to such state based on the applicable allocation formula provided that the state establishes one single rate of taxation applicable to all non-admitted insurance transactions and no other tax, fee assessment, or other charge by any governmental or quasi-governmental agency be permitted. Notwithstanding the foregoing, stamping office fees may be charged as a separate, additional cost unless such fees are incorporated into a state's single rate of taxation.

(6) That any change in the rate of taxation by any compacting state or contracting state be restricted to changes made prospectively on not less than 90 days' advance notice to the compact commission.

(7) That each compacting state and contracting state shall require premium tax payments either annually, semiannually, or quarterly using one or more of the following dates only: March 1, June 1, September 1, and December 1.

(8) That each compacting state and contracting state prohibit any other state agency or political subdivision from requiring surplus lines licensees to provide clearinghouse transaction data and state transaction documentation

other than to the insurance department or tax officials of the home state or one single designated agent thereof.

(9) The obligation of the home state by itself, through a designated agent, surplus lines stamping or service office, to collect clearinghouse transaction data from surplus line licensee and from insureds for independently procured insurance, where applicable, for reporting to the clearinghouse.

(10) A method for the clearinghouse to periodically report to compacting states, contracting states, surplus lines licensees and insureds who independently procure insurance, all premium taxes owed to each of the compacting states and contracting states, the dates upon which payment of such premium taxes are due and a method to pay them through the clearinghouse.

(11) That each surplus line licensee is required to be licensed only in the home state of each insured for whom surplus lines insurance has been procured.

(12) That a policy considered to be surplus lines insurance in the insured's home state shall be considered surplus lines insurance in all compacting states and contracting states, and taxed as a surplus lines transaction in all states to which a portion of the risk is allocated. Each compacting state and contracting state shall require each surplus lines licensee to pay to every other compacting state and contracting state premium taxes on each multi-state risk through the clearinghouse at such tax rate charged on surplus lines transactions in such other compacting states and contracting states on the portion of the risk in each such compacting state and contracting state as determined by the applicable uniform allocation formula adopted by the commission. A policy considered to be independently procured insurance in the insured's home state shall be considered independently procured insurance in all compacting states and contracting states. Each compacting state and contracting state shall require the insured to pay every other compacting state and contracting state the independently procured insurance premium tax on each multi-state risk through the clearinghouse pursuant to the uniform allocation formula adopted by the commission.

(13) Uniform foreign insurer eligibility requirements as authorized by NRRA.

(14) A uniform policyholder notice.

(15) Uniform treatment of purchasing group surplus lines insurance placements.

§ 5056. POWERS OF THE COMMISSION

The commission shall have the powers to:

(1) adopt rules and operating procedures, pursuant to section 5059 of this chapter, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(2) bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

(3) issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence, provided however, the commission is not empowered to demand or subpoena records or data from non-admitted insurers;

(4) establish and maintain offices including the creation of a clearinghouse for the receipt of premium tax and clearinghouse transaction data regarding non-admitted insurance of multi-state risks, single-state risks for states which elect to require surplus lines licensees to pay premium tax on single state risks through the clearinghouse and tax reporting forms;

(5) purchase and maintain insurance and bonds;

(6) borrow, accept or contract for services of personnel, including, but not limited to, employees of a compacting state or stamping office, pursuant to an open, transparent, objective, competitive process and procedure adopted by the commission;

(7) hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the compact, and determine their qualifications, pursuant to an open, transparent, objective competitive process and procedure adopted by the commission; and to establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel, and other related personnel matters;

(8) accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, use and dispose of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(9) lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed; provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(10) sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(11) provide for tax audit rules and procedures for the compacting states with respect to the allocation of premium taxes, including:

(A) Minimum audit standards, including sampling methods.

(B) Review of internal controls.

(C) Cooperation and sharing of audit responsibilities between compacting states.

(D) Handling of refunds or credits due to overpayments or improper allocation of premium taxes.

(E) Taxpayer records to be reviewed including a minimum retention period.

(F) Authority of compacting states to review, challenge, or re-audit taxpayer records.

(12) enforce compliance by compacting states and contracting states with rules, and bylaws pursuant to the authority set forth in section 5065 of this chapter;

(13) provide for dispute resolution among compacting states and contracting states;

(14) advise compacting states and contracting states on tax-related issues relating to insurers, insureds, surplus lines licensees, agents or brokers domiciled or doing business in non-compacting states, consistent with the purposes of this compact;

(15) make available advice and training to those personnel in state stamping offices, state insurance departments or other state departments for record keeping, tax compliance, and tax allocations; and to be a resource for state insurance departments and other state departments;

(16) establish a budget and make expenditures;

(17) borrow money;

(18) appoint and oversee committees, including advisory committees comprised of members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(19) establish an executive committee of not less than seven nor more than 15 representatives, which shall include officers elected by the commission

and such other representatives as provided for herein and determined by the bylaws. Representatives of the executive committee shall serve a one year term. Representatives of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day to day activities of the administration of the compact, including the activities of the operations committee created under this section and compliance and enforcement of the provisions of the compact, its bylaws and rules, and such other duties as provided herein and as deemed necessary.

(20) establish an operations committee of not less than seven and not more than 15 representatives to provide analysis, advice, determinations, and recommendations regarding technology, software, and systems integration to be acquired by the commission and to provide analysis, advice, determinations and recommendations regarding the establishment of mandatory rules to be adopted to be by the commission.

(21) enter into contracts with contracting states so that contracting states can use the services of and fully participate in the clearinghouse subject to the terms and conditions set forth in such contracts;

(22) adopt and use a corporate seal; and

(23) perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

§ 5057. ORGANIZATION OF THE COMMISSION

(a)(1) Membership, voting, and bylaws. Each compacting state shall have and be limited to one member. Each state shall determine the qualifications and the method by which it selects a member and set forth the selection process in the enabling provision of the legislation which enacts this compact. In the absence of such a provision the member shall be appointed by the governor of such compacting state. Any member may be removed or suspended from office as provided by the law of the state from which he or she shall be appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists.

(2) Each member shall be entitled to one vote and shall otherwise have an opportunity to participate in the governance of the commission in accordance with the bylaws.

(3) The commission shall, by a majority vote of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including:

(A) establishing the fiscal year of the commission;

(B) providing reasonable procedures for holding meetings of the commission, the executive committee, and the operations committee;

(C) providing reasonable standards and procedures for the establishment and meetings of committees, and for governing any general or specific delegation of any authority or function of the commission;

(D) providing reasonable procedures for calling and conducting meetings of the commission that consist of a majority of commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' and surplus lines licensees' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting *in toto* or in part. As soon as practicable, the commission must make public:

(i) a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed, and

(ii) votes taken during such meeting;

(E) establishing the titles, duties, and authority and reasonable procedures for the election of the officers of the commission;

(F) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

(G) adopting a code of ethics to address permissible and prohibited activities of commission members and employees;

(H) providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and reserving of all of its debts and obligations;

(4) The commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the compacting states.

(b)(1) Executive committee, personnel, and chairperson. An executive committee of the commission shall be established. All actions of the executive committee, including compliance and enforcement are subject to the review and ratification of the commission as provided in the bylaws.

(2) The executive committee shall have no more than 15 representatives, or one for each state if there are less than 15 compacting states, who shall serve for a term and be established in accordance with the bylaws.

(3) The executive committee shall have such authority and duties as may be set forth in the bylaws, including:

(A) managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;

(B) establishing and overseeing an organizational structure within, and appropriate procedures for the commission to provide for the creation of rules and operating procedures.

(C) overseeing the offices of the commission; and

(D) planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the commission.

(4) The commission shall annually elect officers from the executive committee, with each having such authority and duties, as may be specified in the bylaws.

(5) The executive committee may, subject to the approval of the commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.

(c)(1) Operations committee. An operations committee shall be established. All actions of the operations committee are subject to the review and oversight of the commission and the executive committee and must be approved by the commission. The executive committee will accept the determinations and recommendations of the operations committee unless good cause is shown why such determinations and recommendations should not be approved. Any disputes as to whether good cause exists to reject any determination or recommendation of the operations committee shall be resolved by the majority vote of the commission.

(2) The operations committee shall have no more than 15 representatives or one for each state if there are less than 15 compacting states, who shall serve for a term and shall be established as set forth in the bylaws.

(3) The operations committee shall have responsibility for:

(A) evaluating technology requirements for the clearinghouse, assessing existing systems used by state regulatory agencies and state stamping offices to maximize the efficiency and successful integration of the clearinghouse technology systems with state and state stamping office technology platforms and to minimize costs to the states, state stamping offices and the clearinghouse;

(B) making recommendations to the executive committee based on its analysis and determination of the clearinghouse technology requirements and compatibility with existing state and state stamping office systems;

(C) evaluating the most suitable proposals for adoption as mandatory rules, assessing such proposals for ease of integration by states, and likelihood of successful implementation and to report to the executive committee its determinations and recommendations; and

(D) such other duties and responsibilities as are delegated to it by the bylaws, the executive committee, or the commission.

(4) All representatives of the operations committee shall be individuals who have extensive experience or employment in the surplus lines insurance business, including executives and attorneys employed by surplus line insurers, surplus line licensees, law firms, state insurance departments, or state stamping offices. Operations committee representatives from compacting states which use the services of a state stamping office must appoint the chief operating officer or a senior manager of the state stamping office to the operations committee.

(d)(1) Legislative and advisory committees. A legislative committee comprised of state legislators or their designees shall be established to monitor the operations of and make recommendations to, the commission, including the executive committee. The manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget or other significant matter as may be provided in the bylaws, the executive committee shall consult with and report to the legislative committee.

(2) The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.

(e) Corporate records of the commission. The commission shall maintain its corporate books and records in accordance with the bylaws.

(f)(1) Qualified immunity, defense, and indemnification. The members, officers, executive director, employees, and representatives of the commission, the executive committee, and any other committee of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. Nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission, the executive committee, or any other committee of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act error or omission did not result from that person's intentional or willful or wanton misconduct. Nothing herein shall be construed to prohibit that person from retaining his or her own counsel.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission, executive committee, or any other committee of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

§ 5058. MEETINGS AND ACTS OF THE COMMISSION

(a) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(b) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(d) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or otherwise provided in the compact.

(e) The commission shall adopt rules concerning its meetings consistent with the principles contained in the "Government in the Sunshine Act," 5 U.S.C. § 552b, as may be amended.

(f) The commission and its committees may close a meeting, or portion thereof, where it determines by majority vote that an open meeting would be likely to:

(1) relate solely to the commission's internal personnel practices and procedures;

(2) disclose matters specifically exempted from disclosure by federal and state statute;

(3) disclose trade secrets or commercial or financial information which is privileged or confidential;

(4) involve accusing a person of a crime, or formally censuring a person;

(5) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) disclose investigative records compiled for law enforcement purposes; or

(7) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(g) For a meeting, or a portion of a meeting, closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in

connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission.

§ 5059. RULES AND OPERATING PROCEDURES; RULEMAKING FUNCTIONS OF THE COMMISSION

(a) Rulemaking authority. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force or effect.

(b) Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the commission.

(c) Effective date. All rules and amendments, thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

(d) Not later than 30 days after a rule is adopted, any person may file a petition for judicial review of the rule, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

§ 5060. COMMISSION RECORDS; ENFORCEMENT

(a) The commission shall adopt rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals, insurers, insureds, or surplus lines licensee trade secrets. State transaction documentation and clearinghouse transaction data collected by the clearinghouse shall be used for only those purposes expressed in or reasonably implied under the provisions of this compact and the commission shall afford this data the broadest protections as permitted by any applicable law for proprietary information, trade secrets, or personal data. The commission may adopt additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such

agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

(b) Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state member of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further provided that, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any member, and the commission shall maintain the confidentiality of any information provided by a member that is confidential under that member's state law.

(c) The commission shall monitor compacting states for compliance with duly adopted bylaws and rules. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws or rules. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in section 5065 of this chapter.

§ 5061. DISPUTE RESOLUTION

(a) Before a member may bring an action in a court of competent jurisdiction for violation of any provision, standard, or requirement of the compact, the commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and which may arise between two or more compacting states, contracting states or noncompacting states, and the commission shall adopt a rule providing alternative dispute resolution procedures for such disputes.

(b) The commission shall also provide alternative dispute resolution procedures to resolve any disputes between insureds or surplus lines licensees concerning a tax calculation or allocation or related issues which are the subject of this compact.

(c) Any alternative dispute resolution procedures shall be used in circumstances where a dispute arises as to which state constitutes the home state.

§ 5062. REVIEW OF COMMISSION DECISIONS

(a) Except as necessary for adopting rules to fulfill the purposes of this compact, the commission shall not have authority to otherwise regulate insurance in the compacting states.

(b) Not later than 30 days after the commission has given notice of any rule or allocation formula, any third party filer or compacting state may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the commission, in making compliance or tax determinations acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with subsection 5054(f) of this chapter.

(c) The commission shall have authority to monitor, review and reconsider commission decisions upon a finding that the determinations or allocations do not meet the relevant rule. Where appropriate, the commission may withdraw or modify its determination or allocation after proper notice and hearing, subject to the appeal process in subsection (b) of this section.

§ 5063. FINANCE

(a) The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations the commission may accept contributions, grants, and other forms of funding from the state stamping offices, compacting states, and other sources.

(b) The commission shall collect a fee payable by the insured directly or through a surplus lines licensee on each transaction processed through the compact clearinghouse, to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

(c) The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in section 5059 of this chapter.

(d) The commission shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by any state or political subdivision thereof, upon any of the property used by

it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange.

(e) The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements for all funds under its control. The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports including the system of internal controls and procedures of the commission shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but not less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts shall not be confidential and such materials may be shared with the commissioner, the controller, or the stamping office of any compacting state upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals, and licensees' and insurers' proprietary information, including trade secrets, shall remain confidential.

(f) No compacting state shall have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

(g) The commission shall not make any political contributions to candidates for elected office, elected officials, political parties, nor political action committees. The commission shall not engage in lobbying except with respect to changes to this compact.

§ 5064. COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state is eligible to become a compacting state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states, provided the commission shall become effective for purposes of adopting rules, and creating the clearinghouse when there are a total of 10 compacting states and contracting states or, alternatively, when there are compacting states and contracting states representing greater than 40 percent of the surplus lines insurance premium volume based on records of the percentage of surplus lines insurance premium set forth in section 5069 of this chapter. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. Notwithstanding the foregoing, the

clearinghouse operations and the duty to report clearinghouse transaction data shall begin on the first January 1 or July 1 following the first anniversary of the commission effective date. For states which join the compact subsequent to the effective date, a start date for reporting clearinghouse transaction data shall be set by the commission provided surplus lines licensees and all other interested parties receive not less than 90 days advance notice.

(c) Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

§ 5065. WITHDRAWAL; DEFAULT; TERMINATION

(a)(1) Withdrawal. Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any tax or compliance determinations approved on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the commission.

(3) The member of the withdrawing state shall immediately notify the executive committee of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

(4) The commission shall notify the other compacting states of the introduction of such legislation within 10 days after its receipt of notice thereof.

(5) The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. To the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state, the commission's determinations prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the commission.

(6) Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

(b)(1) Default. If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or

responsibilities under this compact, the bylaws, or duly adopted rules then after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Decisions of the commission that are issued on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to subdivision (1) of this subsection.

(3) Reinstatement following termination of any compacting state requires a reenactment of the compact.

(c)(1) Dissolution of compact. The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall have no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the rules and bylaws.

§ 5066. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Throughout this compact the use of the singular shall include the plural and vice-versa.

(d) The headings and captions of articles, sections, and subsections used in this compact are for convenience only and shall be ignored in construing the substantive provisions of this compact.

§ 5067. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a)(1) Other laws. Nothing herein prevents the enforcement of any other law of a compacting state except as provided in subdivision (2) of this subsection.

(2) Decisions of the commission, and any rules, and any other requirements of the commission shall constitute the exclusive rule or determination applicable to the compacting states. Any law or regulation regarding non-admitted insurance of multi-state risks that is contrary to rules of the commission is preempted with respect to the following:

(A) clearinghouse transaction data reporting requirements;

(B) the allocation formula;

(C) clearinghouse transaction data collection requirements;

(D) premium tax payment time frames and rules concerning dissemination of data among the compacting states for non-admitted insurance of multi-state risks and single-state risks;

(E) exclusive compliance with surplus lines law of the home state of the insured;

(F) rules for reporting to a clearinghouse for receipt and distribution of clearinghouse transaction data related to non-admitted insurance of multi-state risks;

(G) uniform foreign insurers eligibility requirements;

(H) uniform policyholder notice; and

(I) uniform treatment of purchasing groups procuring non-admitted insurance.

(3) Except as stated in subdivision (2) of this subsection, any rule, uniform standard, or other requirement of the commission shall constitute the exclusive provision that a commissioner may apply to compliance or tax determinations. Notwithstanding the foregoing, no action taken by the commission shall abrogate or restrict:

(A) the access of any person to state courts;

(B) the availability of alternative dispute resolution under section 5061 of this chapter;

(C) the remedies available under state law related to breach of contract, tort, or other laws not specifically directed to compliance or tax determinations;

(D) state law relating to the construction of insurance contracts; or

(E) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

(b)(1) Binding effect of this compact. All lawful actions of the commission, including all rules adopted by the commission, are binding upon the compacting states, except as provided herein.

(2) All agreements between the commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute. This provision may be implemented by rule at the discretion of the commission.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that state and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

§ 5068. VERMONT COMMISSION MEMBER; SELECTION

The Vermont member of the commission shall be the commissioner of banking, insurance, securities, and health care administration or designee.

§ 5069. SURPLUS LINE INSURANCE PREMIUMS BY STATE

<u>State</u>	<u>Premiums based on taxes paid (\$)</u>	<u>Share of Total Premiums (%)</u>
<u>Alabama</u>	<u>445,746,000</u>	<u>1.47</u>
<u>Alaska</u>	<u>89,453,519</u>	<u>0.29</u>
<u>Arizona</u>	<u>663,703,267</u>	<u>2.18</u>
<u>Arkansas</u>	<u>201,859,750</u>	<u>0.66</u>
<u>California</u>	<u>5,622,450,467</u>	<u>18.49</u>
<u>Colorado</u>	<u>543,781,333</u>	<u>1.79</u>
<u>Connecticut</u>	<u>329,358,800</u>	<u>1.08</u>
<u>Delaware</u>	<u>92,835,950</u>	<u>0.31</u>

<u>Florida</u>	<u>2,660,908,760</u>	<u>8.75</u>
<u>Georgia</u>	<u>895,643,150</u>	<u>2.95</u>
<u>Hawaii</u>	<u>232,951,489</u>	<u>0.77</u>
<u>Idaho</u>	<u>74,202,255</u>	<u>0.24</u>
<u>Illinois</u>	<u>1,016,504,629</u>	<u>3.34</u>
<u>Indiana</u>	<u>412,265,320</u>	<u>1.36</u>
<u>Iowa</u>	<u>135,130,933</u>	<u>0.44</u>
<u>Kansas</u>	<u>160,279,300</u>	<u>0.53</u>
<u>Kentucky</u>	<u>167,996,133</u>	<u>0.55</u>
<u>Louisiana</u>	<u>853,173,280</u>	<u>2.81</u>
<u>Maine</u>	<u>60,111,200</u>	<u>0.20</u>
<u>Maryland</u>	<u>434,887,600</u>	<u>1.43</u>
<u>Massachusetts</u>	<u>708,640,225</u>	<u>2.33</u>
<u>Michigan</u>	<u>703,357,040</u>	<u>2.31</u>
<u>Minnesota</u>	<u>393,128,400</u>	<u>1.29</u>
<u>Mississippi</u>	<u>263,313,175</u>	<u>0.87</u>
<u>Missouri</u>	<u>404,489,860</u>	<u>1.33</u>
<u>Montana</u>	<u>64,692,873</u>	<u>0.21</u>
<u>Nebraska</u>	<u>92,141,167</u>	<u>0.30</u>
<u>Nevada</u>	<u>354,271,514</u>	<u>1.17</u>
<u>New Hampshire</u>	<u>102,946,250</u>	<u>0.34</u>
<u>New Jersey</u>	<u>1,087,994,033</u>	<u>3.58</u>
<u>New Mexico</u>	<u>67,608,458</u>	<u>0.22</u>
<u>New York</u>	<u>2,768,618,083</u>	<u>9.11</u>
<u>North Carolina</u>	<u>514,965,060</u>	<u>1.69</u>
<u>North Dakota</u>	<u>36,223,943</u>	<u>0.12</u>
<u>Ohio</u>	<u>342,000,000</u>	<u>1.12</u>
<u>Oklahoma</u>	<u>319,526,400</u>	<u>1.05</u>
<u>Oregon</u>	<u>312,702,150</u>	<u>1.03</u>

<u>Pennsylvania</u>	<u>780,666,667</u>	<u>2.57</u>
<u>Rhode Island</u>	<u>71,794,067</u>	<u>0.24</u>
<u>South Carolina</u>	<u>412,489,825</u>	<u>1.36</u>
<u>South Dakota</u>	<u>38,702,120</u>	<u>0.13</u>
<u>Tennessee</u>	<u>451,775,240</u>	<u>1.49</u>
<u>Texas</u>	<u>3,059,170,454</u>	<u>10.06</u>
<u>Utah</u>	<u>142,593,412</u>	<u>0.47</u>
<u>Vermont</u>	<u>41,919,433</u>	<u>0.14</u>
<u>Virginia</u>	<u>611,530,667</u>	<u>2.01</u>
<u>Washington</u>	<u>739,932,050</u>	<u>2.43</u>
<u>West Virginia</u>	<u>130,476,250</u>	<u>0.43</u>
<u>Wisconsin</u>	<u>248,758,333</u>	<u>0.82</u>
<u>Wyoming</u>	<u>40,526,967</u>	<u>0.13</u>
<u>Total</u>	<u>30,400,197,251</u>	<u>100.00</u>

***** NRRA Conforming Amendments to Existing VT Laws *****

Sec. 2. 8 V.S.A. § 5022 is amended to read:

§ 5022. DEFINITIONS

For the purposes of this chapter:

~~(1) “Surplus lines insurance” means coverage not procurable from admitted insurers.~~

~~(2) “Surplus lines broker” means an individual licensed pursuant to this chapter and chapter 131 of this title.~~

~~(3) “Surplus lines insurer” means a non-admitted insurer with which insurance coverage may be placed under this chapter.~~

~~(4) “Domestic risk” means a subject of insurance which is resident, located or to be performed in this state.~~

~~(5) “To export” means to place surplus lines insurance with a non-admitted insurer.~~

~~(6) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.~~

~~(7) “Admitted insurer” means an insurer possessing a certificate of authority to transact business in this state issued by the commissioner pursuant to section 3361 of this title.~~

(a) Notwithstanding subsection (b) of this section, as used in this chapter, unless the context requires otherwise, words and phrases shall have the meaning given under Title V, Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub.L. 111-203, as amended.

(b) For purposes of this chapter:

(1) “Admitted insurer” means an insurer possessing a certificate of authority to transact business in this state issued by the commissioner pursuant to section 3361 of this title.

(2) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.

(3) “Domestic risk” means a subject of insurance which is resident, located, or to be performed in this state.

(4) “To export” means to place surplus lines insurance with a non-admitted insurer.

(5) “Home state” means, with respect to an insured:

(A)(i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(ii) if 100 percent of the insured risk is located outside the state referred to in subdivision (A)(i) of this subsection, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(B) If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home state” means the home state, as determined pursuant to subdivision (A) of this subdivision (5), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(6) “NAIC” means the national association of insurance commissioners.

(7) “Surplus lines broker” means an individual licensed under this chapter and chapter 131 of this title.

(8) “Surplus lines insurance” means coverage not procurable from admitted insurers.

(9) “Surplus lines insurer” means a non-admitted insurer with which insurance coverage may be placed under this chapter.

Sec. 3. 8 V.S.A. § 5024 is amended to read:

§ 5024. CONDITIONS FOR PLACEMENT OF INSURANCE

(a) Insurance coverage, except as described in section 5025 of this chapter, shall not be placed with a nonadmitted insurer unless the full amount of insurance required is not reasonably procurable from admitted insurers actually transacting that kind and class of insurance in this state; and the amount of insurance exported shall be only the excess over the amount procurable from admitted insurers actually transacting and insuring that kind and class of insurance.

(b) Notwithstanding any other provision of this section, the commissioner may order eligible for export any class or classes of insurance coverage or risk for which he or she finds there to be an inadequate competitive market among admitted insurers either as to acceptance of the risk, contract terms or premium or premium rate.

(c) The due diligence search for reasonably procurable insurance coverage required under subsection (a) of this section is not required for an exempt commercial purchaser, provided:

(1) the surplus lines broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may be available from an admitted insurer and may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the surplus lines broker to procure or place such insurance from a nonadmitted insurer.

Sec. 4. 8 V.S.A. § 5025 is amended to read:

§ 5025. EXCEPTIONS CONCERNING PLACEMENT OF INSURANCE WITH NONADMITTED INSURERS; RECORDS

The provisions of this chapter controlling the placement of insurance with nonadmitted insurers shall not apply to life insurance, health insurance, annuities, or reinsurance, nor to the following insurance when so placed by any licensed producer in this state:

(1) ~~insurance on subjects located, resident, or to be performed wholly outside this state~~ whose home state is other than Vermont;

* * *

Sec. 5. 8 V.S.A. § 5026 is amended to read:

§ 5026. SOLVENT INSURERS REQUIRED

(a) ~~Surplus~~ Where Vermont is the home state of the insured, surplus lines brokers shall not knowingly place or continue surplus lines insurance with nonadmitted insurers who are insolvent or unsound financially, and in no event shall any surplus lines broker place any insurance with a nonadmitted insurer unless such insurer:

~~(1) has paid to the commissioner an initial fee of \$100.00 and an annual listing fee of \$300.00, payable before March 1 of each year;~~

~~(2) has furnished the commissioner with a certified copy of its current annual statement; and~~

~~(3) has and maintains capital, surplus or both to policyholders in an amount not less than \$10,000,000.00; and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:~~

~~(A) the minimum capital and surplus requirements under the law of this state; or~~

~~(B) \$15,000,000.00; and~~

~~(4)(2) if an alien insurer, in addition to the requirements of subdivisions (1), (2), and (3) of this subsection, has established a trust fund in a minimum amount of \$2,500,000.00 within the United States maintained in and administered by a bank that is a member of the Federal Reserve System and held for the benefit of all of its insurer's policyholders and beneficiaries in the United States. In the case of an association of insurers, which association includes unincorporated individual insurers, they shall maintain in a bank that is a member of the Federal Reserve System assets held in trust for all their policyholders and beneficiaries in the United States of not less than \$50,000,000.00 in lieu of the foregoing trust fund requirement. These trust funds or assets held in trust shall consist of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance is listed on the quarterly listing of alien insurers maintained by the NAIC international insurers department.~~

(b) Notwithstanding the capital and surplus requirements of this section, a non-admitted insurer may receive approval upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment-income trends, market availability, and company record and reputation within the industry. In no event, however, shall the commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$4,500,000.00.

(c) The commissioner may from time to time publish a list of all nonadmitted insurers deemed by him or her to be currently eligible surplus lines insurers under the provisions of this section, and shall mail a copy of such list to each surplus lines broker. ~~The commissioner may satisfy this subsection by adopting the list of approved surplus lines insurers published by the Nonadmitted Insurers Information Office of the National Association of Insurance Commissioners.~~ This subsection shall not be deemed to cast upon the commissioner the duty of determining the actual financial condition or claims practices of any nonadmitted insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the commissioner has no credible evidence to the contrary. While any such list is in effect, the surplus lines broker shall restrict to the insurers so listed all surplus lines insurance business placed by him or her. However, upon the request of a surplus lines broker or an insured, the commissioner may deem a nonadmitted insurer to be an eligible surplus lines insurer for purposes of this subsection prior to publication of the name of such surplus lines insurer on the list.

Sec. 6. 8 V.S.A. § 5027(a) is amended to read:

(a) ~~Upon~~ Where Vermont is the home state of the insured, the surplus lines broker, upon placing a domestic risk with a surplus lines insurer, ~~the surplus lines broker~~ shall promptly deliver to the insured the policy issued by the surplus lines insurer, or if such policy is not then available, a certificate, cover note, or other confirmation of insurance, showing the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and surplus lines insurer. If the risk is assumed by more than one insurer, the document or documents shall state the name and address and proportion of the entire risk assumed by each insurer.

Sec. 7. 8 V.S.A. § 5028 is amended to read:

§ 5028. INFORMATION REQUIRED ON CONTRACT

~~Each~~ Where Vermont is the home state of the insured, each surplus lines broker through whom a surplus lines insurance coverage is procured shall endorse on the outside of the policy and on any confirmation of the insurance, his or her name, address and license number, and the name and address of the producer, if any, through whom the business originated. Where such coverage is placed with an eligible surplus lines insurer there shall be stamped or written conspicuously in no smaller than 10 point boldface type of a contrasting color upon the first page of the policy and the confirmation of insurance if any, “The company issuing this policy has not been licensed by the state of Vermont and

the rates charged have not been approved by the commissioner of insurance. Any default on the part of the insurer is not covered by the Vermont Insurance Guaranty Association.”

Sec. 8. 8 V.S.A. § 5033(a) is amended to read:

(a) ~~Each~~ Where Vermont is the home state of the insured, each surplus lines broker shall keep in his or her office a full and true record of each surplus lines insurance contract covering a domestic risk placed by or through him or her with a surplus lines insurer, including a copy of the daily report, if any, and showing such of the following items as may be applicable:

* * *

Sec. 9. 8 V.S.A. § 5035(a) is amended to read:

(a) ~~Gross~~ Where Vermont is the home state of the insured, gross premiums charged, less any return premiums, for surplus lines coverages placed with nonadmitted insurers are subject to a premium receipts tax of three percent, which shall be collected from the insured by the surplus lines broker at the time of delivery of policy or other confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. The tax on any portion of the premium unearned at termination of insurance shall be returned to the policyholder by the surplus lines broker. Nothing contained in this section will preclude a surplus lines broker from charging a fee to the purchaser of the contract sufficient to recover the amount of this tax. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on gross premiums charged, less any return premiums, as follows:

(1) An amount equal to three percent on that portion of the premiums applicable to properties, risks, or exposures located or to be performed in Vermont; plus

(2) An amount equal to a percentage on that portion of the premiums applicable to properties, risks, or exposures located or to be performed outside Vermont. Such percentage shall be determined based on the laws of the jurisdiction within which the property, risk, or exposure is located or to be performed.

Sec. 10. 8 V.S.A. § 5036 is amended to read:

§ 5036. DIRECT PLACEMENT OF INSURANCE

(a) Every insured and every self-insurer in this state for whom this is their home state who procures or causes to be procured or continues or renews insurance from any non-admitted insurer, covering a subject located or to be performed within this state, other than insurance procured through a surplus

lines broker pursuant to this chapter, shall, before March 1 of the year after the year in which the insurance was procured, continued or renewed, file a written report with the commissioner on forms prescribed and furnished by the commissioner. The report shall show:

* * *

Sec. 11. 8 V.S.A. § 5037(7) is amended to read:

(7) ~~Violation~~ Material violation of any provision of this chapter; or

Sec. 12. 8 V.S.A. § 4807 is amended to read:

§ 4807. SURPLUS LINES INSURANCE BROKER

(a) Every surplus lines insurance broker who solicits an application for insurance of any kind, in any controversy between the insured or his or her beneficiary and the insurer issuing any policy upon such application, shall be regarded as representing the insured and his or her beneficiary and not the insurer; except any insurer which directly or through its agents delivers in this state to any surplus lines insurance broker a policy or contract for insurance pursuant to the application or request of the surplus lines insurance broker, acting for an insured other than himself or herself, shall be deemed to have authorized the surplus lines insurance broker to receive on its behalf payment of any premium which is due on the policy or contract for insurance at the time of its issuance or delivery.

(b) [Repealed.]

(c) Notwithstanding any other provision of this title, a person licensed as a surplus lines insurance broker in his or her home state shall receive a nonresident surplus lines insurance broker license pursuant to section 4800 of this chapter.

(d) Not later than July 1, 2012, the commissioner shall participate in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

* * * **Effective Date** * * *

Sec. 13. EFFECTIVE DATE

This act shall be effective on passage.

(Committee vote: 10-0-1)

(For text see Senate Journal 3/29/11)

S. 90

An act relating to respectful language in state statutes in referring to people with disabilities

Rep. Trieber of Rockingham, for the Committee on Human Services, 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:

TO THE HOUSE OF REPRESENTATIVES:

The Committee on Human Services to which was referred Senate Bill No. 90 entitled "An act relating to respectful language in state statutes in referring to people with disabilities" respectfully reports that it has considered the same and recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. RESPECTFUL LANGUAGE STUDY

(a) The agency of human services shall convene a working group to recommend guidelines for using respectful language when referring to people with disabilities. In convening the working group, the agency shall designate at least one employee of the agency to serve on the working group and shall invite the participation of two representatives from the Vermont coalition for disability rights, two representatives from Green Mountain self-advocates, one representative from the Vermont center for independent living, one representative from Vermont psychiatric survivors, one representative from the human rights commission, one representative from the disability law project, one representative from disability rights Vermont, and two people appointed by the governor, at least one of whom shall be a high school student. The agency shall provide administrative services to the working group. In preparing its recommendations, the working group shall:

(1) identify words that should not be used in Vermont statutes, regulations, and policies and suggest in their place words that reflect positive views of people with disabilities;

(2) avoid using any language that changes the meaning or intent of state statutes;

(3) identify specific statutes that should be addressed by the general assembly;

(4) select wording that does not conflict with federal law; and

(5) recommend guidelines to support state government agencies and departments to use respectful language.

(b) By November 1, 2011, the working group shall report to the house committees on government operations and on human services and the senate committees on government operations and on health and welfare the group's findings and recommendations, including any recommended legislation to address its findings and recommendations.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal 4/6 - 4/7/11)

Favorable

H. 451

An act relating to amending the charter of the town of Shelburne

Rep. Evans of Essex, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 9-0-2)

Senate Proposal of Amendment

H. 66

An act relating to the illegal taking of trophy big game animals

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. 10 V.S.A. § 4514 is amended to read:

§ 4514. POSSESSION OF FLESH OF GAME

(a) When legally taken, the flesh of a fish or wild animal may be possessed for food for a reasonable time thereafter and such flesh may be transported and stored in a public cold storage plant. Nothing in this section shall authorize the possession of game birds or carcasses or parts thereof contrary to regulations made pursuant to the migratory bird treaty act.

(b) Any person convicted of illegally taking, destroying or possessing wild animals shall, in addition to other penalties provided under this chapter, pay into the fish and wildlife fund for each animal taken, destroyed or possessed, no more than the following amounts:

- | | |
|---|--|
| (1) Big game | \$1,000.00 <u>\$2,000.00</u> each |
| (2) Endangered or threatened species as defined in section 5401 of this title | 1,000.00 <u>\$2,000.00</u> each |

- (3) Small game ~~250.00~~ \$500.00 each
- (4) Fish ~~25.00~~ \$25.00 each

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS

Whoever violates a provision of this part or orders or rules of the board relating to taking, possessing, transporting, buying, or selling of big game shall be fined not more than ~~\$500.00~~ \$1,000.00 nor less than ~~\$200.00~~ \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions, the violator shall be fined not more than ~~\$1,000.00~~ \$2,000.00 nor less than ~~\$500.00~~ \$1,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

(For text see House Journal 3/15/11 - 3/17/11)

H. 138

An act relating to executive branch fees

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 5, 21 V.S.A. § 711(a), by striking out “1.61” and inserting in lieu thereof 1.75

Second: In Sec. 9, 6 V.S.A. § 2724, in subsection (a), by striking out the sentence “Licenses issued between July 1 and December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes.” and inserting in lieu thereof the following: Licenses issued from July 2 to December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes.

Third: By adding an internal caption and Sec. 11a to read:

* * * Department of Fish and Wildlife Bear Tags * * *

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

- (1) Fishing license \$22.00
- (2) Hunting license \$22.00

(3) Combination hunting and fishing license	\$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$20.00
(B) muzzle loader license	\$20.00
(C) turkey license	\$20.00
(D) second muzzle loader license	\$17.00
(E) second archery license	\$17.00
(F) moose license	\$100.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

* * *

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$45.00
(2) One-day fishing license	\$20.00
(3) [Deleted.]	
(4) Hunting license	\$100.00
(5) Combination hunting and fishing license	\$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	\$35.00
(B) muzzle loader license	\$40.00
(C) turkey license	\$35.00
(D) second muzzle loader license	\$25.00
(E) second archery license	\$25.00
(F) moose license	\$350.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

* * *

(1) If the board determines that it is in the interest of bear management, it may require the issuance of a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

Fourth: By adding an internal caption and Sec. 11b to read:

* * * Probate fees * * *

Sec. 11b. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A testator may deposit a will for safekeeping in the probate division of the superior court for the district in which the testator resides on the payment of a fee of \$2.00 to the court of the fee required by 32 V.S.A. § 1434(a)(17). The register shall give to the testator a certificate of deposit, shall safely keep each will so deposited and shall keep an index of the wills so deposited.

* * *

Fifth: By striking out Sec. 12 and the internal caption “* * * Report on local option tax assessment fee * * *” in their entirety and inserting in lieu thereof

Sec. 12. [DELETED]

Sixth: In Sec. 13, Repeals, by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read:

(3) Sec. 4 of No. 12 of the Acts of 2009, as amended by Sec. 105 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) (sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program).

Seventh: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read:

Sec. 14. EFFECTIVE DATES

This section, Sec. 6, and Sec. 13(3) (relating to sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program) shall take effect on passage.

(For text see House Journal 2/8/11)

Amendment to be offered by Rep. Branagan of Georgia to H. 138

Rep Branagan of Georgia moves that the House concur in the Senate proposal of amendment with a further amendment thereto as follows:

By striking out Sec. 11a in its entirety and inserting in lieu thereof the following:

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$22.00
(2) Hunting license	\$22.00
(3) Combination hunting and fishing license	\$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$20.00
(B) muzzle loader license	\$20.00
(C) turkey license	\$20.00
(D) second muzzle loader license	\$17.00
(E) second archery license	\$17.00
(F) moose license	\$100.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

* * *

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$45.00
(2) One-day fishing license	\$20.00
(3) [Deleted.]	
(4) Hunting license	\$100.00
(5) Combination hunting and fishing license	\$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	\$35.00
(B) muzzle loader license	\$40.00
(C) turkey license	\$35.00
(D) second muzzle loader license	\$25.00
(E) second archery license	\$25.00
(F) moose license	\$350.00
<u>(G) second bear tag</u>	<u>\$15.00</u>

* * *

(l) If the board determines that it is in the interest of bear management, it may authorize the department to issue a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

H. 275

An act relating to the recently deployed veteran tax credit

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in subsection (a), after the word “hired” by inserting the words after the passage of this act but

Second: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (b) in its entirety, and by redesignating subsections (c)–(e) as (b)–(d)

Third: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (b), after the word “hire” by striking out the words “, or in the tax year following the date that the start-up business was created.”

Fourth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(3)(C) in its entirety

Fifth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(4) in its entirety

Sixth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d)(3), after the word “compliance” by striking out the words “, or in the case of a credit under subsection (b) of this section, a recently deployed veteran’s compliance.”

Seventh: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d), by striking out “and” at the end of subdivision (4), and by striking the period at the end of subdivision (5) and inserting in lieu thereof the following: ; and, and by adding a subdivision (6) to read as follows:

(6) engage in efforts to promote the hiring of recently deployed veterans through the hiring practices of the state of Vermont.

(For text see House Journal 2/23 - 2/24 - 2/25/11)

H. 430

An act relating to providing mentoring support for new principals and technical center directors

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. 16 V.S.A. § 245 is added to read:

§ 245. PRINCIPALS; TECHNICAL CENTER DIRECTORS; MENTORING

(a) When a school district hires a principal or a technical center director who has not been employed previously in that capacity, the superintendent serving the district, in consultation with the Vermont Principals' Association, shall work to ensure that the new principal or technical center director receives mentoring supports during at least the first two years of employment. Mentoring supports shall be consistent with best practices, research-based approaches, or other successful models, and shall be identified jointly by the Vermont Principals' Association and the Vermont Superintendents Association.

(b) When a school district hires a principal or technical center director identified in subsection (a) of this section, the district shall allocate sufficient funds annually in the first two years of employment toward the cost of providing the mentoring supports from one or more of the following sources:

(1) funds allocated by the district for professional development;

(2) grant monies obtained for the purpose of providing mentoring supports;

(3) state funds appropriated for the purpose of providing mentoring supports; or

(4) other sources.

(c) This section shall not be interpreted to prohibit or discourage a superintendent from working to ensure that any administrator other than those identified in subsection (a) of this section receives mentoring supports.

Sec. 2. INTERIM STUDY OF TEACHER INDUCTION AND MENTORING

(a) Creation of committee. There is created a committee to study how the education profession inducts and mentors new teachers and to recommend legislative changes that would help new teachers to develop strong skills in their initial years and that would increase the retention of high-quality teachers.

(b) Membership. The committee shall be composed of two members representing the Vermont Standards Board for Professional Educators, two members designated by the Vermont-NEA, two members designated by the Vermont Principals' Association, one member designated by the Vermont School Boards Association, one member designated by the Vermont Superintendents Association, and two members of approved programs in educator preparation who are chosen by the Vermont Standards Board for Professional Educators and who have experience, expertise, or demonstrated interest in teacher mentoring.

(c) Powers and duties.

(1) The committee shall study and evaluate the induction and mentoring practices and programs currently in effect throughout Vermont and other states, including consideration of:

(A) How successful induction and mentoring programs would affect new teachers' ability to be effective educators and to remain in the profession.

(B) What components are critical to effective induction and mentoring programs that meet established standards and provide substantial support to new teachers; including

(i) What qualifications mentors should possess;

(ii) How to offer incentives for qualified veteran or retired teachers to obtain training in the mentoring of new teachers;

(iii) How mentors should be assigned;

(iv) What induction or mentoring activities have been effective;

(v) Who should set mentoring standards and how should they be defined and enforced;

(vi) What should the appropriate duration of the mentoring be; and

(C) What other issues the general assembly, the department of education, and the state board of education should consider in order to enact a high-quality induction and mentoring program for new teachers.

(2) The committee shall identify effective ways to provide mentoring support to new teachers without incurring excessive costs.

(d) Meetings. The commissioner of education shall convene the first meeting of the committee on or before August 1, 2011. The committee shall elect a chair at its first meeting.

(e) Report. On or before January 1, 2012, the committee shall submit and present a written report to the senate and house committees on education

regarding its findings and any recommendations for legislative action. The report and testimony shall include estimated costs associated with all recommendations.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage. Sec. 1 of this act shall apply to new contracts of employment for the 2012–2013 academic year and after.

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

An act relating to providing mentoring support for teachers, new principals, and new technical center directors.

(For text see House Journal 3/17 - 3/18/11)

Action Under Rule 52

J.R.H. 19

Joint resolution supporting the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's state and municipal environmental protection process

(For text see House Journal 4/22/11)

NOTICE CALENDAR

Favorable with Amendment

H. 237

An act relating to the use value program

Rep. Clarkson of Woodstock, for the Committee on **Ways and Means**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on~~

~~the basis of acreage, divided by the common level of appraisal. Such~~ The tax shall be expressed as a percentage of the full fair market value of the changed land determined without regard to the use value appraisal. If the property has been continuously enrolled by the same owner for fewer than 12 years, the tax rate shall be ten percent. If the property has been continuously enrolled by the same owner for 12 to 20 years, the tax rate shall be eight percent. If the property has been continuously enrolled by the same owner for over 20 years, the tax rate shall be five percent. A change in ownership that adds or subtracts a family member or that transfers the property to a family member who is an heir does not interrupt the counting of continuously enrolled years; however, a transfer in whole or in part to people who are not family members, or to a legal entity whose members are not all family members, does interrupt the counting of continuously enrolled years. For purposes of this subsection, "family member" means a spouse, former spouse, child, parent, grandparent, grandchild, sibling, aunt, uncle, nephew or niece by blood, marriage, or adoption. For purposes of the land use change tax, fair market value shall be determined as of the date the land is ~~no longer eligible for use value appraisal~~ developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing official. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall ~~petition for a determination of the fair market value of the land at the time of the withdrawal~~ notify the director, who shall in turn notify the local assessing official. In the alternative, if the director determines that development has occurred, the director shall notify the local assessing official of his or her determination. Thereafter, land which has been withdrawn ~~or developed~~ shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title ~~and subsection 3756(d) of this title, according to the appraisal model and land schedule of the municipality. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.~~

(c) ~~The~~ For the purposes of the land use change tax, the determination of the fair market value of the land ~~as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal,~~ shall be made by the ~~director~~ local assessing officials in

accordance with the provisions of subsection (b) of this section and divided by the municipality's most recent common level of appraisal as determined by the director. The determination shall be made within 30 days after the date that the director notifies the local assessing officials that the owner or assessing officials petition for the determination and shall be effective on the date of dispatch to the owner has petitioned for withdrawal from the program or that the director has determined that development has occurred. The local assessing officials shall notify the owner and the director of its determination, and the provisions for appeal relating to property tax assessments in chapter 131 shall apply.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the commissioner ~~for deposit into the general fund~~ who shall deposit one-half of the tax paid into the general fund and remit one-half of the tax paid to the municipality in which the land is located. The commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the commissioner shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing officials ~~and~~ one copy to the register of deeds of the municipality in which the land is located, and one copy to the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases to the commissioner of forests, parks and recreation. ~~Thereafter, the land which has been developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.~~

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases the commissioner of forests, parks and recreation of:

* * *

Sec. 2. 32 V.S.A. § 3756(d) is amended to read:

(d) The assessing officials shall appraise qualifying agricultural and managed forest land and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, the assessing officials shall:

(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and

(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value determined in this subsection.

Sec. 3. 32 V.S.A. § 3752(12) is amended to read:

(12) “Use value appraisal” means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, “use value appraisal” means zero percent of fair market value. ~~The director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.~~

Sec. 4. 32 V.S.A. § 3756(i) is amended to read:

(i) The director shall remove from use value appraisal an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

Sec. 5. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont’s use value appraisal program to the state’s agricultural and forest industries as well as to the state’s rural character and quality of life and in response to continuing fiscal challenges, the general assembly finds that multiple strategies are needed to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and to find additional revenue generation or cost savings consistent with the program’s policy objectives.

(b) There is created a current use study committee to examine the existing formula for municipal reimbursement payments (“hold harmless payments”) to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The committee shall issue a report no later than January 15, 2012, and the report should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife

and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before September 1, 2011;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of the department of forest, parks and recreation or designee;

(4) The executive director of the Vermont Assessors and Listers Association or designee;

(5) The executive director of the Vermont housing and conservation board or designee;

(6) Two representatives of the Vermont League of Cities and Towns, one from a rural community and one from an urban community, appointed by its board of directors;

(7) A member of the house appointed by the speaker of the house;

(8) A member of the senate appointed by the committee on committees;

(9) A member of the public appointed by the governor who shall be a land owner enrolled in the use value appraisal program.

(c) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010, unless otherwise compensated.

(d) The general assembly has identified potential areas of additional legislative action. These issues include:

(1) The extent and degree of over-assessment of enrolled or conserved land, including land permanently protected by conservation easements, and ensuring a consistent approach to assessment from town to town;

(2) The need to create incentives for landowners who keep enrolled land open for public recreation;

(3) the eligibility of agricultural parcels of fewer than 25 acres and the feasibility of developing productivity standards for such parcels;

(4) Methods by which the state can enhance the long-term financial sustainability of the program without damaging its long-term effectiveness in

maintaining working farms, forests, and open space, including the feasibility of using a tiered current use tax for lands devoted to different levels of production or conservation and availability for public recreational access;

(5) The identification and analysis of lands removed from the program over the past ten years and the subsequent use of those parcels;

(6) The application of the land use change tax to timber harvesting operations after the approved forest management plan has expired and the land is no longer enrolled in use value appraisal;

(7) The effect of allowing an owner to relocate an undeveloped withdrawn site of two acres or less once within an enrolled parcel without incurring the land use change tax, provided there is no net reduction in the area of enrolled land;

(8) Creating a system of oversight for agricultural land that is comparable and consistent with the oversight of forestland;

(9) Whether the land use change tax is a tax or a penalty, and if it is a tax, whether additional penalties are appropriate for land leaving the program or for land enrolled in the program that is not, in fact, qualified for enrollment.

(e) Individuals and organizations who are interested in the issues listed in subsection (d) are encouraged to create working groups to study these issues and develop potential solutions. They are further encouraged to submit their findings and recommendations to the general assembly on or before December 1, 2011 and any additional findings and recommendations on or before December 1, 2012. The reports should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance.

Sec. 6. USE VALUE APPRAISAL "EASY-OUT"

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under chapter 124 of Title 32 as of the passage of this act who elects to discontinue enrollment of the entire parcel may be relieved of the first \$100,000.00 of land use change tax imposed pursuant to section 3757 of that title; provided that if the property owner does elect to discontinue enrollment and be relieved of the first \$100,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property's full fair market value, for the 2011 assessment, and no state reimbursement shall be paid for that land. No property owner shall be relieved of more than \$100,000.00 in land use change tax under this provision. An election to discontinue enrollment under this provision is effective only if made in writing to the

director of property valuation and review on or before October 1, 2011; and no owner who elects to discontinue enrollment under this section, or any successor owner, shall reenroll less than the entire withdrawn parcel in the succeeding five years. If the property owner withdraws less than the entire parcel, the provisions of this section do not apply.

Sec. 7. LIMITATION ON EASY-OUT

The “easy-out” provided for in Sec. 6 of this act shall not be available for any parcel that has been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to passage of this act.

Sec. 8. EFFECTIVE DATE AND TRANSITION RULES

(a) Subject to Sec. 6 of this act, property withdrawn from the use value appraisal program on or before October 1, 2011, but not developed before that date shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(b) Sec. 1 of this act shall take effect on November 2, 2011.

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

(Committee Vote: 7-4-0)

S. 108

An act relating to effective strategies to reduce criminal recidivism

Rep. Emmons of Springfield, for the Committee on Corrections and Institutions, 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:

Sec. 1. FINDINGS

The general assembly finds:

(1) From 1996 to 2006, Vermont’s prison population doubled. To accommodate this increase, spending on corrections increased 129 percent from \$48 million in fiscal year 1996 to \$130 million in fiscal year 2008. Yet during this time, Vermont’s crime rate remained stable and the state has one of the lowest crime rates in the country.

(2) In 2008, the Pew Center on the States estimated that if trends continued, the state prison population would increase 23 percent by 2018, resulting in additional costs of \$82 to \$206 million. In an effort to stem the growth of the prison population, reduce spending on corrections, and increase

public safety, the legislature passed justice reinvestment legislation in 2008. Since that time, Vermont's prison population growth has slowed, and in the last year has declined.

(3) A key component to justice reinvestment is using evidence-based practices to reduce recidivism. The Council of State Government's Justice Center, a leader in providing nonpartisan advice to states on justice reinvestment issues, has identified four key areas to form the basis of criminal justice policy decisions aimed at reducing recidivism.

(A) Focus on the offenders most likely to commit crimes. Studies show that intensive supervision and incarceration can actually increase recidivism rates for low-risk offenders; thus, identifying exactly who should be the focus of the state's efforts is critical.

(B) Invest in programs that work and ensure that they are working well. Drug treatment both in prison and the community, cognitive-behavioral treatment programs, and intensive community supervision combined with treatment oriented programs have shown to reduce recidivism.

(C) Strengthen supervision and deploy swift and certain sanctions. Policymakers should ensure that the offenders most likely to reoffend receive the most intensive supervision, and balance monitoring compliance with participation in programs that can reduce risk to public safety, and respond with immediate, certain, and proportional sanctions.

(D) Use strategies that reduce recidivism in communities where there are a high number of persons under the supervision of the department of corrections.

(4) No national standard exists for defining recidivism. Measures of recidivism used by various correctional agencies include arrest, convictions and return to incarceration. Standard follow-up periods are also essential in comparing recidivism rates. Vermont's primary method of measuring recidivism is the percent of offenders reconvicted for a new offense within three years, which currently stands at 52 percent. However, most states and the Bureau of Justice Statistics use the percent of offenders returned to prison for a new sentence of one year or more or for a revocation of supervision to measure recidivism. Thus, Vermont includes some offenders in recidivist populations who are not counted in other jurisdictions.

* * * Indeterminate Sentences * * *

Sec. 2. 13 V.S.A. § 7031 is amended to read:

§ 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

(a) When a respondent is sentenced to any term of imprisonment, other than for life, the court imposing the sentence shall not fix the term of imprisonment, unless such term is definitely fixed by statute, but shall establish a maximum and may establish a minimum term for which such respondent may be held in imprisonment. The maximum term shall not be more than the longest term fixed by law for the offense of which the respondent is convicted and the minimum term shall be not less than the shortest term fixed by law for such offense. If the court suspends a portion of said sentence, the unsuspended portion of such sentence shall be the minimum term of sentence solely for the purpose of any reductions. A sentence shall not be considered fixed as long as the maximum and minimum terms are not identical.

* * *

* * * Nonviolent Misdemeanors * * *

Sec. 3. 28 V.S.A. § 808 is amended to read:

§ 808. FURLOUGHS GRANTED TO ~~INMATES~~ OFFENDERS

(a) The department may extend the limits of the place of confinement of an ~~inmate~~ offender at any correctional facility if the ~~inmate~~ offender agrees to comply with such conditions of supervision the department, in its sole discretion, deems appropriate for that ~~inmate's~~ offender's furlough. The department may authorize furlough for any of the following reasons:

- (1) To visit a critically ill relative.
- (2) To attend a the funeral of a relative.
- (3) To obtain medical services.
- (4) To contact prospective employers.
- (5) To secure a suitable residence for use upon discharge.

(6) To continue the process of reintegration initiated in a correctional facility. The ~~inmate~~ offender may be placed in a program of conditional reentry status by the department upon the ~~inmate's~~ offender's completion of the minimum term of sentence. While on conditional reentry status, the ~~inmate~~ offender shall be required to participate in programs and activities that hold the ~~inmate~~ offender accountable to victims and the community pursuant to section 2a of this title.

~~(7) When recommended by the department and ordered by a court.~~

~~(A) Treatment furlough. The inmate may be sentenced to serve a term of imprisonment but placed by a court on furlough to participate in such~~

~~programs administered by the department in the community that reduce the offender's risk to reoffend or that provide reparation to the community in the form of supervised work activities.~~

~~(B)(i) Home confinement furlough. The inmate may be sentenced to serve a term of imprisonment but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences, enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the court, the department, or both. A sentence to home confinement furlough shall not exceed a total of 180 days and shall require the defendant:~~

~~(I) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or~~

~~(II) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.~~

~~(ii) In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, the court shall consider:~~

~~(I) the nature of the offense with which the defendant was charged and the nature of the offense with which the defendant was convicted;~~

~~(II) the defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight; and~~

~~(III) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.~~

~~(8) To prepare for reentry into the community.~~

~~(A) Any offender sentenced to incarceration may be furloughed to the community up to 180 days prior to completion of the minimum sentence, at the commissioner's discretion and in accordance with rules adopted pursuant to subdivision (C) of this subdivision (8), provided that an offender sentenced to a minimum term of fewer than 365 days shall not be eligible for furlough under this subdivision until the offender has served at least one half of his or her minimum term of incarceration.~~

~~(B) Except as provided in subdivision (D) of this subdivision (8), any offender sentenced to incarceration is eligible to earn five days toward reintegration furlough, to be applied prior to the expiration of the offender's~~

~~minimum term, for each month served in the correctional facility during which the inmate has complied with the case plan prepared pursuant to subsection 1(b) of this title and has obeyed all rules and regulations of the facility. Days shall be awarded only if the commissioner determines, in his or her sole discretion, that they have been earned in accordance with rules adopted by the department pursuant to subdivision (C) of this subdivision (8) and shall in no event be awarded automatically. The commissioner's determination shall be final. Days earned under this subdivision may be awarded in addition to the reintegration furlough authorized in subdivision (A) of this subdivision (8). The commissioner shall have the discretion to determine the frequency with which calculations under this subdivision shall be made provided they are made at least as frequently as every six months.~~

~~(C) The commissioner may authorize reintegration furlough under subdivisions (A) and (B) of this subdivision (8) only if the days are awarded in accordance with rules adopted pursuant to chapter 25 of Title 3 designed to:~~

~~(i) Evaluate factors such as risk of reoffense, history of violent behavior, history of compliance with community supervision, compliance with the case plan, progress in treatment programs designed to reduce criminal risk, and obedience to rules and regulations of the facility.~~

~~(ii) Ensure adequate departmental supervision of the offender when furloughed into the community.~~

~~(D) The commissioner may not award days toward reintegration furlough under subdivision (B) of this subdivision (8) if the offender is sentenced to a minimum term of incarceration in excess of five years or is incarcerated for a conviction of one or more of the following crimes:~~

~~(i) Arson causing death as defined in 13 V.S.A. § 501;~~

~~(ii) Assault and robbery with a dangerous weapon as defined in subsection 608(b) of Title 13;~~

~~(iii) Assault and robbery causing bodily injury as defined in subsection 608(c) of Title 13;~~

~~(iv) Aggravated assault as defined in 13 V.S.A. § 1024;~~

~~(v) Murder as defined in 13 V.S.A. § 2301;~~

~~(vi) Manslaughter as defined in 13 V.S.A. § 2304;~~

~~(vii) Kidnapping as defined in 13 V.S.A. § 2405;~~

~~(viii) Unlawful restraint as defined in 13 V.S.A. §§ 2406 and 2407;~~

~~(ix) Maiming as defined in 13 V.S.A. § 2701;~~

- ~~(x) Sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (2);~~
- ~~(xi) Aggravated sexual assault as defined in 13 V.S.A. § 3253;~~
- ~~(xii) Burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(e); or~~
- ~~(xiii) Lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602.~~

~~(E) An offender incarcerated for driving while under the influence of alcohol under subsection 1210(d) or (e) may be furloughed to the community up to 180 days prior to completion of the minimum sentence at the commissioner's discretion and in accordance with rules adopted pursuant to subdivision (C) of this subdivision (8), provided that an offender sentenced to a minimum term of fewer than 270 days shall not be eligible for furlough under this subdivision until the offender has served at least 90 days of his or her minimum term of incarceration and provided that the commissioner uses electronic equipment to continually monitor the offender's location and blood alcohol level, or other equipment such as an alcohol ignition interlock system, or both.~~

~~(F) Prior to release under this subdivision (8), the department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use the results of this assessment in preparing a reentry plan. The department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.~~

(b) An ~~inmate~~ offender granted a furlough pursuant to this section may be accompanied by an employee of the department, in the discretion of the commissioner, during the period of the ~~inmate's~~ offender's furlough. The department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.

(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the ~~inmate~~ offender, but shall constitute solely a permitted extension of the limits of the place of confinement for ~~inmates~~ offenders committed to the custody of the commissioner.

(d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee of the department, or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.

(e) ~~{Deleted.}~~

~~(f) Medical furlough.~~ The commissioner may place on medical furlough any ~~inmate offender~~ who is serving a sentence, including an ~~inmate offender~~ who has not yet served the minimum term of the sentence, who is diagnosed as suffering from a terminal or debilitating condition so as to render the ~~inmate offender~~ unlikely to be physically capable of presenting a danger to society. The commissioner shall develop a policy regarding the application for, standards for eligibility of and supervision of persons on medical furlough. The ~~inmate~~ may be released to a hospital, hospice, other licensed inpatient facility or other housing accommodation deemed suitable by the commissioner.

~~(g) Treatment furlough.~~ ~~The department may place on furlough an inmate who has not yet served the minimum term of the sentence, provided the approval of the sentencing judge is first obtained, who, in the department's determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the department has determined should be addressed in order to reduce the inmate's risk to reoffend or cause harm to himself or herself or to others in the facility. The inmate shall be released only to a hospital or residential treatment facility that provides services to the general population. The state's share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within state agencies reflective of their shared responsibilities to maximize the efficient and effective use of state resources. In the event that a memorandum of agreement cannot be reached, the secretary of administration shall make a final determination as to the manner in which costs will be allocated.~~

~~(h)~~(f) While appropriate community housing is an important consideration in release of ~~inmates offenders~~, the department of corrections shall not use lack of housing as the sole factor in denying furlough to ~~inmates offenders~~ who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the ~~inmate offender~~ will be served by reentering the community on furlough.

(g) Subsections (b)–(f) of this section shall also apply to sections 808a and 808c of this title.

Sec. 3a. 28 V.S.A. §§ 808a–808d are added to read:

§ 808a. TREATMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the department in the community that reduce the offender’s risk to reoffend or that provide reparation to the community in the form of supervised work activities.

(b) Provided the approval of the sentencing judge is first obtained, the department may place on treatment furlough an offender who has not yet served the minimum term of the sentence, who, in the department’s determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the department has determined should be addressed in order to reduce the offender’s risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The state’s share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within state agencies reflective of their shared responsibilities to maximize the efficient and effective use of state resources. In the event that a memorandum of agreement cannot be reached, the secretary of administration shall make a final determination as to the manner in which costs will be allocated.

(c)(1) Except as provided in subdivision (2) of this subsection, the department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. An offender shall not be eligible for treatment furlough under this subdivision, if, at the time of sentencing, the court makes written findings that treatment furlough is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender.

(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be

considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection.

§ 808b. HOME CONFINEMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences. Home confinement furlough shall be enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the court, the department, or both.

(b) The department, in its own discretion, may place on home confinement furlough an offender who has not yet served the minimum term of the sentence for an eligible misdemeanor as defined in section 808d of this title if the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. An offender shall not be eligible for home confinement furlough under this subsection, if, at the time of sentencing, the court makes written findings that home confinement furlough is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender, or the criteria for a home confinement furlough set forth in this section have not been met.

(c) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:

(1) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or

(2) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.

(d) In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, all of the following shall be considered:

(1) The nature of the offense with which the defendant was charged and the nature of the offense of which the defendant was convicted.

(2) The defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight.

(3) Any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

§ 808c. REINTEGRATION FURLOUGH

(a)(1) To prepare for reentry into the community, an offender sentenced to incarceration may be furloughed to the community up to 180 days prior to completion of the minimum sentence, at the commissioner's discretion and in accordance with rules adopted pursuant to subsection (c) of this section. Except as provided in subdivision (2) of this subsection, an offender sentenced to a minimum term of fewer than 365 days shall not be eligible for furlough under this subdivision until the offender has served at least one-half of his or her minimum term of incarceration.

(2) An offender sentenced to a minimum term of fewer than 365 days for an eligible misdemeanor as defined in section 808d of this title shall be eligible for furlough under this subdivision, provided the department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism. An offender shall not be eligible for a reintegration furlough under this subdivision if, at the time of sentencing, the court makes written findings that it is not likely to ensure public safety or victim safety, or is not likely to reduce the risk of recidivism for the offender.

(b) Except as provided in subsection (d) of this section, an offender sentenced to incarceration is eligible to earn five days toward reintegration furlough, to be applied prior to the expiration of the offender's minimum term, for each month served in the correctional facility during which the offender has complied with the case plan prepared pursuant to subsection 1(b) of this title and has obeyed all rules and regulations of the facility. Days shall be awarded only if the commissioner determines, in his or her sole discretion, that they have been earned in accordance with rules adopted by the department pursuant to subsection (c) of this section and shall in no event be awarded automatically. The commissioner's determination shall be final. Days earned under this subsection may be awarded in addition to the reintegration furlough authorized in subsection (a) of this section. The commissioner shall have the discretion to determine the frequency with which calculations under this subsection shall be made provided they are made at least as frequently as every six months.

(c) The commissioner may authorize reintegration furlough under subsections (a) and (b) of this section only if the days are awarded in accordance with rules adopted pursuant to chapter 25 of Title 3 designed to do the following:

(1) Evaluate factors such as risk of reoffense, history of violent behavior, history of compliance with community supervision, compliance with the case plan, progress in treatment programs designed to reduce criminal risk, and obedience to rules and regulations of the facility.

(2) Ensure adequate departmental supervision of the offender when furloughed into the community.

(d) The commissioner may not award days toward reintegration furlough under subsection (b) of this section if the offender is sentenced to a minimum term of incarceration in excess of five years or is incarcerated for a conviction of one or more of the following crimes:

(1) Arson causing death as defined in 13 V.S.A. § 501;

(2) Assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) Assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) Aggravated assault as defined in 13 V.S.A. § 1024;

(5) Murder as defined in 13 V.S.A. § 2301;

(6) Manslaughter as defined in 13 V.S.A. § 2304;

(7) Kidnapping as defined in 13 V.S.A. § 2405;

(8) Unlawful restraint as defined in 13 V.S.A. §§ 2406 and 2407;

(9) Maiming as defined in 13 V.S.A. § 2701;

(10) Sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (2);

(11) Aggravated sexual assault as defined in 13 V.S.A. § 3253;

(12) Burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); or

(13) Lewd or lascivious conduct with a child as defined in 13 V.S.A. § 2602.

(e) An offender incarcerated for driving while under the influence of alcohol under 23 V.S.A. § 1210(d) or (e) may be furloughed to the community up to 180 days prior to completion of the minimum sentence at the commissioner's discretion and in accordance with rules adopted pursuant to subsection (d) of this section, provided that an offender sentenced to a minimum term of fewer than 270 days shall not be eligible for furlough under this subsection until the offender has served at least 90 days of his or her minimum term of incarceration and provided that the commissioner uses

electronic equipment to monitor the offender's location and blood alcohol level continually, or other equipment such as an alcohol ignition interlock system, or both.

(f) Prior to release under this section, the department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use the results of this assessment in preparing a reentry plan. The department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.

§ 808d. DEFINITION; ELIGIBLE MISDEMEANOR; FURLOUGH AT THE DISCRETION OF THE DEPARTMENT

For purposes of sections 808a–808c of this title, “eligible misdemeanor” means a misdemeanor crime that is not one of the following crimes:

(1) Cruelty to animals involving death or torture as defined in 13 V.S.A. § 352(1) and (2).

(2) Simple assault as defined in 13 V.S.A. § 1023(a)(1).

(3) Simple assault with a deadly weapon as defined in 13 V.S.A. § 1023(a)(2).

(4) Simple assault of a law enforcement officer, firefighter, emergency medical personnel member, or health care worker while he or she is performing a lawful duty as defined in 13 V.S.A. § 1023(a)(1).

(5) Reckless endangerment as defined in 13 V.S.A. § 1025.

(6) Simple assault of a correctional officer as defined in 13 V.S.A. § 1028a(a)(1).

(7) Simple assault of a correctional officer as defined in 13 V.S.A. § 1028a(b).

(8) Violation of an abuse prevention order, first offense, as defined in 13 V.S.A. § 1030.

(9) Stalking as defined in 13 V.S.A. § 1062.

(10) Domestic assault as defined in 13 V.S.A. § 1042.

(11) Cruelty to children over 10 years of age by one over 16 years of age as defined in 13 V.S.A. § 1304.

(12) Cruelty by a person having custody of another as defined in 13 V.S.A. § 1305.

(13) Abuse, neglect, or exploitation of a vulnerable adult as provided in 13 V.S.A. §§ 1376-1381.

(14) Hate-motivated crime as defined in 13 V.S.A. § 1455 or burning of a cross or other religious symbol as defined in 13 V.S.A. § 1456.

(15) Voyeurism as defined in 13 V.S.A. § 2605.

(16) Prohibited acts as defined in 13 V.S.A. § 2632.

(17) Obscenity as defined in chapter 63 of Title 13.

(18) Possession of child pornography as defined in 13 V.S.A. § 2827.

(19) Possession of a dangerous or deadly weapon in a school bus or school building as defined in 13 V.S.A. § 4004(a).

(20) Possession of a dangerous or deadly weapon on school property with intent to injure as defined in 13 V.S.A. § 4004(b).

(21) Possession of a firearm in court as defined in 13 V.S.A. § 4016(b)(1).

(22) Possession of a dangerous or deadly weapon in court as defined in 13 V.S.A. § 4016(b)(2).

(23) Failure to comply with the sex offender registry as defined in 13 V.S.A. § 5409.

(24) Careless or negligent operation of a motor vehicle resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b).

(25) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c).

(26) Boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323.

Sec. 4. NONVIOLENT MISDEMEANOR SENTENCE REVIEW COMMITTEE

(a) Creation of committee. There is created a nonviolent misdemeanor sentence review committee to propose alternatives to incarceration for nonviolent, low-risk misdemeanor offenses.

(b) Membership. The committee shall be composed of the following members:

(1) the chair of the senate committee on judiciary;

- (2) the chair of the house committee on judiciary;
 - (3) a member of the senate appointed by the senate committee on committees;
 - (4) a member of the house appointed by the speaker of the house;
 - (5) the governor's special assistant on corrections; and
 - (6) the administrative judge.
- (c) Powers and duties.
- (1) The committee shall:
 - (A) Review the statutory sentences for all nonviolent misdemeanor offenses as defined in 28 V.S.A. § 301.
 - (B) Consider whether incarceration for such misdemeanors may be counterproductive because it disrupts stabilizing factors such as housing, employment, and treatment.
 - (C) Examine the policy of housing low-risk misdemeanants with the general prison population and whether alternatives should be employed.
 - (D) Consider restorative justice principles in its deliberations.
 - (2) The committee shall consult stakeholders while engaging in its mission.
 - (3) For purposes of its study of these issues, the committee shall have the legal and administrative assistance of the office of legislative council and the department of corrections.
 - (d) Report. By December 1, 2011, the committee shall report to the general assembly on its findings and any recommendations for legislative action.
 - (e) Number of meetings; term of committee; reimbursement. The committee may meet no more than five times and shall cease to exist on January 1, 2012.
 - (f) Reimbursement. For attendance at meetings during adjournment of the general assembly, legislative members of the committee shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406; and other members of the committee who are not employees of the state of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010.

* * * Measuring Recidivism * * *

Sec. 5. STANDARD MEASURE OF RECIDIVISM

(a) Currently, no national standard exists for defining recidivism. Measures of recidivism used by correctional agencies include arrest, convictions, and return to incarceration. Standard follow-up periods are also necessary when comparing recidivism rates. In general, offenders tracked for three years will have higher recidivism rates than offenders only tracked for one year due to a longer period at risk.

(b)(1) In order to target sentences and services effectively to reduce recidivism, the department of corrections shall calculate the rate of recidivism based upon offenders who are sentenced to more than one year of incarceration, who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of supervision resulting, and the new incarceration sentence is at least 90 days.

(2) The department shall report on this measure to the general assembly in the department's annual report.

(c) It is the intent of the general assembly that once corrections data are generated based upon this measurement, the department of corrections, in consultation with the joint committee on corrections oversight, shall establish a goal for reducing the number of recidivists over a one-to-two-year period and the department of corrections shall report the data, including recidivism rates and costs for furlough and intermediate sanctions, and the goal to the corrections oversight committee on or before September 30, 2011.

Sec. 5a. Sec. D9 of No. 146 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. D9. BUDGETARY SAVINGS; ALLOCATIONS IN FISCAL YEAR 2011

(a) In FY 2011, a total of \$6,350,500.00 in investments in communities and services are included in the department of corrections budget. In Sec. B.338 of H.789 of 2010 (Appropriations Act), a total of \$3,186,000.00 is allocated for investments, and a total of \$3,164,500.00 is allocated in subsection (c) of this section. These investments are intended to result in reduced overall costs in the corrections budget by reducing the levels of incarceration and recidivism. ~~A specific goal of these investments is to reduce the three year recidivism rate from the current level of 53 percent to a level of 40 percent by fiscal year 2014.~~ For each of these investments, the department shall develop benchmarks which can describe how well it is meeting the outcomes in No. 68 of the Acts of the 2009 Adj. Sess. (2010). Where appropriate, the department shall develop these

benchmarks in consultation with the organizations with whom it enters into performance-based contracts to carry out these programs and services. The department shall present the benchmarks, and current baselines for each benchmark based on data currently collected to the corrections oversight committee at its meeting in October 2010.

* * *

* * * Strategies * * *

Sec. 6. STRATEGIES TO REDUCE RECIDIVISM

Corrections and law enforcement officials are increasingly interested in sharing information that can lead to more effective resource allocation and coordination to reduce recidivism in communities with a high number of persons under the supervision of the department of corrections. Therefore, the department of corrections shall work with the Vermont League of Cities and Towns, the department of state's attorneys and sheriffs' association, and the association of the chiefs of police to develop strategies that coordinate services provided by state, local, and nonprofit entities to persons in the custody of the commissioner of corrections and that enhance public safety. The department shall keep the joint committee on corrections oversight, the senate and house committees on judiciary, and the house committee on corrections and institutions informed of the groups' efforts on this matter.

* * * Early Screening * * *

Sec. 7. SCREENING CRIMINAL DEFENDANTS AND ALTERNATIVES TO VIDEO ARRAIGNMENT

(a) Screening defendants in the criminal justice system as early as possible to assess risk and needs is essential to reducing recidivism. The court administrator, the commissioner of the department of corrections, the executive director of the department of state's attorneys and sheriffs, and the defender general shall work cooperatively to develop a statewide plan for screening all persons who are charged with a violent misdemeanor or any felony as early as possible and shall report their efforts to the general assembly no later than October 15, 2012.

(b) The group shall also study and propose alternatives to video arraignments, including the use of conference calls and the existing telephone system used by attorneys to reach their clients in correctional facilities. The group shall report to the house and senate committees on judiciary by October 15, 2011 on the results of the study and status of implementing any alternatives.

* * * Increasing the Use of Home Confinement
as a Sentencing Option * * *

Sec. 8. USE OF HOME CONFINEMENT AS AN ALTERNATIVE TO
INCARCERATION IN A CORRECTIONAL FACILITY

(a) In Sec. 7 of No. 157 of the Acts of the 2009 Adj. Sess. (2010), the general assembly created home confinement furlough whereby the court could sentence a person to serve a term of imprisonment but place the person to serve that term continuously at a preapproved residence under numerous restrictions. Between the date of enactment of the new law—July 1, 2010—and February 28, 2011, home confinement was ordered only 25 times. The general assembly finds that the law is not being utilized with the frequency that the general assembly intended.

(b) The administrative judge, the commissioner of the department of corrections, the executive director of the department of state's attorneys and sheriffs, and the defender general shall work individually and cooperatively to increase awareness among attorneys, judges, and probation officers of the option of home confinement as provided in 28 V.S.A. § 808(b).

(c) The entities identified in subsection (b) of this section shall keep the joint committee on corrections oversight, the senate and house committees on judiciary, and the house committee on corrections and institutions informed of their efforts on this matter.

* * * Video Arraignments * * *

Sec. 9. SUSPENSION OF VIDEO ARRAIGNMENTS; REGIONAL
ARRANGEMENTS

The general assembly finds that the use of video conferencing for arraignments has resulted in cost-shifting, higher costs, and logistical problems. Therefore, unless it is necessary for the interests of justice, the use of video conferencing for arraignments shall be suspended until the general assembly determines that there is evidence to support that it can be done in a manner that is cost-effective and efficient and ensures defendants' due process rights.

Sec. 9a. FEASIBILITY STUDY

(a) The general assembly recognizes that the corrections population is part of the greater community and, therefore, any proposed study for the purpose of reforming offender health care should be conducted within the context and framework of the state's ongoing health care reform efforts for the entire state. The general assembly further recognizes that creating barriers to health care based on one's status as an offender is not in the state's best interests because it

contradicts Vermont's efforts to create systems of care that work for all Vermonters.

(b) The agency of administration in conjunction with the joint fiscal office shall conduct a study which draws on resources across states agencies on how the state can best provide quality health care services to people incarcerated in Vermont at a cost savings to the state.

(c) The agency of administration will report its progress to the house committee on corrections and institutions and the house and senate committees on judiciary or before January 15, 2012.

* * * Recidivism Reduction Study * * *

Sec. 10. RECIDIVISM REDUCTION STUDY, EVALUATION OF WORK CAMPS; VERMONT CENTER FOR JUSTICE RESEARCH

(a) Research suggests that short, swift and certain sanctions may be effective at reducing recidivism among certain groups of offenders. Programs that employ strategies have shown reduced rates of recidivism, drug use, missed appointments with probation officers, and probation revocations for program participants versus rates for control group participants. The general assembly and representatives of all statewide criminal justice agencies have been working to develop an innovative pilot project to reduce recidivism based on such a model, but more information is needed to ascertain how these principles can be applied in Vermont to achieve clearly stated goals set forth by the joint committee on corrections oversight with respect to reductions in recidivism.

(b) The Vermont center for justice research specializes in collecting and analyzing criminal and juvenile justice information and providing technical assistance to state and local criminal justice agencies. The center shall evaluate innovative programs and initiatives, including local programs and prison-based initiatives, best practices, and contemporary research regarding assessments of programmatic alternatives and pilot projects relating to reducing recidivism in the criminal justice system. The center's research shall focus on evidence-based initiatives related to swift and sure delivery of sanctions and effective interventions for offenders. The center shall make its recommendations to the senate and house committees on judiciary and the joint committee on corrections oversight by December 1, 2011.

(c) In addition to the requirements of subsection (b) of this section, the center shall conduct an outcome assessment of Vermont's two work camps. The evaluation shall focus on:

(1) The percentage of defendants who recidivate after release from the work camp;

(2) When defendants recidivate after release from the work camp;

(3) The nature of crimes committed by defendants who recidivate; and

(4) In which jurisdictions crimes are committed by recidivists.

(d) The center shall issue a final report of its findings to the senate and house committees on judiciary and the joint committee on corrections oversight by January 15, 2012.

* * * Improving Community Supervision
Through a Reduction of Administrative Burden * * *

Sec. 11. DEPARTMENT OF CORRECTIONS; REDUCTION IN
ADMINISTRATIVE REQUIREMENTS FOR PROBATION AND
PAROLE OFFICERS

To improve community supervision, the department of corrections shall undertake a review of the administrative requirements placed on field officers and shall reduce paperwork handled by these officers. In its efforts, the department shall strongly consider the use of technology to assist field officers and the efficiency of providing portable devices so that officers would not need to leave the field to file reports. The department shall keep the joint committee on corrections oversight, the senate and house committees on judiciary, and the house committee on corrections and institutions informed of their efforts on this matter.

Sec. 12. APPROPRIATION

(a) There is appropriated in fiscal year 2012 the sum of \$4,800.00 from the general fund to the Vermont center for justice research to evaluate innovative programs and initiatives, including local programs and prison-based initiatives, best practices, and contemporary research regarding assessments of programmatic alternatives and pilot projects relating to reducing recidivism in the criminal justice system.

(b) There is appropriated in fiscal year 2012 the sum of \$5,600.00 from the general fund to the Vermont center for justice research for the purpose of conducting an outcome assessment of Vermont's two work camps.

(c) There is appropriated in fiscal year 2012 the sum of \$4,000.00 from the general fund to the Vermont criminal information center for the purpose of upgrading the Vermont criminal history information program to accept bulk criminal history requests by the name and date of birth of the research subject.

Sec. 13. EFFECTIVE DATES

Sec. 2 of this act shall take effect on passage, and the remainder of the act shall take effect on July 1, 2011.

(Committee vote: 9-0-2)

(For text see Senate Journal April 14, 2011)

Favorable

S. 53

An act relating to the number of prekindergarten children included within a school district's average daily membership

Rep. Donovan of Burlington, for the Committee on **Education**, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal 4/5/11)

Rep. Pearce of Richford, for the Committee on **Appropriations**, recommends the bill ought to pass in concurrence.

(Committee Vote: 9-2-0)

Senate Proposal of Amendment

H. 26

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf

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. 10 V.S.A. § 1266b is added to read:

§ 1266b. APPLICATION OF PHOSPHORUS FERTILIZER

(a) Definitions. As used in this section:

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

(2) "Fertilizer" shall have the same meaning as in 6 V.S.A. § 363(5).

(3) "Impervious surface" means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(4) “Manipulated animal or vegetable manure” means manure that is ground, pelletized, mechanically dried, supplemented with plant nutrients or substances other than phosphorus or phosphate, or otherwise treated to assist with the use of manure as fertilizer.

(5) “Phosphorus fertilizer” means fertilizer labeled for use on turf in which the available phosphate content is greater than 0.67 percent by weight, except that “phosphorus fertilizer” shall not include compost or manipulated animal or vegetable manure.

(6)(A) “Turf” means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas.

(B) “Turf” shall not include:

(i) pasture, cropland, land used to grow sod, or any other land used for agricultural production; or

(ii) private and public golf courses.

(7) “Water” or “water of the state” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the state or any portion of it.

(b) Application of phosphorus fertilizer.

(1) No person shall apply phosphorus fertilizer to turf except for:

(A) phosphorus fertilizer necessary for application to turf that is deficient in phosphorus as shown by a soil test performed no more than 18 months before the application of the fertilizer; or

(B) phosphorus fertilizer that is labeled as starter fertilizer and that is intended for application to turf when a property owner or an agent of a property owner is first establishing grass in turf via seed or sod procedures and the application of starter fertilizer is limited to the first growing season.

(2) On or before October 1, 2011, the secretary of agriculture, food and markets, after consultation with the University of Vermont, shall approve a standard, which may authorize multiple testing methods, for the soil test required under subdivision (1)(A) of this subsection.

(c) Application of fertilizer to impervious surface; in proximity to water; and seasonal restriction. No person shall apply any fertilizer:

(1) to an impervious surface. Fertilizer applied or released to an impervious surface shall be immediately collected and returned to a container

for legal application. This subdivision shall not apply to activities regulated under the accepted agricultural practices as those practices are defined by the secretary of agriculture, food and markets under 6 V.S.A. § 4810;

(2) to turf before April 1 or after October 15 in any calendar year or at any time when the ground is frozen; or

(3) to turf within 25 feet of a water of the state.

(d) Retail display of phosphorus fertilizer. If a retailer sells or offers for sale phosphorus fertilizer to consumers and consumers have direct access to the phosphorus fertilizer, the retailer shall:

(1) In the retail area where phosphorus fertilizer is accessible by a consumer, display nonphosphorus fertilizer separately from phosphorus fertilizer; and

(2) Post in the retail location, if any, where phosphorus fertilizer is accessible by the consumer a clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states “Phosphorus runoff poses a threat to water quality. Most Vermont lawns do not benefit from fertilizer containing phosphorus. Under Vermont law, fertilizer containing phosphorus shall not be applied to lawn unless applied to new lawn or lawn that is deficient for phosphorus as indicated by a soil test.”

(e) Violations. A person who knowingly and intentionally violates this section shall be subject to a civil penalty of not more than \$500.00 per violation. A violation of this section shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by the agency of agriculture, food and markets or the agency of natural resources.

Sec. 2. 6 V.S.A. § 381 is added to read:

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

Beginning July 1, 2012, as a condition of the permit issued to golf courses under chapter 87 of this title and regulations adopted thereunder, a golf course shall be required to submit to the secretary of agriculture, food and markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the

supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

(2) Civil ordinance violations alleged to have been committed on or after July 1, 1994.

(3) Minor fish and wildlife violations alleged to have been committed on or after September 1, 1996.

* * *

(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

(22) Violations of 10 V.S.A. § 1266b, relating to the application of fertilizer to nonagricultural turf.

(c) The judicial bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 4. Sec. E.700.1 of Act No. 1 2009 Special Sess. is amended to read:

Sec. E.700.1 REPORT AND RULEMAKING ON WATER MANAGEMENT TYPING FOR THE WHITE RIVER BASIN AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, 2011, the Two Rivers Ottauquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E.700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under this section, the agency of natural resources shall

post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) ~~Within three months of receipt of the recommended water management type designations under this section, the~~ The natural resources board shall initiate rulemaking to amend the water management types in order to consider the recommended water management type designations for the White River basin and the West, Williams and Saxons River basin.

Sec. 5. EFFECTIVE DATE

(a) This section and Sec. 4 (water management typing) of this act shall take effect on passage.

(b) Secs. 1 (application of fertilizer), 2 (golf course management plans) and 3 (judicial bureau offense) of this act shall take effect on January 1, 2012.

and, after passage, by amending the title to read “An act relating to the application of phosphorus fertilizer to nonagricultural turf”

(For text see House Journal 2/22 - 2/24/11)

H. 436

An act relating to tax changes, including income taxes, property taxes, economic development credits, health care-related tax provisions, and miscellaneous tax provisions

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. § 3113b, in the last sentence, by striking out the word “second” and inserting in lieu thereof the word third, and after the following: “15 V.S.A. § 792” by inserting the following: and the offset of lottery winnings for restitution pursuant to 13 V.S.A. § 7043

Second: By inserting a new section to be Sec. 3a to read as follows:

Sec. 3a. 32 V.S.A. § 5823(a)(8) is added to read:

(8) The amount paid by the state of Vermont pursuant to chapter 181 of Title 20 to the extent that such amount is included in the federal adjusted gross income of the taxpayer for the taxable year.

Third: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 8 to read as follows:

Sec. 8. STATE REVENUE SYSTEM REVIEW COMMISSION

(a) There is hereby established a state revenue system review commission consisting of five members to be appointed as follows:

(1) The speaker of the house and the committee on committees shall each appoint two members; and

(2) The governor shall appoint one additional member with experience in and understanding of the current education finance system to be the chair of the commission.

(3) No member of the General Assembly shall be appointed to the commission.

(b) The commission members shall be appointed on or before July 1, 2011.

(c) The commission shall prepare a structural analysis and offer recommendations for improvements and modernization of the state revenue system. In doing so, the commission shall review the report of the Blue Ribbon Tax Structure Commission and the data upon which that report was based. The commission shall integrate the analysis and recommendations of the Blue Ribbon Tax Structure Commission into evaluation of the state's revenue system, including Vermont education finance system. The commission shall offer recommendations based on its analysis, with particular emphasis on recommendations related to Vermont's education finance system. The commission shall engage in public hearings and other activities for public involvement.

(d) The commission shall receive technical support from the department of taxes, the department of education, the joint fiscal office, and consultants.

(e) The joint fiscal office with the assistance of the legislative council, the department of education, and the department of taxes may contract with one or more consultants to provide assistance with achieving the goals for the commission. The consultants shall have experience working in a public policy development process.

(f) Members of the commission shall be entitled to compensation as provided under 32 V.S.A. § 1010.

(g) The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before January 15, 2012.

Fourth: By striking out Sec. 9 (authorization to spend) in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. AUTHORIZATION TO SPEND

The joint fiscal office is authorized to expend up to a total of \$210,000.00 for the commission established by Sec. 8 of this act and related expenses by using funds from its existing budget, and, if necessary, the joint fiscal committee is authorized to transfer additional funds from other legislative departments to the joint fiscal office to cover the amount of the commission's expenses.

Fifth: In Sec. 12, Examination of Renewable Energy Property Tax Issues, in subsection (b), by striking the designation "(1)" in subdivision (1) and by striking out subdivisions (2)–(7) in their entirety.

Sixth: By inserting a new section to be numbered Sec. 13a to read as follows:

Sec. 13a. 32 V.S.A. § 3757(a) is amended to read:

(a) Land which has been classified as agricultural land or managed forest land pursuant to this chapter shall be subject to a land use change tax either upon the development of that land, as defined in section 3752 of this chapter, or two years after the issuance of all permits legally required for any action constituting development. Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

Seventh: By inserting a new section to be numbered Sec. 13b to read as follows:

Sec. 13b. 32 V.S.A. § 6066(i) is added to read:

(i) Adjustments under subsection (a) of this section shall be calculated without regard to any exemption under section 3802(11) of this title.

Eighth: By inserting a new section to be numbered Sec. 13c to read as follows:

Sec. 13c. 32 V.S.A. § 5401(12) is amended to read:

(12) “Excess spending” means:

(A) the per equalized pupil amount of:

(i) the district’s education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); ~~minus~~

~~(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2); and minus~~

~~(iii) the portion of education spending attributable to the district’s share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior; and minus~~

~~(iv) a budget deficit in a district that pays tuition to a public school for all of its students in one or more grades in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed;~~

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education on or before November 15 of each year based on the passed budgets to date.

Ninth: By inserting a new section to be numbered Sec. 13d to read as follows:

Sec. 13d. 16 V.S.A. § 4001(6) is amended to read:

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) which is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other state funds such as special education funds paid under chapter 101 of this title.

* * *

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12-), “education spending” shall not include:

(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall not be reimbursed or otherwise receive state construction aid for the approved school capital construction.

(ii) For a project that received final approval for state construction aid under chapter 123 of this title:

(I) Spending for approved school capital construction during the budget year that represents the district’s share of the project, including interest paid on the debt;

(II) Payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving state aid for the project.

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.

(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.

(v) Spending attributable to the district’s share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior.

(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.

(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district’s most recent average daily membership and for whom the

district will pay tuition in the subsequent year multiplied by the district's average rate of tuition paid in that year.

Tenth: By inserting a new section to be numbered Sec. 13e to read as follows:

Sec. 13e. HEALTH CARE REFORM PROPERTY TAX EXEMPTION

In fiscal year 2012, the following two properties shall be exempt from education property tax under chapter 135 of Title 32: Buildings and land owned and occupied by a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, one of which is designated by the Springfield Hospital and the other designated by the North Country Hospital, to promote exercise and healthy lifestyles for the community and to serve citizens of all income levels in this mission. This exemption shall apply, notwithstanding the provisions of 32 V.S.A. § 3832(7).

Eleventh: By inserting a new section to be numbered Sec. 13f to read as follows:

Sec. 13f. Sec. 40 of No. 190 of the Acts of 2007 Adj. Sess. (2008), as amended by Sec. 22 of No. 160 of the Acts of 2009 Adj. Sess. (2010), is further amended to read:

Sec. 40. EDUCATION PROPERTY TAX EXEMPTION FOR SKATINGRINKS USED FOR PUBLIC SCHOOLS

Real and personal property operated as a skating rink, owned and operated on a nonprofit basis but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association shall be exempt from education property taxes for fiscal years 2009, 2010, ~~and 2011,~~ and 2012 only.

Twelfth: By striking out Sec. 15, 24 V.S.A. § 1894(a)(2) in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. 32 V.S.A. § 5404a(1) is amended to read:

~~(1) The state auditor of accounts shall review and audit all active tax increment financing districts every three years.~~

(1) Audits of a tax increment financing district under this subsection shall be performed only if the total value of the education tax increment is projected to exceed \$1,000,000. Notwithstanding this threshold, the department of taxes or the Vermont economic progress council shall retain the

authority to require an independent audit firm to conduct an audit of any tax increment financing district.

(2) An audit of a tax increment financing district under this subsection shall be conducted by an independent audit firm hired by a municipality and paid for by the municipality, and the amount paid for the audit shall be considered a “related cost” as defined in 24 V.S.A. § 1981(6). An audit of a tax increment financing district may be incorporated into a regular comprehensive municipal audit conducted by an independent firm. Any audit conducted under this subsection shall comply with generally accepted government auditing standards.

(3) An audit of a tax increment financing district that exceeds the threshold established in subdivision (1) of this subsection shall be performed at three separate stages, may be incorporated into a regular comprehensive municipal audit conducted by an independent firm, and shall include the following:

(A) At completion of construction of public infrastructure improvements or five years after the commencement of construction, whichever is earlier, an audit shall be performed and the audit shall, at a minimum, validate that expenditures were for public infrastructure improvements approved by the Vermont economic progress council;

(B) Halfway through the debt repayment period, an audit shall be performed and shall, at a minimum, confirm that appropriate amounts of incremental tax revenue were retained and that those amounts were utilized to pay for authorized debt;

(C) Upon termination of the tax increment financing district, an audit shall be performed and shall, at a minimum, confirm that appropriate amounts of incremental tax revenue were retained for the second half of the debt repayment period and that those amounts were utilized to pay for authorized debt and shall validate that any excess education tax increment was distributed to the education fund in accordance with 24 V.S.A. § 1900. Incremental tax revenue retained by the municipality that was not used to repay debt or to pay for improvements in the tax increment financing district shall be returned to the requisite taxing authority.

(4) The municipality shall share the results of the audits required under this subsection with the office of the auditor of accounts, the department of taxes, and the Vermont economic progress council.

(5) The provisions of this section shall not apply to audits initiated by the auditor of accounts prior to the passage of this act. Municipalities with tax increment financing districts that have been subject to audit by the auditor of

accounts are responsible only for those parts of the audits under this subsection that were not addressed by the auditor of accounts.

Thirteenth: By inserting a new section to be numbered Sec. 17a to read as follows:

Sec. 17a. 32 V.S.A. 5930y(b) is amended to read:

(b) A credit against the income tax liability is available as follows:

(1) A credit of two percent of the wages paid in the taxable year by an employer for services performed in the designated counties associated with the manufacture of finished wood products. The credit shall be available to the employer in any year the counties qualify and for one year after a qualification ends. For purposes of this section, “finished wood products” means wood products that are manufactured into the form in which they are offered for sale to consumers.

* * *

Fourteenth: In Sec. 24, 33 V.S.A. § 1953(a), in subdivision (1), by striking out the word “budgeted” and removing the striking from the word “full”, and by striking out the words “approved by” and removing the striking from the words “reported to”

Fifteenth: In Sec. 27, 32 V.S.A. § 7771(d), by striking out the following: “125.5” and inserting in lieu thereof the following: 138.5, and in Sec. 27a, 32 V.S.A. § 7814(b), by striking out the following: “\$0.25” and inserting in lieu thereof the following: \$0.53

Sixteenth: In Sec. 28, 8 V.S.A. § 40891(a)(1), by striking out the following: “0.80” and inserting in lieu thereof the following: 0.90

Seventeenth: In Sec. 28, 8 V.S.A. § 40891, in subsection (c)(1), after the following: “hospital indemnity.” in the third sentence, by striking out the following: “dental care.”

Eighteenth: By inserting a new section to be numbered Sec. 32a to read as follows:

Sec. 32a. 33 V.S.A. § 2503(e) is amended to read:

(e) Fuel sellers, which are regulated “companies” as defined in ~~subsection 30 V.S.A. § 201(a) of Title 30~~, which provide conservation programs that meet the goals of the weatherization program in a manner approved by the public service board, and which enhance the weatherization program’s capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, such a company shall file with the public service board, on or before August 15 of

each year, a request for approval of rebates based on the company's activities during the prior fiscal year. The public service board shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the state economic opportunity office under the provisions of subsection (g) of this section. The public service board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households ~~at or below 150 percent of the federally established poverty guidelines~~ that meet the eligibility criteria for low income weatherization services as determined by the office of economic opportunity.

Nineteenth: In Sec. 36, 32 V.S.A. § 9743, in subdivision (7), by striking out the following: “subdivisions (3) and (5)” and inserting in lieu thereof the following: subdivision (3)

Twentieth: By inserting a new section to be numbered Sec. 36a to read as follows:

Sec. 36a. 32 V.S.A. § 9783 is added to read:

§ 9783. NOTICE OF USE TAX DUE

(a) As used in this section:

(1) “De minimis online auction website” means an online auction website that facilitated total gross sales in Vermont in the prior calendar year of less than \$100,000.00 and reasonably expects to facilitate total gross sales in Vermont in the current calendar year of less than \$100,000.00.

(2) “De minimis retailer” means any noncollecting retailer that made total gross sales in Vermont in the prior calendar year of less than \$100,000.00 and reasonably expects total gross sales in Vermont in the current calendar year to be less than \$100,000.00.

(3) “Noncollecting retailer” means any retailer not currently registered to collect and remit Vermont sales and use tax who makes sales of tangible personal property, services, and products transferred electronically from a place of business outside Vermont to be shipped to Vermont for use, storage, or consumption and who is not required to collect Vermont sales or use taxes.

(4) “Online auction website” means a collection of web pages on the Internet that allows any person to display tangible personal property, services,

or products transferred electronically for sale which is purchased through a competitive process in which a participant places a bid, with the highest bidder purchasing the property, service, or product when the bidding period ends.

(5) “Vermont purchaser” means any purchaser who purchases tangible personal property, services, or products transferred electronically to be shipped or transferred to Vermont.

(b) Each noncollecting retailer shall give notice that Vermont use tax is due on nonexempt purchases of tangible personal property, services, or products transferred electronically and shall be paid by the Vermont purchaser. The notice in this subsection shall be readily visible and contain the information as follows:

(1) The noncollecting retailer is not required and does not collect Vermont sales and use tax;

(2) The purchase is subject to state use tax unless it is specifically exempt from taxation;

(3) The purchase is not exempt merely because the purchase is made over the Internet, by catalogue, or by other remote means;

(4) The state requires each Vermont purchaser to report any purchase that was not taxed and to pay tax on the purchase. The tax may be reported and paid on the Vermont use tax form; and

(5) The use tax form and corresponding instructions are available on the department of taxes website.

(c) Notice requirements.

(1) The notice required by subsection (b) of this section to be displayed on a website shall occur on a page necessary to facilitate the applicable transaction. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: “See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont.” The prominent linking notice shall direct the purchaser to the principal notice information required by subsection (b) of this section.

(2) The notice required in a catalogue by subsection (b) of this section shall be part of the order form. The notice shall be sufficient if the noncollecting retailer provides a prominent reference to a supplemental page that reads as follows: “See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont on page .” The notice on the order form shall direct the purchaser to the page that includes the principal notice required by subsection (b) of this section.

(3) For any Internet purchase made pursuant to this section, the invoice notice shall occur on the electronic order confirmation. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: “See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont.” The invoice notice link shall direct the purchaser to the principal notice required by subsection (b) of this section. If the noncollecting retailer does not issue an electronic order confirmation, the complete notice shall be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(4) For any catalogue or telephone purchase made pursuant to this section, the complete notice required by subsection (b) of this section shall be placed on the purchase order, bill, receipt, sales slip, order form, or packing statement.

(5) For any Internet purchase made pursuant to this section, notice on the check-out page fulfills simultaneously both the website and invoice notice requirements of subdivisions (1) and (3) of this subsection. The notice shall be sufficient if the noncollecting retailer provides a prominent linking notice that reads as follows: “See important Vermont sales and use tax information regarding the tax you may owe directly to the state of Vermont.” The check-out page notice link shall direct the purchaser to the principal notice required by subsection (b) of this section.

(d) Exemptions and limitations.

(1) If a retailer is required to provide a similar notice for another state in addition to Vermont, the retailer may provide a consolidated notice so long as the notice includes the information contained in subsection (b) of this section, specifically references Vermont, and meets the placement requirements of this section.

(2) A noncollecting retailer may not state or display or imply that no tax is due on any Vermont purchase unless the display is accompanied by the notice required by subsection (b) of this section each time the display appears. If a summary of the transaction includes a line designated “sales tax” and shows the amount of sales tax as zero, this constitutes a display implying that no tax is due on the purchase. This display shall be accompanied by the notice required by subsection (b) of this section each time it appears.

(3) Notwithstanding the limitation in this section, if a noncollecting retailer knows that a purchase is exempt from Vermont tax pursuant to Vermont law, the noncollecting retailer may display or indicate that no sales or use tax is due even if the display is not accompanied by the notice required by subsection (b) of this section.

(4) With the exception of notification on an invoice, the provisions of this section apply to online auction websites.

(5) A de minimis retailer and a de minimis online auction website are exempt from the notice requirements provided by this section.

(6) No criminal penalty or civil liability may be applied or assessed for failure to comply with the provisions of this section.

Twenty-first: By inserting a new section to be numbered Sec. 36b to read as follows:

Sec. 36b. LINK-BASED USE TAX RETURNS

The department of taxes shall evaluate the feasibility of providing a voluntary Internet-based use tax reporting and payment system in conjunction with the notice required under Sec. 36a of this act. The department of taxes shall communicate its findings to the senate committee on finance and the house committee on ways and means by memorandum no later than January 15, 2012.

Twenty-second: By inserting a new section to be numbered Sec. 36c to read as follows:

Sec. 36c. REPEAL

Sec. H.6 of No. 1 of the Acts of 2009 (Sp. Sess.) (transition to department of revenue) is repealed.

Twenty-third: By inserting a new section to be numbered Sec. 36d to read as follows:

Sec. 36d. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITUOUS LIQUOR

A tax of 25 percent of the gross revenues is assessed on the gross revenue on the retail sale of spirituous liquor, including fortified wine, sold by or through the liquor control board or sold by a manufacturer or rectifier of spirituous liquor in accordance with the provisions of this title. The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the previous year:

(1) if the gross revenue of the seller is \$250,000.00 or lower a year, the rate of tax is five percent;

(2) if the gross revenue of the seller is between \$250,000.00 and \$450,000.00, the rate of tax is \$12,500.00 plus 15 percent of gross revenues over \$200,000.00;

(3) if the gross revenue of the seller is over \$450,000.00, the rate of tax is 25 percent.

Twenty-fourth: By adding two new sections to be numbered Secs. 36e and 36f to read as follows:

Sec. 36e. TAXPAYER OUTREACH EDUCATION

The department of taxes shall develop a plan for education outreach to taxpayers in specific industries or classes to ensure that taxpayers in those industries and classes are aware of their obligations under law and to ensure that the department of taxes is able to track and respond to industry- or class-wide concerns. The department of taxes shall report to the senate committee on finance and the house committee on ways and means no later than January 15, 2012 with specific recommendations for implementing the plan required under this section.

Sec. 36f. ABATEMENT OF PENALTIES AND INTEREST

(a) Any auctioneer licensed under chapter 89 of Title 26 who has been assessed a liability under chapter 233 of this title for failing to collect the required sales tax on the sale of tangible personal property on the premises of the owner of some of that property shall have any liability and related interest and penalties abated. This provision shall apply only to liabilities, interest, and penalties assessed for tax years 2008, 2009, and 2010.

(b) Any caterer engaged in the business of providing food or beverages for sale in this state who has been assessed a liability under chapter 225 of this title for failing to collect the required tax on the service charge associated with the catering sale shall have any liability and related interest and penalties abated. This provision shall apply only to liabilities, interest, and penalties assessed for tax years 2008, 2009, and 2010.

(c) It is the intent of the general assembly that for tax years 2011 and after the tax department shall implement its current regulations and interpretations related to the imposition of sales tax on auction sales under subdivision (a) or related to the imposition of meals tax on caterer service charges under subdivision (b), as those regulations and interpretations may be amended from time to time.

Twenty-fifth: By striking out Sec. 30, Data Collection for Provider Taxes, in its entirety and inserting in lieu thereof a new Sec. 30 to read as follows:

Sec. 30. DATA COLLECTION FOR PROVIDER TAXES

The secretary of administration shall develop systems to identify and collect the data necessary to administer any health-care-related tax under 42 C.F.R. part 433.50 et seq. that is permitted by federal law but that Vermont does not

currently levy, including an analysis of the base to which such a tax would apply and mechanisms for collection.

Twenty-sixth: In Sec. 37 (Effective Dates), in subdivision (4), after “(definition of household income)” by inserting the following: and Sec. 13b (veteran’s exemption adjustment), and by striking out the following: “tax year” and inserting in lieu thereof the following: claim year

Twenty-seventh: In Sec. 37 (Effective Dates), in subdivision (7), before “22” by striking out the following: “Sec.” and inserting in lieu thereof the following: Secs., and after “(cigar tax)” by inserting the following: , 36a (sales and use tax notification), 36b (link-based use tax reporting), and 36d (tax in spirits)

Twenty-eighth: In Sec. 37 (Effective Dates) by adding a new subdivision (11) to read as follows:

(11) Sec. 13a shall take effect on January 1, 2012.

Twenty-ninth: In Sec. 37 (Effective Dates) by adding a new subdivision (12) to read as follows:

(12) Secs. 13c and 13d of this act shall take effect on passage and shall apply to tax rates calculated for fiscal year 2012 school budgets and after.

(For text see House Journal 3/22 - 3/23/11)

H. 441

An act relating to making appropriations for the support of government

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. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL - Fiscal Year 2012 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of state government during fiscal year 2012. It is the express intent of the general assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2011. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2012 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the general assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the general assembly that this act serve as the primary source and reference for appropriations for fiscal year 2012.

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

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending June 30, 2012.

Sec. A.103 DEFINITIONS

(a) For the purposes of this act:

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

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

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities, office and other supplies, equipment including motor vehicles, highway materials, and construction, expenditures for the purchase of land, and construction of new buildings and permanent improvements, and similar items.

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

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

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

Sec. A.105 OFFSETTING APPROPRIATIONS

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

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2012, the governor, with the approval of the legislature, or the joint fiscal committee if the legislature is not in session, may accept federal funds available to the state of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The governor, with the approval of the legislature or the joint fiscal committee if the legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2012, federal funds available to the state of Vermont and designated as federal in this and other acts of the 2011 session of the Vermont general assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The governor may spend such funds for such purposes for no more than 45 days prior to legislative or joint fiscal committee approval. Notice shall be given to the joint fiscal committee without delay if the governor intends to use the authority granted by this section, and the joint fiscal committee shall meet in an expedited manner to review the governor's request for approval.

Sec. A.107 DEPARTMENTAL RECEIPTS

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

Connecticut river flood control

Public service department - sale of power

Tax department - unorganized towns and gores

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

Sec. A.108 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized state positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2012 except for new positions authorized by the 2011 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

Sec. A.109 LEGEND

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

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

Sec. B.100 Secretary of administration - secretary's office	
Personal services	640,938
Operating expenses	<u>74,914</u>
Total	715,852
Source of funds	
General fund	<u>715,852</u>

Total	715,852
Sec. B.101 Information and innovation - communications and information technology	
Personal services	7,111,349
Operating expenses	5,466,512
Grants	<u>900,000</u>
Total	13,477,861
Source of funds	
General fund	20,911
Internal service funds	<u>13,456,950</u>
Total	13,477,861
Sec. B.102 Finance and management - budget and management	
Personal services	1,080,093
Operating expenses	<u>216,873</u>
Total	1,296,966
Source of funds	
General fund	1,053,132
Interdepartmental transfers	<u>243,834</u>
Total	1,296,966
Sec. B.103 Finance and management - financial operations	
Personal services	2,645,289
Operating expenses	<u>279,851</u>
Total	2,925,140
Source of funds	
Internal service funds	<u>2,925,140</u>
Total	2,925,140
Sec. B.104 Human resources - operations	
Personal services	5,454,543
Operating expenses	<u>720,455</u>
Total	6,174,998
Source of funds	
General fund	1,819,211
Special funds	280,835
Internal service funds	3,361,536
Interdepartmental transfers	<u>713,416</u>
Total	6,174,998
Sec. B.105 Human resources - employee benefits & wellness	
Personal services	1,086,751
Operating expenses	<u>697,287</u>
Total	1,784,038

Source of funds	
Internal service funds	1,734,044
Interdepartmental transfers	<u>49,994</u>
Total	1,784,038
Sec. B.106 Libraries	
Personal services	1,850,467
Operating expenses	1,471,123
Grants	<u>55,080</u>
Total	3,376,670
Source of funds	
General fund	2,297,383
Special funds	99,156
Federal funds	878,355
Interdepartmental transfers	<u>101,776</u>
Total	3,376,670
Sec. B.107 Tax - administration/collection	
Personal services	12,618,208
Operating expenses	<u>2,883,734</u>
Total	15,501,942
Source of funds	
General fund	13,922,041
Special funds	1,463,901
Tobacco fund	58,000
Interdepartmental transfers	<u>58,000</u>
Total	15,501,942
Sec. B.108 Buildings and general services - administration	
Personal services	1,635,705
Operating expenses	<u>182,552</u>
Total	1,818,257
Source of funds	
Interdepartmental transfers	<u>1,818,257</u>
Total	1,818,257
Sec. B.109 Buildings and general services - engineering	
Personal services	2,095,457
Operating expenses	<u>333,346</u>
Total	2,428,803
Source of funds	
Interdepartmental transfers	<u>2,428,803</u>
Total	2,428,803
Sec. B.110 Buildings and general services - information centers	

Personal services	2,930,114
Operating expenses	1,064,165
Grants	<u>45,000</u>
Total	4,039,279
Source of funds	
General fund	3,989,279
Special funds	<u>50,000</u>
Total	4,039,279
Sec. B.111 Buildings and general services - purchasing	
Personal services	737,204
Operating expenses	<u>152,999</u>
Total	890,203
Source of funds	
General fund	<u>890,203</u>
Total	890,203
Sec. B.112 Buildings and general services - postal services	
Personal services	619,966
Operating expenses	<u>115,831</u>
Total	735,797
Source of funds	
General fund	35,716
Internal service funds	<u>700,081</u>
Total	735,797
Sec. B.113 Buildings and general services - copy center	
Personal services	636,262
Operating expenses	<u>115,240</u>
Total	751,502
Source of funds	
Internal service funds	<u>751,502</u>
Total	751,502
Sec. B.114 Buildings and general services - fleet management services	
Personal services	549,846
Operating expenses	<u>131,690</u>
Total	681,536
Source of funds	
Internal service funds	<u>681,536</u>
Total	681,536
Sec. B.115 Buildings and general services - federal surplus property	
Personal services	71,447
Operating expenses	<u>36,555</u>

Total	108,002
Source of funds	
Enterprise funds	<u>108,002</u>
Total	108,002
Sec. B.116 Buildings and general services - state surplus property	
Personal services	87,630
Operating expenses	<u>86,143</u>
Total	173,773
Source of funds	
Internal service funds	<u>173,773</u>
Total	173,773
Sec. B.117 Buildings and general services - property management	
Personal services	1,047,876
Operating expenses	<u>1,080,972</u>
Total	2,128,848
Source of funds	
Internal service funds	<u>2,128,848</u>
Total	2,128,848
Sec. B.118 Buildings and general services - workers' compensation insurance	
Personal services	1,158,422
Operating expenses	<u>277,763</u>
Total	1,436,185
Source of funds	
Internal service funds	<u>1,436,185</u>
Total	1,436,185
Sec. B.119 Buildings and general services - general liability insurance	
Personal services	268,325
Operating expenses	<u>63,700</u>
Total	332,025
Source of funds	
Internal service funds	<u>332,025</u>
Total	332,025
Sec. B.120 Buildings and general services - all other insurance	
Personal services	29,129
Operating expenses	<u>23,389</u>
Total	52,518
Source of funds	
Internal service funds	<u>52,518</u>
Total	52,518

Sec. B.121 Buildings and general services - fee for space	
Personal services	13,773,992
Operating expenses	<u>14,126,008</u>
Total	27,900,000
Source of funds	
Internal service funds	<u>27,900,000</u>
Total	27,900,000
Sec. B.122 Geographic information system	
Grants	<u>378,700</u>
Total	378,700
Source of funds	
Special funds	<u>378,700</u>
Total	378,700
Sec. B.123 Executive office - governor's office	
Personal services	1,193,165
Operating expenses	<u>423,879</u>
Total	1,617,044
Source of funds	
General fund	1,423,544
Interdepartmental transfers	<u>193,500</u>
Total	1,617,044
Sec. B.124 Legislative council	
Personal services	2,078,823
Operating expenses	<u>198,606</u>
Total	2,277,429
Source of funds	
General fund	<u>2,277,429</u>
Total	2,277,429
Sec. B.125 Legislature	
Personal services	3,633,861
Operating expenses	<u>3,336,583</u>
Total	6,970,444
Source of funds	
General fund	<u>6,970,444</u>
Total	6,970,444
Sec. B.126 Legislative information technology	
Personal services	364,696
Operating expenses	<u>577,057</u>
Total	941,753
Source of funds	

General fund	<u>941,753</u>
Total	941,753
Sec. B.127 Joint fiscal committee	
Personal services	1,359,656
Operating expenses	<u>105,773</u>
Total	1,465,429
Source of funds	
General fund	<u>1,465,429</u>
Total	1,465,429
Sec. B.128 Sergeant at arms	
Personal services	443,809
Operating expenses	<u>67,855</u>
Total	511,664
Source of funds	
General fund	<u>511,664</u>
Total	511,664
Sec. B.129 Lieutenant governor	
Personal services	143,631
Operating expenses	<u>26,771</u>
Total	170,402
Source of funds	
General fund	<u>170,402</u>
Total	170,402
Sec. B.130 Auditor of accounts	
Personal services	3,758,362
Operating expenses	<u>150,345</u>
Total	3,908,707
Source of funds	
General fund	396,853
Special funds	53,099
Internal service funds	<u>3,458,755</u>
Total	3,908,707
Sec. B.131 State treasurer	
Personal services	2,561,936
Operating expenses	348,248
Grants	<u>16,484</u>
Total	2,926,668
Source of funds	
General fund	1,065,828
Special funds	1,744,843

Interdepartmental transfers	<u>115,997</u>
Total	2,926,668
Sec. B.132 State treasurer - unclaimed property	
Personal services	660,757
Operating expenses	<u>253,238</u>
Total	913,995
Source of funds	
Private purpose trust funds	<u>913,995</u>
Total	913,995
Sec. B.133 Vermont state retirement system	
Personal services	6,065,656
Operating expenses	<u>29,015,880</u>
Total	35,081,536
Source of funds	
Pension trust funds	<u>35,081,536</u>
Total	35,081,536
Sec. B.134 Municipal employees' retirement system	
Personal services	1,992,423
Operating expenses	<u>486,556</u>
Total	2,478,979
Source of funds	
Pension trust funds	<u>2,478,979</u>
Total	2,478,979
Sec. B.135 State labor relations board	
Personal services	169,121
Operating expenses	<u>40,334</u>
Total	209,455
Source of funds	
General fund	203,879
Special funds	2,788
Interdepartmental transfers	<u>2,788</u>
Total	209,455
Sec. B.136 VOSHA review board	
Personal services	7,038
Operating expenses	<u>44,190</u>
Total	51,228
Source of funds	
General fund	25,614
Interdepartmental transfers	<u>25,614</u>
Total	51,228

Sec. B.137 Homeowner rebate	
Grants	<u>15,100,000</u>
Total	15,100,000
Source of funds	
General fund	<u>15,100,000</u>
Total	15,100,000
Sec. B.138 Renter rebate	
Grants	<u>8,300,000</u>
Total	8,300,000
Source of funds	
General fund	2,500,000
Education fund	<u>5,800,000</u>
Total	8,300,000
Sec. B.139 Tax department - reappraisal and listing payments	
Grants	<u>3,240,000</u>
Total	3,240,000
Source of funds	
Education fund	<u>3,240,000</u>
Total	3,240,000
Sec. B.140 Municipal current use	
Grants	<u>12,400,000</u>
Total	12,400,000
Source of funds	
General fund	<u>12,400,000</u>
Total	12,400,000
Sec. B.141 Lottery commission	
Personal services	1,629,989
Operating expenses	<u>1,262,972</u>
Total	2,892,961
Source of funds	
Enterprise funds	<u>2,892,961</u>
Total	2,892,961
Sec. B.142 Payments in lieu of taxes	
Grants	<u>5,800,000</u>
Total	5,800,000
Source of funds	
Special funds	<u>5,800,000</u>
Total	5,800,000
Sec. B.143 Payments in lieu of taxes - Montpelier	

Grants	<u>184,000</u>
Total	184,000
Source of funds	
Special funds	<u>184,000</u>
Total	184,000
Sec. B.144 Payments in lieu of taxes - correctional facilities	
Grants	<u>40,000</u>
Total	40,000
Source of funds	
Special funds	<u>40,000</u>
Total	40,000
Sec. B.145 Total general government	196,590,589
Source of funds	
General fund	70,196,567
Special funds	10,097,322
Tobacco fund	58,000
Education fund	9,040,000
Federal funds	878,355
Internal service funds	59,092,893
Interdepartmental transfers	5,751,979
Enterprise funds	3,000,963
Pension trust funds	37,560,515
Private purpose trust funds	<u>913,995</u>
Total	196,590,589
Sec. B.200 Attorney general	
Personal services	7,147,070
Operating expenses	<u>1,097,153</u>
Total	8,244,223
Source of funds	
General fund	3,835,621
Special funds	968,000
Tobacco fund	625,000
Federal funds	685,000
Interdepartmental transfers	<u>2,130,602</u>
Total	8,244,223
Sec. B.201 Vermont court diversion	
Grants	<u>1,831,011</u>
Total	1,831,011
Source of funds	
General fund	1,311,014

Special funds	<u>519,997</u>
Total	1,831,011
Sec. B.202 Defender general - public defense	
Personal services	7,931,011
Operating expenses	<u>941,292</u>
Total	8,872,303
Source of funds	
General fund	8,359,015
Special funds	<u>513,288</u>
Total	8,872,303
Sec. B.203 Defender general - assigned counsel	
Personal services	3,443,180
Operating expenses	<u>48,909</u>
Total	3,492,089
Source of funds	
General fund	3,366,825
Special funds	<u>125,264</u>
Total	3,492,089
Sec. B.204 Judiciary	
Personal services	29,103,880
Operating expenses	10,175,038
Grants	<u>70,000</u>
Total	39,348,918
Source of funds	
General fund	31,331,211
Special funds	4,175,542
Tobacco fund	39,871
Federal funds	1,129,259
Interdepartmental transfers	<u>2,673,035</u>
Total	39,348,918
Sec. B.205 State's attorneys	
Personal services	9,433,100
Operating expenses	<u>1,141,004</u>
Total	10,574,104
Source of funds	
General fund	8,297,085
Special funds	60,699
Federal funds	31,000
Interdepartmental transfers	<u>2,185,320</u>
Total	10,574,104

Sec. B.206 Special investigative unit	
Grants	<u>1,253,719</u>
Total	1,253,719
Source of funds	
General fund	1,153,719
Federal funds	<u>100,000</u>
Total	1,253,719
Sec. B.207 Sheriffs	
Personal services	3,361,419
Operating expenses	<u>276,917</u>
Total	3,638,336
Source of funds	
General fund	<u>3,638,336</u>
Total	3,638,336
Sec. B.208 Public safety - administration	
Personal services	1,434,666
Operating expenses	<u>407,048</u>
Total	1,841,714
Source of funds	
General fund	1,658,186
Federal funds	<u>183,528</u>
Total	1,841,714
Sec. B.209 Public safety - state police	
Personal services	44,208,236
Operating expenses	7,046,296
Grants	<u>971,590</u>
Total	52,226,122
Source of funds	
General fund	21,233,922
Transportation fund	25,238,498
Special funds	1,003,612
Federal funds	3,401,866
ARRA funds	296,107
Interdepartmental transfers	<u>1,052,117</u>
Total	52,226,122
Sec. B.210 Public safety - criminal justice services	
Personal services	7,267,663
Operating expenses	2,565,979
Grants	<u>5,989,000</u>
Total	15,822,642

Source of funds	
General fund	6,124,932
Special funds	1,468,701
Federal funds	7,890,543
ARRA funds	<u>338,466</u>
Total	15,822,642
Sec. B.211 Public safety - emergency management	
Personal services	1,826,537
Operating expenses	970,828
Grants	<u>1,379,913</u>
Total	4,177,278
Source of funds	
General fund	10,000
Federal funds	<u>4,167,278</u>
Total	4,177,278
Sec. B.212 Public safety - fire safety	
Personal services	5,027,821
Operating expenses	1,441,685
Grants	<u>157,000</u>
Total	6,626,506
Source of funds	
General fund	718,790
Special funds	5,623,744
Federal funds	238,972
Interdepartmental transfers	<u>45,000</u>
Total	6,626,506
Sec. B.213 Public safety - homeland security	
Personal services	9,501,852
Operating expenses	220,709
Grants	<u>3,000,000</u>
Total	12,722,561
Source of funds	
General fund	427,007
Federal funds	12,227,400
ARRA funds	<u>68,154</u>
Total	12,722,561
Sec. B.214 Radiological emergency response plan	
Personal services	729,645
Operating expenses	184,314
Grants	<u>1,220,350</u>

Total	2,134,309
Source of funds	
Special funds	<u>2,134,309</u>
Total	2,134,309
Sec. B.215 Military - administration	
Personal services	468,699
Operating expenses	376,507
Grants	<u>100,000</u>
Total	945,206
Source of funds	
General fund	<u>945,206</u>
Total	945,206
Sec. B.216 Military - air service contract	
Personal services	5,148,174
Operating expenses	<u>1,214,629</u>
Total	6,362,803
Source of funds	
General fund	467,309
Federal funds	<u>5,895,494</u>
Total	6,362,803
Sec. B.217 Military - army service contract	
Personal services	3,718,269
Operating expenses	<u>9,185,720</u>
Total	12,903,989
Source of funds	
General fund	112,435
Federal funds	<u>12,791,554</u>
Total	12,903,989
Sec. B.218 Military - building maintenance	
Personal services	979,453
Operating expenses	<u>386,580</u>
Total	1,366,033
Source of funds	
General fund	<u>1,366,033</u>
Total	1,366,033
Sec. B.219 Military - veterans' affairs	
Personal services	478,017
Operating expenses	146,431
Grants	<u>173,815</u>
Total	798,263

Source of funds	
General fund	631,808
Special funds	84,049
Federal funds	<u>82,406</u>
Total	798,263
Sec. B.220 Center for crime victims' services	
Personal services	1,271,163
Operating expenses	284,975
Grants	<u>9,499,251</u>
Total	11,055,389
Source of funds	
General fund	1,154,480
Special funds	5,931,945
Federal funds	<u>3,968,964</u>
Total	11,055,389
Sec. B.221 Criminal justice training council	
Personal services	1,291,238
Operating expenses	<u>1,286,070</u>
Total	2,577,308
Source of funds	
General fund	2,324,636
Interdepartmental transfers	<u>252,672</u>
Total	2,577,308
Sec. B.222 Agriculture, food and markets - administration	
Personal services	774,589
Operating expenses	342,534
Grants	<u>448,910</u>
Total	1,566,033
Source of funds	
General fund	1,066,802
Special funds	250,031
Federal funds	150,928
Global Commitment fund	56,272
Interdepartmental transfers	<u>42,000</u>
Total	1,566,033
Sec. B.223 Agriculture, food and markets - food safety and consumer protection	
Personal services	2,786,723
Operating expenses	759,173
Grants	<u>2,443,235</u>

Total	5,989,131
Source of funds	
General fund	2,212,524
Special funds	3,139,114
Federal funds	596,487
Global Commitment fund	34,006
Interdepartmental transfers	<u>7,000</u>
Total	5,989,131
Sec. B.224 Agriculture, food and markets - agricultural development	
Personal services	943,019
Operating expenses	305,995
Grants	<u>1,626,000</u>
Total	2,875,014
Source of funds	
General fund	446,897
Special funds	1,438,588
Federal funds	689,529
Interdepartmental transfers	<u>300,000</u>
Total	2,875,014
Sec. B.225 Agriculture, food and markets - laboratories, agricultural resource management and environmental stewardship	
Personal services	2,912,179
Operating expenses	761,268
Grants	<u>736,674</u>
Total	4,410,121
Source of funds	
General fund	1,640,565
Special funds	1,998,115
Federal funds	569,113
Interdepartmental transfers	<u>202,328</u>
Total	4,410,121
Sec. B.226 Banking, insurance, securities, and health care administration - administration	
Personal services	1,808,446
Operating expenses	<u>181,201</u>
Total	1,989,647
Source of funds	
Special funds	<u>1,989,647</u>
Total	1,989,647

Sec. B.227 Banking, insurance, securities, and health care administration - banking

Personal services	1,343,681
Operating expenses	<u>240,853</u>
Total	1,584,534
Source of funds	
Special funds	<u>1,584,534</u>
Total	1,584,534

Sec. B.228 Banking, insurance, securities, and health care administration - insurance

Personal services	3,027,935
Operating expenses	<u>437,345</u>
Total	3,465,280
Source of funds	
Special funds	<u>3,465,280</u>
Total	3,465,280

Sec. B.229 Banking, insurance, securities, and health care administration - captive

Personal services	3,262,719
Operating expenses	<u>428,723</u>
Total	3,691,442
Source of funds	
Special funds	<u>3,691,442</u>
Total	3,691,442

Sec. B.230 Banking, insurance, securities, and health care administration - securities

Personal services	442,445
Operating expenses	<u>149,514</u>
Total	591,959
Source of funds	
Special funds	<u>591,959</u>
Total	591,959

Sec. B.231 Banking, insurance, securities, and health care administration - health care administration

Personal services	5,581,274
Operating expenses	<u>343,127</u>
Total	5,924,401
Source of funds	
Special funds	3,497,875
Federal funds	527,702

Global Commitment fund	<u>1,898,824</u>
Total	5,924,401
Sec. B.232 Secretary of state	
Personal services	5,698,916
Operating expenses	2,038,667
Grants	<u>1,000,000</u>
Total	8,737,583
Source of funds	
General fund	1,529,127
Special funds	5,133,456
Federal funds	2,000,000
Interdepartmental transfers	<u>75,000</u>
Total	8,737,583
Sec. B.233 Public service - regulation and energy	
Personal services	7,428,529
Operating expenses	847,636
Grants	<u>21,096,788</u>
Total	29,372,953
Source of funds	
Special funds	12,341,218
Federal funds	1,157,800
ARRA funds	<u>15,873,935</u>
Total	29,372,953
Sec. B.234 Public service board	
Personal services	2,860,205
Operating expenses	<u>387,160</u>
Total	3,247,365
Source of funds	
Special funds	3,001,980
ARRA funds	<u>245,385</u>
Total	3,247,365
Sec. B.235 Enhanced 9-1-1 Board	
Personal services	4,181,478
Operating expenses	853,778
Grants	<u>810,000</u>
Total	5,845,256
Source of funds	
Special funds	<u>5,845,256</u>
Total	5,845,256
Sec. B.236 Human rights commission	

Personal services	412,199
Operating expenses	<u>65,683</u>
Total	477,882
Source of funds	
General fund	332,882
Federal funds	<u>145,000</u>
Total	477,882
Sec. B.237 Liquor control - administration	
Personal services	1,619,092
Operating expenses	<u>595,953</u>
Total	2,215,045
Source of funds	
Tobacco fund	6,661
Interdepartmental transfers	250,000
Enterprise funds	<u>1,958,384</u>
Total	2,215,045
Sec. B.238 Liquor control - enforcement and licensing	
Personal services	1,875,103
Operating expenses	<u>387,833</u>
Total	2,262,936
Source of funds	
Tobacco fund	285,284
Enterprise funds	<u>1,977,652</u>
Total	2,262,936
Sec. B.239 Liquor control - warehousing and distribution	
Personal services	766,123
Operating expenses	<u>344,985</u>
Total	1,111,108
Source of funds	
Enterprise funds	<u>1,111,108</u>
Total	1,111,108
Sec. B.240 Total protection to persons and property	294,172,516
Source of funds	
General fund	105,696,367
Transportation fund	25,238,498
Special funds	70,577,645
Tobacco fund	956,816
Federal funds	58,629,823
ARRA funds	16,822,047
Global Commitment fund	1,989,102

Interdepartmental transfers	9,215,074
Enterprise funds	<u>5,047,144</u>
Total	294,172,516
Sec. B.300 Human services - agency of human services - secretary's office	
Personal services	8,161,616
Operating expenses	3,097,481
Grants	<u>5,235,805</u>
Total	16,494,902
Source of funds	
General fund	4,913,133
Special funds	7,517
Tobacco fund	290,330
Federal funds	7,752,402
Global Commitment fund	415,000
Interdepartmental transfers	<u>3,116,520</u>
Total	16,494,902
Sec. B.301 Secretary's office - global commitment	
Grants	<u>1,075,814,333</u>
Total	1,075,814,333
Source of funds	
General fund	139,212,827
Special funds	18,630,961
Tobacco fund	36,978,473
State health care resources fund	219,426,320
Catamount fund	23,948,700
Federal funds	636,928,917
Interdepartmental transfers	<u>688,135</u>
Total	1,075,814,333
Sec. B.302 Rate setting	
Personal services	852,330
Operating expenses	<u>80,608</u>
Total	932,938
Source of funds	
Global Commitment fund	<u>932,938</u>
Total	932,938
Sec. B.303 Developmental disabilities council	
Personal services	236,037
Operating expenses	58,218
Grants	<u>248,388</u>
Total	542,643

Source of funds	
Federal funds	<u>542,643</u>
Total	542,643
Sec. B.304 Human services board	
Personal services	301,586
Operating expenses	<u>49,606</u>
Total	351,192
Source of funds	
General fund	114,505
Federal funds	150,844
Interdepartmental transfers	<u>85,843</u>
Total	351,192
Sec. B.305 AHS - administrative fund	
Personal services	350,000
Operating expenses	<u>4,650,000</u>
Total	5,000,000
Source of funds	
Interdepartmental transfers	<u>5,000,000</u>
Total	5,000,000
Sec. B.306 Department of Vermont health access - administration	
Personal services	85,804,852
Operating expenses	2,761,571
Grants	<u>7,625,573</u>
Total	96,391,996
Source of funds	
General fund	945,014
Special funds	1,579,123
Federal funds	43,169,600
ARRA funds	2,505,044
Global Commitment fund	43,916,098
Interdepartmental transfers	<u>4,077,117</u>
Total	96,391,996
Sec. B.307 Department of Vermont health access - Medicaid program - global commitment	
Grants	<u>635,867,360</u>
Total	635,667,360
Source of funds	
Global Commitment fund	<u>635,867,360</u>
Total	635,667,360

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

Grants	<u>205,537,520</u>
Total	205,537,520
Source of funds	
General fund	86,613,511
Federal funds	<u>118,924,009</u>
Total	205,537,520

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

Grants	<u>26,985,204</u>
Total	26,985,204
Source of funds	
General fund	25,896,641
Global Commitment fund	<u>1,088,563</u>
Total	26,985,204

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

Grants	<u>42,811,769</u>
Total	42,811,769
Source of funds	
General fund	18,006,358
Federal funds	<u>24,805,411</u>
Total	42,811,769

Sec. B.311 Health - administration and support

Personal services	5,485,409
Operating expenses	1,932,004
Grants	<u>2,781,190</u>
Total	10,198,603
Source of funds	
General fund	1,059,487
Special funds	324,063
Federal funds	5,152,054
ARRA funds	81,815
Global Commitment fund	<u>3,581,184</u>
Total	10,198,603

Sec. B.312 Health - public health

Personal services	33,496,002
Operating expenses	6,245,652
Grants	<u>34,338,566</u>

Total	74,080,220
Source of funds	
General fund	7,262,449
Special funds	11,012,411
Tobacco fund	1,594,000
Federal funds	32,903,499
ARRA funds	460,165
Global Commitment fund	19,862,288
Interdepartmental transfers	975,408
Permanent trust funds	<u>10,000</u>
Total	74,080,220
Sec. B.313 Health - alcohol and drug abuse programs	
Personal services	2,650,944
Operating expenses	371,158
Grants	<u>25,689,171</u>
Total	28,711,273
Source of funds	
General fund	3,351,533
Special funds	233,884
Tobacco fund	1,386,234
Federal funds	5,955,677
Global Commitment fund	17,433,945
Interdepartmental transfers	<u>350,000</u>
Total	28,711,273
Sec. B.314 Mental health - mental health	
Personal services	5,486,339
Operating expenses	1,117,984
Grants	<u>124,369,250</u>
Total	130,973,573
Source of funds	
General fund	811,295
Special funds	6,836
Federal funds	6,555,971
Global Commitment fund	123,579,471
Interdepartmental transfers	<u>20,000</u>
Total	130,973,573
Sec. B.315 Mental health - Vermont state hospital	
Personal services	20,479,188
Operating expenses	2,056,312
Grants	<u>82,335</u>
Total	22,617,835

Source of funds	
General fund	17,016,067
Special funds	835,486
Federal funds	213,564
Global Commitment fund	4,252,718
Interdepartmental transfers	<u>300,000</u>
Total	22,617,835
Sec. B.316 Department for children and families - administration & support services	
Personal services	38,009,556
Operating expenses	7,835,052
Grants	<u>1,206,996</u>
Total	47,051,604
Source of funds	
General fund	16,383,046
Federal funds	14,330,642
Global Commitment fund	16,125,416
Interdepartmental transfers	<u>212,500</u>
Total	47,051,604
Sec. B.317 Department for children and families - family services	
Personal services	23,318,476
Operating expenses	3,408,618
Grants	<u>60,071,513</u>
Total	86,798,607
Source of funds	
General fund	20,863,063
Special funds	1,691,637
Tobacco fund	275,000
Federal funds	27,652,387
Global Commitment fund	36,216,520
Interdepartmental transfers	<u>100,000</u>
Total	86,798,607
Sec. B.318 Department for children and families - child development	
Personal services	3,165,567
Operating expenses	520,809
Grants	<u>58,804,943</u>
Total	62,491,319
Source of funds	
General fund	23,492,835
Special funds	1,820,000
Federal funds	29,131,536

Global Commitment fund	7,907,441
Interdepartmental transfers	<u>139,507</u>
Total	62,491,319
Sec. B.319 Department for children and families - office of child support	
Personal services	8,739,557
Operating expenses	<u>4,162,561</u>
Total	12,902,118
Source of funds	
General fund	2,638,576
Special funds	455,718
Federal funds	9,420,224
Interdepartmental transfers	<u>387,600</u>
Total	12,902,118
Sec. B.320 Department for children and families - aid to aged, blind and disabled	
Personal services	1,827,113
Grants	<u>11,044,541</u>
Total	12,871,654
Source of funds	
General fund	9,121,654
Global Commitment fund	<u>3,750,000</u>
Total	12,871,654
Sec. B.321 Department for children and families - general assistance	
Grants	<u>6,500,000</u>
Total	6,500,000
Source of funds	
General fund	5,048,680
Federal funds	1,111,320
Global Commitment fund	<u>340,000</u>
Total	6,500,000
Sec. B.322 Department for children and families - 3SquaresVT	
Grants	<u>23,756,778</u>
Total	23,756,778
Source of funds	
Federal funds	<u>23,756,778</u>
Total	23,756,778
Sec. B.323 Department for children and families - reach up	
Grants	<u>49,155,572</u>
Total	49,155,572
Source of funds	

General fund	19,481,509
Special funds	19,916,856
Federal funds	7,882,807
Global Commitment fund	<u>1,874,400</u>
Total	49,155,572
Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP	
Personal services	20,000
Operating expenses	90,000
Grants	<u>11,502,664</u>
Total	11,612,664
Source of funds	
Federal funds	<u>11,612,664</u>
Total	11,612,664
Sec. B.325 Department for children and families - office of economic opportunity	
Personal services	262,256
Operating expenses	80,518
Grants	<u>4,759,371</u>
Total	5,102,145
Source of funds	
General fund	1,251,040
Special funds	57,990
Federal funds	<u>3,793,115</u>
Total	5,102,145
Sec. B.326 Department for children and families - OEO - weatherization assistance	
Personal services	167,676
Operating expenses	131,124
Grants	<u>11,646,491</u>
Total	11,945,291
Source of funds	
Special funds	7,000,000
Federal funds	1,399,666
ARRA funds	<u>3,545,625</u>
Total	11,945,291
Sec. B.327 Department for children and families - Woodside rehabilitation center	
Personal services	3,691,894
Operating expenses	<u>590,115</u>

Total	4,282,009
Source of funds	
General fund	964,774
Global Commitment fund	3,262,343
Interdepartmental transfers	<u>54,892</u>
Total	4,282,009
Sec. B.328 Department for children and families - disability determination services	
Personal services	4,513,664
Operating expenses	<u>1,142,442</u>
Total	5,656,106
Source of funds	
Federal funds	5,409,589
Global Commitment fund	<u>246,517</u>
Total	5,656,106
Sec. B.329 Disabilities, aging and independent living - administration & support	
Personal services	24,093,021
Operating expenses	<u>3,838,249</u>
Total	27,931,270
Source of funds	
General fund	7,126,532
Special funds	889,246
Federal funds	11,194,950
Global Commitment fund	6,230,760
Interdepartmental transfers	<u>2,489,782</u>
Total	27,931,270
Sec. B.330 Disabilities, aging and independent living - advocacy and independent living grants	
Grants	<u>20,583,891</u>
Total	20,583,891
Source of funds	
General fund	8,827,473
Federal funds	7,645,317
Global Commitment fund	3,473,601
Interdepartmental transfers	<u>637,500</u>
Total	20,583,891
Sec. B.331 Disabilities, aging and independent living - blind and visually impaired	
Grants	<u>1,481,457</u>

Total	1,481,457
Source of funds	
General fund	364,064
Special funds	223,450
Federal funds	648,943
Global Commitment fund	<u>245,000</u>
Total	1,481,457
Sec. B.332 Disabilities, aging and independent living - vocational rehabilitation	
Grants	<u>5,968,971</u>
Total	5,968,971
Source of funds	
General fund	1,535,695
Federal funds	4,132,389
Global Commitment fund	7,500
Interdepartmental transfers	<u>293,387</u>
Total	5,968,971
Sec. B.333 Disabilities, aging and independent living - developmental services	
Grants	<u>152,288,227</u>
Total	152,288,227
Source of funds	
General fund	155,125
Special funds	15,463
Federal funds	359,857
Global Commitment fund	<u>151,757,782</u>
Total	152,288,227
Sec. B.334 Disabilities, aging and independent living -TBI home and community based waiver	
Grants	<u>4,744,899</u>
Total	4,744,899
Source of funds	
Global Commitment fund	<u>4,744,899</u>
Total	4,744,899
Sec. B.335 Corrections - administration	
Personal services	1,959,290
Operating expenses	<u>194,525</u>
Total	2,153,815
Source of funds	
General fund	<u>2,153,815</u>
Total	2,153,815

Sec. B.336 Corrections - parole board	
Personal services	262,434
Operating expenses	<u>60,198</u>
Total	322,632
Source of funds	
General fund	<u>322,632</u>
Total	322,632
Sec. B.337 Corrections - correctional education	
Personal services	4,391,210
Operating expenses	<u>306,274</u>
Total	4,697,484
Source of funds	
Education fund	4,321,425
Interdepartmental transfers	<u>376,059</u>
Total	4,697,484
Sec. B.338 Corrections - correctional services	
Personal services	81,867,751
Operating expenses	34,909,316
Grants	<u>6,076,953</u>
Total	122,854,020
Source of funds	
General fund	118,621,136
Special funds	483,963
Tobacco fund	87,500
Federal funds	170,962
Global Commitment fund	3,094,144
Interdepartmental transfers	<u>396,315</u>
Total	122,854,020
Sec. B.339 Correctional services-out of state beds	
Personal services	<u>8,249,395</u>
Total	8,249,395
Source of funds	
General fund	<u>8,249,395</u>
Total	8,249,395
Sec. B.340 Corrections - correctional facilities - recreation	
Personal services	475,408
Operating expenses	<u>342,362</u>
Total	817,770
Source of funds	
Special funds	<u>817,770</u>

Total	817,770
Sec. B.341 Corrections - Vermont offender work program	
Personal services	910,776
Operating expenses	<u>553,114</u>
Total	1,463,890
Source of funds	
Internal service funds	<u>1,463,890</u>
Total	1,463,890
Sec. B.342 Vermont veterans' home - care and support services	
Personal services	14,924,037
Operating expenses	<u>4,004,439</u>
Total	18,928,476
Source of funds	
Special funds	10,635,885
Federal funds	6,881,635
Global Commitment fund	<u>1,410,956</u>
Total	18,928,476
Sec. B.343 Commission on women	
Personal services	235,779
Operating expenses	<u>68,279</u>
Total	304,058
Source of funds	
General fund	299,058
Special funds	<u>5,000</u>
Total	304,058
Sec. B.344 Retired senior volunteer program	
Grants	<u>131,096</u>
Total	131,096
Source of funds	
General fund	<u>131,096</u>
Total	131,096
Sec. B.345 Total human services	3,086,158,579
Source of funds	
General fund	552,234,018
Special funds	76,643,259
Tobacco fund	40,611,537
State health care resources fund	219,426,320
Catamount fund	23,948,700
Education fund	4,321,425
Federal funds	1,049,589,372

ARRA funds	6,592,649
Global Commitment fund	1,091,616,844
Internal service funds	1,463,890
Interdepartmental transfers	19,700,565
Permanent trust funds	<u>10,000</u>
Total	3,086,158,579
Sec. B.400 Labor	
Personal services	24,811,666
Operating expenses	5,662,677
Grants	<u>975,000</u>
Total	31,449,343
Source of funds	
General fund	2,400,316
Special funds	3,765,862
Federal funds	23,888,739
Interdepartmental transfers	<u>1,394,426</u>
Total	31,449,343
Sec. B.402 Total labor	31,449,343
Source of funds	
General fund	2,400,316
Special funds	3,765,862
Federal funds	23,888,739
Interdepartmental transfers	<u>1,394,426</u>
Total	31,449,343
Sec. B.500 Education - finance and administration	
Personal services	5,373,825
Operating expenses	2,336,262
Grants	<u>12,383,500</u>
Total	20,093,587
Source of funds	
General fund	3,011,957
Special funds	13,300,096
Education fund	1,020,090
Federal funds	2,041,473
Global Commitment fund	711,971
Interdepartmental transfers	<u>8,000</u>
Total	20,093,587
Sec. B.501 Education - education services	
Personal services	11,948,471
Operating expenses	1,562,985

Grants	<u>136,688,970</u>
Total	150,200,426
Source of funds	
General fund	5,839,205
Special funds	2,191,249
Federal funds	131,532,300
ARRA funds	10,613,000
Interdepartmental transfers	<u>24,672</u>
Total	150,200,426
Sec. B.502 Education - special education: formula grants	
Grants	<u>148,817,440</u>
Total	148,817,440
Source of funds	
Education fund	148,587,440
Global Commitment fund	<u>230,000</u>
Total	148,817,440
Sec. B.503 Education - state-placed students	
Grants	<u>15,000,000</u>
Total	15,000,000
Source of funds	
Education fund	<u>15,000,000</u>
Total	15,000,000
Sec. B.504 Education - adult education and literacy	
Grants	<u>7,463,656</u>
Total	7,463,656
Source of funds	
General fund	787,995
Education fund	5,800,000
Federal funds	<u>875,661</u>
Total	7,463,656
Sec. B.505 Education - adjusted education payment	
Grants	<u>1,127,221,233</u>
Total	1,127,221,233
Source of funds	
Education fund	1,126,721,233
ARRA interdepartmental transfer	<u>500,000</u>
Total	1,127,221,233
Sec. B.506 Education - transportation	
Grants	<u>16,313,885</u>
Total	16,313,885

Source of funds	
Education fund	<u>16,313,885</u>
Total	16,313,885
Sec. B.507 Education - small school grants	
Grants	<u>7,100,000</u>
Total	7,100,000
Source of funds	
Education fund	<u>7,100,000</u>
Total	7,100,000
Sec. B.508 Education - capital debt service aid	
Grants	<u>160,000</u>
Total	160,000
Source of funds	
Education fund	<u>160,000</u>
Total	160,000
Sec. B.509 Education - tobacco litigation	
Personal services	130,418
Operating expenses	47,015
Grants	<u>804,511</u>
Total	981,944
Source of funds	
Tobacco fund	<u>981,944</u>
Total	981,944
Sec. B.510 Education - essential early education grant	
Grants	<u>5,782,900</u>
Total	5,782,900
Source of funds	
Education fund	<u>5,782,900</u>
Total	5,782,900
Sec. B.511 Education - technical education	
Grants	<u>12,872,274</u>
Total	12,872,274
Source of funds	
Education fund	<u>12,872,274</u>
Total	12,872,274
Sec. B.512 Education - Act 117 cost containment	
Personal services	1,043,831
Operating expenses	130,269
Grants	<u>91,000</u>

Total	1,265,100
Source of funds	
Special funds	<u>1,265,100</u>
Total	1,265,100
Sec. B.513 Appropriation and transfer to education fund	
Grants	<u>276,240,000</u>
Total	276,240,000
Source of funds	
General fund	<u>276,240,000</u>
Total	276,240,000
Sec. B.514 State teachers' retirement system	
Personal services	6,830,976
Operating expenses	22,053,541
Grants	<u>51,672,307</u>
Total	80,556,824
Source of funds	
General fund	51,672,307
Pension trust funds	<u>28,884,517</u>
Total	80,556,824
Sec. B.515 Total general education	1,870,069,269
Source of funds	
General fund	337,551,464
Special funds	16,756,445
Tobacco fund	981,944
Education fund	1,339,357,822
Federal funds	134,449,434
ARRA funds	10,613,000
Global Commitment fund	941,971
ARRA interdepartmental transfer	500,000
Interdepartmental transfers	32,672
Pension trust funds	<u>28,884,517</u>
Total	1,870,069,269
Sec. B.600 University of Vermont	
Grants	<u>40,746,633</u>
Total	40,746,633
Source of funds	
General fund	36,740,477
Global Commitment fund	<u>4,006,156</u>
Total	40,746,633
Sec. B.601 Vermont Public Television	

Grants	<u>547,683</u>
Total	547,683
Source of funds	
General fund	<u>547,683</u>
Total	547,683
Sec. B.602 Vermont state colleges	
Grants	<u>23,107,247</u>
Total	23,107,247
Source of funds	
General fund	<u>23,107,247</u>
Total	23,107,247
Sec. B.603 Vermont state colleges - allied health	
Grants	<u>1,116,503</u>
Total	1,116,503
Source of funds	
General fund	711,096
Global Commitment fund	<u>405,407</u>
Total	1,116,503
Sec. B.604 Vermont interactive television	
Grants	<u>785,679</u>
Total	785,679
Source of funds	
General fund	<u>785,679</u>
Total	785,679
Sec. B.605 Vermont student assistance corporation	
Grants	<u>18,363,607</u>
Total	18,363,607
Source of funds	
General fund	<u>18,363,607</u>
Total	18,363,607
Sec. B.606 New England higher education compact	
Grants	<u>84,000</u>
Total	84,000
Source of funds	
General fund	<u>84,000</u>
Total	84,000
Sec. B.607 University of Vermont - Morgan Horse Farm	
Grants	<u>1</u>
Total	1

Source of funds	
General fund	<u>1</u>
Total	1
Sec. B.608 Total higher education	84,751,353
Source of funds	
General fund	80,339,790
Global Commitment fund	<u>4,411,563</u>
Total	84,751,353
Sec. B.700 Natural resources - agency of natural resources - administration	
Personal services	2,739,259
Operating expenses	1,141,374
Grants	<u>45,510</u>
Total	3,926,143
Source of funds	
General fund	3,720,213
Special funds	54,484
Federal funds	25,000
Interdepartmental transfers	<u>126,446</u>
Total	3,926,143
Sec. B.701 Natural resources - state land local property tax assessment	
Operating expenses	<u>2,128,733</u>
Total	2,128,733
Source of funds	
General fund	1,707,233
Interdepartmental transfers	<u>421,500</u>
Total	2,128,733
Sec. B.702 Fish and wildlife - support and field services	
Personal services	12,718,176
Operating expenses	5,253,194
Grants	<u>904,333</u>
Total	18,875,703
Source of funds	
General fund	983,713
Special funds	20,000
Fish and wildlife fund	17,531,844
Interdepartmental transfers	<u>340,146</u>
Total	18,875,703
Sec. B.703 Forests, parks and recreation - administration	
Personal services	980,517
Operating expenses	649,734

Grants	<u>1,815,492</u>
Total	3,445,743
Source of funds	
General fund	1,174,865
Special funds	1,307,878
Federal funds	<u>963,000</u>
Total	3,445,743
Sec. B.704 Forests, parks and recreation - forestry	
Personal services	4,377,380
Operating expenses	495,362
Grants	<u>501,000</u>
Total	5,373,742
Source of funds	
General fund	3,008,767
Special funds	975,069
Federal funds	1,259,906
Interdepartmental transfers	<u>130,000</u>
Total	5,373,742
Sec. B.705 Forests, parks and recreation - state parks	
Personal services	5,710,180
Operating expenses	<u>2,091,207</u>
Total	7,801,387
Source of funds	
General fund	265,454
Special funds	<u>7,535,933</u>
Total	7,801,387
Sec. B.706 Forests, parks and recreation - lands administration	
Personal services	447,753
Operating expenses	<u>1,209,470</u>
Total	1,657,223
Source of funds	
General fund	383,018
Special funds	179,205
Federal funds	1,050,000
Interdepartmental transfers	<u>45,000</u>
Total	1,657,223
Sec. B.707 Forests, parks and recreation - youth conservation corps	
Grants	<u>574,702</u>
Total	574,702
Source of funds	

General fund	42,320
Special funds	188,382
Federal funds	94,000
Interdepartmental transfers	<u>250,000</u>
Total	574,702
Sec. B.708 Forests, parks and recreation - forest highway maintenance	
Personal services	20,000
Operating expenses	<u>134,925</u>
Total	154,925
Source of funds	
General fund	<u>154,925</u>
Total	154,925
Sec. B.709 Environmental conservation - management and support services	
Personal services	3,958,930
Operating expenses	994,994
Grants	<u>109,800</u>
Total	5,063,724
Source of funds	
General fund	1,217,592
Special funds	1,695,813
Federal funds	1,400,917
ARRA funds	230,000
Interdepartmental transfers	<u>519,402</u>
Total	5,063,724
Sec. B.710 Environmental conservation - air and waste management	
Personal services	9,579,425
Operating expenses	6,851,818
Grants	<u>2,184,487</u>
Total	18,615,730
Source of funds	
General fund	413,960
Special funds	13,739,808
Federal funds	3,778,578
ARRA funds	378,384
Interdepartmental transfers	<u>305,000</u>
Total	18,615,730
Sec. B.711 Environmental conservation - office of water programs	
Personal services	13,597,174
Operating expenses	2,208,956
Grants	<u>2,672,351</u>

Total	18,478,481
Source of funds	
General fund	5,620,885
Special funds	4,915,687
Federal funds	7,224,982
ARRA funds	90,302
Interdepartmental transfers	<u>626,625</u>
Total	18,478,481
Sec. B.712 Environmental conservation - tax-loss-Connecticut river flood control	
Operating expenses	<u>34,700</u>
Total	34,700
Source of funds	
General fund	3,470
Special funds	<u>31,230</u>
Total	34,700
Sec. B.713 Natural resources board	
Personal services	2,349,214
Operating expenses	<u>374,166</u>
Total	2,723,380
Source of funds	
General fund	757,494
Special funds	<u>1,965,886</u>
Total	2,723,380
Sec. B.714 Total natural resources	88,854,316
Source of funds	
General fund	19,453,909
Special funds	32,609,375
Fish and wildlife fund	17,531,844
Federal funds	15,796,383
ARRA funds	698,686
Interdepartmental transfers	<u>2,764,119</u>
Total	88,854,316
Sec. B.800 Commerce and community development - agency of commerce and community development - administration	
Personal services	1,855,620
Operating expenses	601,085
Grants	<u>1,464,570</u>
Total	3,921,275
Source of funds	

General fund	2,715,275
Federal funds	800,000
ARRA funds	350,000
Interdepartmental transfers	<u>56,000</u>
Total	3,921,275
Sec. B.801 Economic, housing, and community development	
Personal services	7,792,289
Operating expenses	1,294,316
Grants	<u>12,102,703</u>
Total	21,189,308
Source of funds	
General fund	5,750,933
Special funds	3,948,699
Federal funds	11,337,260
ARRA funds	52,416
Interdepartmental transfers	<u>100,000</u>
Total	21,189,308
Sec. B.802 Historic sites - special improvements	
Operating expenses	<u>13,000</u>
Total	13,000
Source of funds	
Special funds	<u>13,000</u>
Total	13,000
Sec. B.803 Community development block grants	
Grants	<u>8,046,530</u>
Total	8,046,530
Source of funds	
Federal funds	7,446,530
ARRA funds	<u>600,000</u>
Total	8,046,530
Sec. B.804 Downtown transportation and capital improvement fund	
Personal services	78,828
Grants	<u>305,138</u>
Total	383,966
Source of funds	
Special funds	<u>383,966</u>
Total	383,966
Sec. B.805 Tourism and marketing	
Personal services	1,313,796
Operating expenses	1,613,714

Grants	<u>243,500</u>
Total	3,171,010
Source of funds	
General fund	3,121,010
Interdepartmental transfers	<u>50,000</u>
Total	3,171,010
Sec. B.806 Vermont life	
Personal services	663,467
Operating expenses	<u>49,222</u>
Total	712,689
Source of funds	
Enterprise funds	<u>712,689</u>
Total	712,689
Sec. B.807 Vermont council on the arts	
Grants	<u>507,607</u>
Total	507,607
Source of funds	
General fund	<u>507,607</u>
Total	507,607
Sec. B.808 Vermont symphony orchestra	
Grants	<u>113,821</u>
Total	113,821
Source of funds	
General fund	<u>113,821</u>
Total	113,821
Sec. B.809 Vermont historical society	
Grants	<u>807,694</u>
Total	807,694
Source of funds	
General fund	<u>807,694</u>
Total	807,694
Sec. B.810 Vermont housing and conservation board	
Grants	<u>21,612,916</u>
Total	21,612,916
Source of funds	
Special funds	8,772,500
Federal funds	<u>12,840,416</u>
Total	21,612,916
Sec. B.811 Vermont humanities council	

Grants	<u>172,670</u>
Total	172,670
Source of funds	
General fund	<u>172,670</u>
Total	172,670
Sec. B.812 Total commerce and community development	60,652,486
Source of funds	
General fund	13,189,010
Special funds	13,118,165
Federal funds	32,424,206
ARRA funds	1,002,416
Interdepartmental transfers	206,000
Enterprise funds	<u>712,689</u>
Total	60,652,486
Sec. B.900 Transportation - finance and administration	
Personal services	9,454,757
Operating expenses	2,197,029
Grants	<u>355,000</u>
Total	12,006,786
Source of funds	
Transportation fund	11,028,070
Federal funds	<u>978,716</u>
Total	12,006,786
Sec. B.901 Transportation - aviation	
Personal services	2,578,742
Operating expenses	5,005,242
Grants	<u>160,000</u>
Total	7,743,984
Source of funds	
Transportation fund	3,396,984
Federal funds	<u>4,347,000</u>
Total	7,743,984
Sec. B.902 Transportation - buildings	
Operating expenses	<u>2,111,000</u>
Total	2,111,000
Source of funds	
Transportation fund	1,001,000
TIB fund	<u>1,110,000</u>
Total	2,111,000
Sec. B.903 Transportation - program development	

Personal services	36,255,937
Operating expenses	199,450,849
Grants	<u>30,093,679</u>
Total	265,800,465
Source of funds	
Transportation fund	29,381,520
TIB fund	13,516,260
Federal funds	210,051,644
ARRA funds	5,328,993
Interdepartmental transfers	4,993,195
Local match	<u>2,528,853</u>
Total	265,800,465
Sec. B.904 Transportation - rest areas	
Personal services	270,000
Operating expenses	<u>7,175,000</u>
Total	7,445,000
Source of funds	
Transportation fund	259,460
TIB fund	926,134
Federal funds	<u>6,259,406</u>
Total	7,445,000
Sec. B.905 Transportation - maintenance state system	
Personal services	35,559,722
Operating expenses	31,657,070
Grants	<u>50,000</u>
Total	67,266,792
Source of funds	
Transportation fund	65,611,298
Federal funds	1,555,494
Interdepartmental transfers	<u>100,000</u>
Total	67,266,792
Sec. B.906 Transportation - planning, outreach and community affairs	
Personal services	3,181,304
Operating expenses	1,197,710
Grants	<u>5,660,280</u>
Total	10,039,294
Source of funds	
Transportation fund	1,958,857
Federal funds	7,739,556
Interdepartmental transfers	<u>340,881</u>
Total	10,039,294

Sec. B.907 Transportation - rail	
Personal services	4,271,926
Operating expenses	<u>50,382,435</u>
Total	54,654,361
Source of funds	
Transportation fund	9,369,381
TIB fund	1,431,668
Federal funds	10,079,589
ARRA funds	<u>33,773,723</u>
Total	54,654,361
Sec. B.908 Transportation - public transit	
Personal services	511,561
Operating expenses	182,347
Grants	<u>24,713,344</u>
Total	25,407,252
Source of funds	
Transportation fund	6,842,111
Federal funds	17,085,141
ARRA funds	<u>1,480,000</u>
Total	25,407,252
Sec. B.909 Transportation - central garage	
Personal services	3,464,636
Operating expenses	<u>13,822,279</u>
Total	17,286,915
Source of funds	
Internal service funds	<u>17,286,915</u>
Total	17,286,915
Sec. B.910 Department of motor vehicles	
Personal services	16,488,866
Operating expenses	8,873,827
Grants	<u>50,000</u>
Total	25,412,693
Source of funds	
Transportation fund	22,643,786
Federal funds	<u>2,768,907</u>
Total	25,412,693
Sec. B.911 Transportation - town highway structures	
Grants	<u>5,833,500</u>
Total	5,833,500
Source of funds	

Transportation fund	<u>5,833,500</u>
Total	5,833,500
Sec. B.912 Transportation - town highway Vermont local roads	
Grants	<u>390,000</u>
Total	390,000
Source of funds	
Transportation fund	235,000
Federal funds	<u>155,000</u>
Total	390,000
Sec. B.913 Transportation - town highway class 2 roadway	
Grants	<u>7,248,750</u>
Total	7,248,750
Source of funds	
Transportation fund	<u>7,248,750</u>
Total	7,248,750
Sec. B.914 Transportation - town highway bridges	
Personal services	3,600,000
Operating expenses	<u>14,111,776</u>
Total	17,711,776
Source of funds	
Transportation fund	673,867
TIB fund	2,025,875
Federal funds	14,075,835
Local match	<u>936,199</u>
Total	17,711,776
Sec. B.915 Transportation - town highway aid program	
Grants	<u>24,982,744</u>
Total	24,982,744
Source of funds	
Transportation fund	<u>24,982,744</u>
Total	24,982,744
Sec. B.916 Transportation - town highway class 1 supplemental grants	
Grants	<u>128,750</u>
Total	128,750
Source of funds	
Transportation fund	<u>128,750</u>
Total	128,750
Sec. B.917 Transportation - town highway emergency fund	
Grants	<u>735,000</u>

Total	735,000
Source of funds	
Transportation fund	<u>735,000</u>
Total	735,000
Sec. B.918 Transportation - municipal mitigation grant program	
Grants	<u>1,143,228</u>
Total	1,143,228
Source of funds	
Transportation fund	247,998
Federal funds	<u>895,230</u>
Total	1,143,228
Sec. B.919 Transportation - public assistance grant program	
Grants	<u>200,000</u>
Total	200,000
Source of funds	
Federal funds	<u>200,000</u>
Total	200,000
Sec. B.920 Transportation board	
Personal services	75,977
Operating expenses	<u>11,023</u>
Total	87,000
Source of funds	
Transportation fund	<u>87,000</u>
Total	87,000
Sec. B.921 Total transportation	553,635,290
Source of funds	
Transportation fund	191,665,076
TIB fund	19,009,937
Federal funds	276,191,518
ARRA funds	40,582,716
Internal service funds	17,286,915
Interdepartmental transfers	5,434,076
Local match	<u>3,465,052</u>
Total	553,635,290
Sec. B.1000 Debt service	
Debt service	<u>72,390,394</u>
Total	72,390,394
Source of funds	
General fund	64,575,793
General obligation bonds debt service fund	1,388,121

Transportation fund	3,371,825
TIB debt service fund	991,563
Special funds	625,950
ARRA funds	<u>1,437,142</u>
Total	72,390,394
Sec. B.1001 Total debt service	72,390,394
Source of funds	
General fund	64,575,793
General obligation bonds debt service fund	1,388,121
Transportation fund	3,371,825
TIB debt service fund	991,563
Special funds	625,950
ARRA funds	<u>1,437,142</u>
Total	72,390,394

Sec. B.1100 NEXT GENERATION; APPROPRIATIONS AND TRANSFERS

(a) In fiscal year 2012, \$4,793,000 is appropriated or transferred from the next generation initiative fund, created in 16 V.S.A. § 2887, as prescribed below:

(1) Workforce development: \$1,893,500 as follows:

(A) Workforce Education Training Fund (WETF). The sum of \$1,333,500 is transferred to the Vermont workforce education and training fund created in 10 V.S.A. § 543, and subsequently appropriated to the department of labor for workforce development. Up to seven percent of the funds may be used for administration of the program. Of this amount, \$350,000 shall be allocated for the Vermont career internship program created in 10 V.S.A. § 544 by Secs. 11-13 of H.287.

(B) Adult Technical Education Programs. The amount of \$360,000 is appropriated to the department of labor working with the workforce development council. This appropriation is for the purpose of awarding grants to regional technical centers and comprehensive high schools to provide adult technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults. Notwithstanding any other provisions of law to the contrary, the funds appropriated pursuant to this subdivision (B) shall be evenly divided among the regional technical centers and the comprehensive high schools based on the level of resources provided pursuant to performance contracts.

(C) UVM Technology Transfer Program. The amount of \$100,000 is appropriated to the University of Vermont. This appropriation is for patent

development and commercialization of technology created at the university for the purpose of creating employment opportunities for Vermont residents.

(D) Vermont center for emerging technologies. The amount of \$100,000 is appropriated to the agency of commerce and community development for a grant to the Vermont center for emerging technologies to enhance development of high technology businesses and next generation employment opportunities throughout Vermont.

(2) Loan repayment: \$330,000 as follows:

(A) Health care loan repayment: The sum of \$300,000 is appropriated to the agency of human services Global Commitment for the department of health to use for health care loan repayment. The department shall use these funds for a grant to the area health education centers (AHEC) for repayment of commercial or governmental loans for postsecondary health-care-related education or training owed by persons living and working in Vermont in the health care field.

(B) Large animal veterinarians' loan forgiveness: \$30,000 is appropriated to the agency of agriculture, food and markets for a loan forgiveness program for large animal veterinarians pursuant to 6 V.S.A. § 20 in Sec. 39 of H.287.

(3) Scholarships and grants: \$2,544,500 as follows:

(A) Nondegree VSAC grants. The amount of \$494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, including adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed \$3,000 per student. None of these funds shall be used for administrative overhead.

(B) National Guard Educational Assistance: The sum of \$150,000 is appropriated to the Vermont Student Assistance Corporation to fund the national guard educational assistance program established in 16 V.S.A. § 2856.

(C) Scholarships. The sum of \$1,500,000 is appropriated to the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation for need-based scholarships to Vermont residents. These funds shall be divided equally among the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation. The Vermont Student Assistance Corporation shall reserve these funds for

students attending institutions other than the University of Vermont or the Vermont State Colleges. None of these funds shall be used for administrative overhead. Each entity will target these funds in a manner that brings to bear the maximum benefits of its unique missions and constituencies to further the workforce and economic development objectives of the state, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. By July 1, 2011, each entity will present a plan to the workforce development council (WDC) for deploying the scholarships along with proposed measurable short- and long-term outcomes. This will form the basis for a WDC recommendation for funding in fiscal year 2013.

(D) Dual enrollment programs: The sum of \$400,000 is appropriated to the Vermont State Colleges for dual enrollment programs. The state colleges shall develop a voucher program that will allow Vermont students to attend programs at a postsecondary institution other than the state college system when programs at the other institutions are better academically or geographically suited to student need.

(4) Southeast Vermont Economic Development Strategy: The sum of \$25,000 is appropriated to the agency of commerce and community development for workforce development and other activities of Sec. 65 of H.287.

Sec. B.1100.1 WORKFORCE DEVELOPMENT COUNCIL
RECOMMENDATION FOR FISCAL YEAR 2013 NEXT GENERATION
FUND DISTRIBUTION

(a) The commissioner of labor and of education, in consultation with the workforce development council, the agency of commerce and community development, and the agency of human services shall make recommendations to the governor no later than November 1, 2011, on how \$4,793,000 from the next generation fund should be allocated or appropriated in fiscal year 2013 to provide maximum benefit to workforce development, participation in postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont.

Sec. B.1101 FISCAL YEAR 2012 BASE REDUCTIONS

(a) In fiscal year 2012, the secretary of administration is authorized to reduce appropriations for labor savings due to unfilled vacant positions, voluntary reduced workweeks, modified health insurance plans for active and retired state employees, reduced state costs in supporting retirement plans, and close management of personal services contracts:

<u>General fund</u>	<u>\$12,000,000</u>
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Sec. B.1102 FISCAL YEAR 2012 CONTRACT IMPLEMENTATION

(a) There is appropriated to the secretary of administration for contract nonsalary items, to be transferred to departments as the secretary may determine to be necessary:

General fund \$556,500

Sec. B.1103 FISCAL YEAR 2012 ONE-TIME APPROPRIATION

(a) In fiscal year 2012, there is appropriated to the department of tourism and marketing for the Vermont civil war sesquicentennial commission:

General fund \$50,000

Sec. B.1104 APPROPRIATIONS SUPPORTING H.287 OF 2011 (JOBS BILL)

(a) Appropriations from the general fund in fiscal year 2012. The conditions for expenditure of these funds shall be controlled as appropriate by the provisions of the referenced sections of H.287 as passed by the senate committee on economic development, housing and general affairs in the senate calendar of April 19, 2011. \$525,000

(1) \$25,000 to the department of labor for the long-term unemployed hiring incentive in Sec. 7 of H.287.

(2) \$475,000 to the agency of agriculture, food, and markets as follows:

(A) \$100,000 for the good agricultural practices grant program in Sec. 40 of H.287.

(B) \$25,000 for the skilled meat cutter apprenticeship program in Sec. 41 of H.287.

(C) \$125,000 for the local foods coordinator and the local foods grant program in Sec. 42 of H.287, of which not more than \$75,000 of these funds shall be used for the total annual compensation of the coordinator, and of which not less than \$50,000 of these funds shall be used for the performance of the local foods coordinator's duties under H.287 and for competitive matching grants from the agency to Vermont producers, unless in the secretary's discretion it shall be necessary to increase the amount of total compensation of the local foods coordinator in order to retain a highly qualified candidate for the position.

(D) \$100,000 for implementation of the farm-to-plate program in Sec. 43 of H.287.

(E) \$75,000 for competitive matching grants for the farm-to-school program established in 6 V.S.A. § 4721.

(F) \$50,000 for competitive matching grants to increase slaughterhouse and meat processing facility capacity in Sec. 34 of H.287.

(3) \$25,000 to the agency of commerce and community development for a grant to the Vermont employee ownership center on a 2:1 matching basis. The secretary of commerce and community development shall report to the house committee on commerce and to the senate committee on economic development housing and general affairs on the status of the grantee in meeting the match requirements.

(b) Allocations of appropriated funds in fiscal year 2012. The conditions for expenditure of these funds shall be controlled as appropriate by the provisions of the referenced sections of H.287 as passed by the senate committee on economic development, housing and general affairs in the senate calendar of April 19, 2011:

(1) Of the funds appropriated to the agency of commerce and community development in this act, \$100,000 shall be allocated for the office of creative economy in Secs. 15–16 of H.287.

(2) Of the funds appropriated to the department of labor in this act:

(A) \$75,000 shall be allocated to fund performance grants for regional workforce development activities pursuant to Sec. 14a of H.287; and

(B) \$23,895 shall be allocated to the department of labor for the Vermont career internship program in Secs. 11–13 of H.287.

(C) \$40,000 shall be transferred to the secretary of administration for the work of the executive economist, and to reimburse the joint fiscal office for the work of the legislative economist, to develop an econometric model for the evaluation of net costs of government contracts pursuant to Sec. 71 of H.287.

Sec. B.1105 FISCAL YEAR 2012 CONTINGENT APPROPRIATIONS.

(a) In the event that the appropriation in Sec. 50(b) of No 3 of 2011 as amended by Sec. C.110 of this act is not made due to unavailable funds, and the commissioner of finance determines that a payment to the federal government for unemployment insurance interest is required by September 20, 2011, to the extent necessary to fund the payment the amount of such payment is appropriated from the general fund to the department of labor. The commissioner of finance may unreserve funds as necessary up to the payment amount from the human services caseload reserve created 32 V.S.A. § 308b.

(b) In the event that the any portion of the appropriation in Sec. 50(c) of No 3 of 2011 as amended by Sec. C.105 of this act is not made due to unavailable funds, then to the extent necessary to reach the appropriation level in that section, up to the first \$7,000,000 of any upgrade in the official revenue

forecast for the general fund made in July 2011 for fiscal year 2012 is appropriated for the same purpose.

Sec. C.100 Sec. D.106(c)(1) of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

(1) ~~\$10,000,000~~ \$9,397,500 is appropriated to the ~~department of buildings and general services for planning and construction of replacement for Vermont State Hospital beds.~~ following agencies and departments for information technology projects:

(A) to the agency of human services to replace legacy technologies to determine eligibility, enroll beneficiaries, and provide benefits in a faster, and more efficient, secure, and accessible way: \$3,600,000

(B) to the department of corrections to replace outdated components of the offender case management system: \$2,000,000

(C) to the department of public service for a case management system for electronic tracking, organizing, and utilization of docket files:
\$250,000

(D) to the agency of commerce and community development for an internet-based historic resources digital database: \$150,000

(E) to the department of finance and management to upgrade the Human Capital Management (HCM) system to process payroll and manage associated employee and financial data and retire the legacy Paradox application; and to upgrade the VISION financial management system to better integrate with HCM and the budget and planning application: \$3,397,500

Sec. C.101 Sec. 44(a)(4) of No. 3 of the Acts of 2011 is amended to read:

(4) The following amounts shall be transferred between special funds as indicated:

~~From the Transportation Infrastructure Bond Fund #20191 to the Transportation Revenue Bond Debt Service Fund #35200~~ 991,563.00

From the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund for the purpose of funding fiscal year 2012 transportation infrastructure bond debt service: 991,562.50

* * *

Sec. C.102 [DELETED]

Sec. C.103 Sec. 282 of No. 65 of the Acts of 2007 is amended to read:

Sec. 282. TAX COMPUTER SYSTEM MODERNIZATION FUND

(a) Creation of fund.

(1) There is established the tax computer system modernization special fund to consist of:

(A) ~~Eighty percent of~~ The tax receipts received as a direct result of the Massachusetts sponsored data sharing warehouse project relative to non-state resident filers initiated by the department of taxes beginning in calendar year 2011; and

(B) Eighty percent of tax receipts received as a direct result of the data sharing and comparison project between the Vermont department of labor and the department of taxes relative to entity and employee filings at both departments and/or lack thereof.

(2) Balances in the fund shall be administered by the department of taxes and used for the exclusive purposes of funding ~~phase 3 of the tax department's computer system modernization project supporting: A) corporate tax; B) business income tax; C) property transfer tax; D) fuel gross receipts tax; and E) individual use tax; A) ancillary development of the ETM system necessary for implementation of the data warehouse project and in preparation of the transfer of tax types from the current VIRCS system to the VIRCS/ETM system, including modernization of billing capability; B) payments due to the vendor under the data warehouse project contract; C) enhanced compliance costs related to the data warehouse project; and D) phase 1 of the transfer of five tax types, specifically income taxation of individuals, trusts and estates, withholding tax, sales and use tax, meals and rooms tax, and property tax adjustments, from the current VIRCS system to the VIRCS/ETM system.~~ All balances in the fund at the end of any fiscal year shall be carried forward and remain part of the fund. Interest earned by the fund shall be deposited into the fund. This fund is established in the state treasury pursuant to subchapter 5 of chapter 7 of Title 32.

(b) Appropriation.

(1) There is appropriated in fiscal year 2008 from the special fund the sum of up to \$7,800,000 to the department of taxes for the purposes described in subdivision (a)(2) of this section. The commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(c) Transfer.

(1) Twenty percent of the tax receipts received pursuant to subdivision (a)(1)(A) of this section after payment to the vendor under the data warehouse contract shall be transferred to the general fund annually for the duration of

that contract. Thereafter, 20 percent of the tax receipts received pursuant to subdivision (a)(1)(A) shall be transferred to the general fund annually until the expiration of the tax computer system modernization fund.

(d) Fund to terminate.

(1) This fund shall terminate on July 1, 2011 2018 and any unexpended unencumbered balance in the fund shall be transferred to the general fund.

(d)(e) The tax commissioner shall report to the joint fiscal committee on fund receipts through the first four months of fiscal year 2008 at or prior to the November joint fiscal committee meeting each year until the fund is terminated.

Sec. C.103.1 SPECIAL FUND APPROPRIATION FOR TAX COMPUTER SYSTEMS

(a) \$7,500,000 is appropriated from the tax computer system modernization special fund established pursuant to Sec. 282 of No. 65 of the Acts of 2007, as amended in Sec. C.103 of this act. This appropriation shall carry forward through fiscal year 2013. The commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

Sec. C.104 FISCAL YEAR 2011 MEDICAID STATE FUNDS - RESERVE

(a) To the extent that state funds in the state Medicaid programs are unexpended in fiscal year 2011, as a result of federal matching for the final quarter of fiscal year 2011, up to \$3,600,000 shall be reserved in the human services caseload reserve created by 32 V.S.A. § 308b to be used for potential state budget needs in human services as a result of reduced federal funds availability.

Sec. C.105 33 V.S.A. § 1116(c)(1) is amended to read:

(c)(1)(A) For a first, second, and third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$75.00 for each adult sanctioned.

(B) For a second month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial assistance grant shall be reduced by the amount of \$100.00 for each adult sanctioned.

(C) For a third month in which a participating adult is not in compliance with a family development plan or work requirement and has not demonstrated good cause for such noncompliance, the family's financial

~~assistance grant shall be reduced by the amount of \$125.00 for each adult sanctioned.~~

Sec. C.105.1 33 V.S.A. § 1116(h) is amended to read:

(h)(4) To receive payments during the fiscal sanction period, an adult who is the subject of the sanction shall meet no less than once each month to report his or her circumstances to the case manager or to participate in assessments as directed by the case manager. In addition, this meeting shall be for initial assessment and development of the family development plan when such tasks have not been completed; reassessment or review and revision of the family development plan, if appropriate; and to encourage the participant to fulfill the work requirement. Meetings required under this section may take place in the district office, a community location, or in the participant's home. Facilitation of meeting the participant's family development plan goals shall be a primary consideration in determining the location of the meeting. The commissioner may waive any meeting when extraordinary circumstances prevent a participant from attending. The commissioner shall adopt rules to implement this subsection.

~~(2) To receive payments during the fourth month of fiscal sanction in a 12-month period, the participating adults shall engage in an assessment that includes the employability and life skills capabilities of the adult participants. If the evaluation reveals that a sanctioned adult should have had a modified or deferred work requirement during the current month of sanction or earlier months of sanction, the department shall strike the sanction, reinstate the full grant amount to which the family is entitled, and modify the participant's family development plan. The months of sanction incorrectly assessed shall be treated as if the months were forgiven as provided for under subsection (d) of this section. The assessment may be conducted by a team consisting of service providers familiar with the family and with an individual family member's needs.~~

Sec. C.106 Sec. B.903 of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 42 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.903 Transportation - program development

Personal services	36,339,478	36,339,478
Operating expenses	220,162,203	220,162,203
Grants	<u>26,819,421</u>	<u>26,819,421</u>
Total	283,321,102	283,321,102
Source of funds		
ARRA funds	45,034,600	45,034,600
TIB fund	15,256,273	15,851,273

Transportation fund	18,246,575	17,651,575
Local match	1,434,254	1,434,254
Federal funds	199,707,420	199,707,420
Interdepartmental transfers	<u>3,641,980</u>	<u>3,641,980</u>
Total	283,321,102	283,321,102

Sec. C.107 Sec. B.905 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. B.905 Transportation – maintenance state system

Personal services	34,530,658	34,530,658
Operating expenses	34,821,229	35,416,229
Grants	<u>30,000</u>	<u>30,000</u>
Total	67,381,887	67,976,887
Source of funds		
Transportation fund	65,552,943	66,147,943
Federal funds	1,728,944	1,728,944
Interdepartmental transfers	<u>100,000</u>	<u>100,000</u>
Total	67,381,887	67,976,887

Sec. C.108 Sec. B.914 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) is amended to read:

Sec. B.914 Transportation – town highway bridges

Personal services	3,600,000	3,600,000
Operating expenses	15,489,340	<u>12,514,340</u>
Total	19,089,340	16,114,340
Source of funds		
ARRA funds	3,990,070	3,990,070
TIB fund	1,616,014	1,021,014
Transportation fund	658,224	658,244
Local match	766,631	766,631
Federal funds	12,058,401	<u>9,678,401</u>
Total	19,089,340	16,114,340

Sec. C.109 Sec. B.921 of No. 156 of the Acts of the 2009 Adj. Sess. (2010), as amended by Sec. 43 of No. 3 of the Acts of 2011, is further amended to read:

Sec. B.921 Total transportation	582,705,976	580,325,976
Source of funds		
Transportation fund	182,691,502	182,691,502
TIB fund	19,454,143	19,454,143
Local match	2,450,885	2,450,885
Federal funds	275,885,087	273,505,087

ARRA funds	80,756,516	80,756,516
Internal service funds	17,477,863	17,477,863
Interdepartmental transfers	<u>3,989,980</u>	<u>3,989,980</u>
Total	<u>582,705,976</u>	<u>580,325,976</u>

Sec. C.110 Sec.50 of No.3 of 2011 is amended to read:

Sec. 50. FISCAL YEAR 2011 GENERAL FUND BALANCE

(a) Notwithstanding 32 V.S.A. §§ 308c and 308d, after the general fund budget stabilization reserve attains its statutory maximum, the first \$29,770,000 of any ~~additional~~ unreserved and undesignated general fund balance shall be deposited into the human services caseload reserve established in 32 V.S.A. § 308b in fiscal year 2011 to be used for caseload costs, offsets to federal funding changes, or related human service expenditures in fiscal year 2012.

(b) The next \$3,600,000 of any unreserved and undesignated general fund balance is appropriated to the department of labor for unemployment insurance interest. In the event that federal action is taken that results in a payment of unemployment insurance interest not being required, this appropriation shall not be made. Any payment returned to the state due to it not being required shall be deposited into the general fund.

(c) The next \$7,000,000 of any unreserved and undesignated general fund balance is appropriated to the secretary of administration to be reserved pending emergency board action to allocate these funds to offset reduced federal funding. Pursuant to 32 V.S.A. 706 the emergency board is authorized to allocate and transfer, to the extent necessary this appropriation to offset the loss of existing appropriations of federal funds in this act.

(d) Any remaining unreserved and undesignated general fund balance shall be deposited into the human service caseload reserve fund until unreserved and appropriated by act of the general assembly.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

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

(1) The sum of \$488,000 is appropriated from the property valuation and review administration special fund to the department of taxes for administration of the use tax reimbursement program. Notwithstanding 32 V.S.A. § 9610(c), amounts above \$488,000 from the property transfer tax that are deposited into the property valuation and review administration special fund shall be transferred into the general fund.

(2) The sum of \$8,047,500 is appropriated from the Vermont housing and conservation trust fund to the Vermont housing and conservation trust board. Notwithstanding 10 V.S.A. § 312, amounts above \$8,047,500 from the property transfer tax that are deposited into the Vermont housing and conservation trust fund shall be transferred into the general fund.

(3) The sum of \$3,295,476 is appropriated from the municipal and regional planning fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above \$3,295,476 from the property transfer tax that are deposited into the municipal and regional planning fund shall be transferred into the general fund. The \$3,295,476 shall be allocated as follows:

(A) \$2,508,076 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

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

(C) \$378,700 to the Vermont center for geographic information.

Sec. D.101 FUND TRANSFERS AND RESERVES

(a) Notwithstanding any provisions of law, the following amounts are transferred from the funds indicated:

(1) from the general fund to the:

(A) communications and information technology internal service fund established by 22 V.S.A. § 902a: \$900,000.

(B) next generation initiative fund established by 16 V.S.A. § 2887: \$4,793,000.

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

(3) from the transportation fund to the general fund: \$3,989,279.

(4) from the transportation infrastructure bond fund established by 19 V.S.A. § 11f to the transportation infrastructure bonds debt service fund for the purpose of funding fiscal year 2013 transportation infrastructure bond debt service: \$990,063.

(5) from the DUI Enforcement Special Fund (#21140), established in 23 V.S.A. § 1220a, to the general fund: \$1,500,343.

(b) The amount of \$29,770,000 is unreserved and made available for expenditure in fiscal year 2012 from the human services caseload reserve created by 32 V.S.A. § 308b.

Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2011 in the tobacco litigation settlement fund shall remain for appropriation in fiscal year 2012.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the tobacco trust fund at the end of fiscal year 2012 and any additional amount necessary to ensure the balance in the tobacco litigation settlement fund at the close of fiscal year 2012 is not negative, shall be transferred from the tobacco trust fund to the tobacco litigation settlement fund in fiscal year 2012.

* * * GENERAL GOVERNMENT * * *

Sec. E.101 Information and innovation - communications and information technology

(a) Of this appropriation, \$700,000 is for a grant to the Vermont telecommunications authority established in 30 V.S.A. § 8061. The secretary of administration is authorized to use \$200,000 of the appropriation for expenditures related to expanding and improving statewide telecommunications and internet accessibility.

Sec. E.103 32 V.S.A. § 183 is amended to read:

§ 183. FINANCIAL AND HUMAN RESOURCE INFORMATION INTERNAL SERVICE FUND

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

(b) The rate of the charges shall be proposed by the commissioner of finance and management, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of

operations. ~~The proposed rates to be paid by departments and agencies shall be included in the administration budget recommendations each fiscal year for legislative authorization as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

Sec. E.103.1 32 V.S.A. § 307(e) is amended to read:

(e) The budget shall also include any proposed expenditures and charges for enterprise and internal service funds to be billed to departmental budgets for ~~payment to the financial management, workers' compensation, and facilities operations internal service funds.~~ Such charges shall be subject to legislative approval. ~~The departments of finance and management and buildings and general services shall include with their annual budget submissions details of any such charges to be made projected by department and the financial case for the proposed changes in charges for the three internal services funds.~~ Expenditures from enterprise and internal service funds shall be managed in accordance with subsection 462(b) of this title.

Sec. E.104 3 V.S.A. § 2283 is amended to read:

§ 2283. DEPARTMENT OF HUMAN RESOURCES

(a) The department of human resources is created in the agency of administration. In addition to other responsibilities assigned to it by law, the department is responsible for the provision of centralized human resources management services for state government, including the administration of a classification and compensation system for state employees under chapter 13 of this title and the performance of duties assigned to the commissioner of human resources under chapter 27 of this title. ~~The department shall administer the human resources functions of the agency of administration in consultation with the agency of administration commissioners and the state librarian. A department~~ All agencies and departments of the agency of administration state which receives receive services of from the consolidated agency human resources unit department shall be charged for those services through an interdepartmental transfer assessment payable to the human resource services internal service fund on a basis established by the commissioner of finance and management ~~in consultation with the commissioner of human resources and with the approval of the secretary of administration.~~

(b)(1) There is established in the department of human resources a human resource services internal service fund, to consist of revenues from charges to agencies, departments, and similar units of Vermont state government, and to be available to fund the costs of the consolidated human resource services in the department of human resources.

(2) The rate of the charges shall be proposed by the commissioner of human resources, subject to the approval of the secretary of administration. Proposed rates of charges shall be based upon the cost of operations associated with human resource services provided to agencies, departments, and similar units of Vermont state government.

Sec. E.107 Tax – administration/collection

(a) Of this appropriation, \$20,000 is from the current use special fund and shall be appropriated for programming changes to the CAPTAP software used for the valuation of property tax.

Sec. E.109 Buildings and general services - engineering

(a) The \$2,428,802 interdepartmental transfer in this appropriation shall be from the general bond fund appropriation in the Capital Appropriations Act of the 2011 session.

Sec. E.110 [DELETED]

Sec. E.121 29 V.S.A. § 160a is amended to read:

§ 160a FACILITIES OPERATIONS ~~REVOLVING~~ INTERNAL SERVICE FUND

(a) There is created a facilities operations ~~revolving internal service~~ fund in the department of buildings and general services. The purpose of this fund is to provide for:

* * *

(b) The fund shall consist of:

* * *

(3) Fees paid by departments and agencies including the legislative and judicial branches. The rate of said fees shall be proposed ~~to the legislature~~ by the commissioner of buildings and general services subject to the approval of the secretary of administration. Proposed rates shall be based upon the cost of operations, debt service and depreciation. ~~The fees to be paid by departments and agencies shall be included in the administration budget recommendations each fiscal year for legislative approval as part of the budget process. Any changes in rates shall be approved by subsequent legislative action.~~

* * *

Sec. E.122 Geographic information system

(a) The Vermont Center for Geographic Information Inc. in consultation with the department of taxes, the agency of natural resources, and the agency

of transportation shall report to the house and senate committees on government operations and on appropriations on or before January 15, 2012 on methods to reduce and prevent duplication of services and activities across state government with regard to mapping services and other geographic data resources.

Sec. E.125 Sec. 95 of No. 67 of the Acts of 2010 is amended to read:

Sec. 95. FIVE-PERCENT PAY CUT FOR MEMBERS OF THE GENERAL ASSEMBLY

(a) For the remainder of fiscal year 2010 and for fiscal year 2011 and fiscal year 2012, the annual, weekly, and daily compensation of all members of the general assembly shall be reduced by five percent from the rate of compensation which would otherwise be paid as of January 5, 2010, under the provisions of 32 V.S.A. §§ 1051(a) and 1052(a).

Sec. E.126 [DELETED]

Sec. E.127 Joint fiscal committee

(a) The joint fiscal office is authorized to make a transfer of up to \$65,000 to the office of the secretary of administration provided that the Capitol Health Associates contract and its related work are moved to the secretary's office.

(b) The joint fiscal office is further authorized to make a transfer of up to \$12,500 in fiscal year 2011 in the event that the contract can be moved at an earlier date.

Sec. E.128 Sergeant at arms

(a) Notwithstanding any other provision of law, in fiscal year 2012, the amount of \$20,000 from account #1230001000 shall revert to the general fund.

Sec. E.130 Auditor of accounts

(a) The office of the state auditor shall not increase the number of filled positions assigned to the state auditor's office, including both exempt and classified, above 14 during fiscal year 2011 and fiscal year 2012, and position number 090031 – senior auditor – shall be transferred to the statewide position pool as of July 1, 2011.

Sec. E.130.1 PERFORMANCE AUDIT OF THE STATE'S LONG TERM CARE SYSTEM UNDER THE CHOICES FOR CARE WAIVER

(a) The state auditor shall report to the house and senate committees on appropriations, the senate committee on health and welfare, and the house committee on health care by January 15, 2012 with recommendations on how to evaluate the success of the Choices for Care waiver.

(b) The state auditor shall review the legislative changes made during the 2011 session and submit a revised work plan for the office of the state auditor, including an adjusted budget and preliminary audit schedule for fiscal year 2012, to the department of finance and management and the legislative joint fiscal committee on or before July 5, 2011. The work plan shall include all required audits and any plans for discretionary performance audits in place at that time. In addition the plan shall include a discussion of advance notification protocol options for single audit fund agency billings.

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2012, investment fees shall be paid from the corpus of the fund.

Sec. E.141 Lottery commission

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

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

Sec. E.142 Payments in lieu of taxes

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

Sec. E.143 Payments in lieu of taxes - Montpelier

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

Sec. E.144 Payments in lieu of taxes – correctional facilities

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

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the office of the attorney general, Medicaid fraud and residential abuse unit, is authorized to retain, subject to appropriation, one-half of the state share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the state share of restitution to the Medicaid program. All such designated additional recoveries

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

(b) Of the revenue available to the attorney general under 9 V.S.A. § 2458(b)(4), \$610,000 is appropriated in Sec. B.200 of this act.

Sec. E.204 Judiciary

(a) For compensation paid from July 1, 2011 to June 30, 2012, the supreme court is authorized to reduce by up to five percent salaries established by statute that are paid by the judicial department appropriation and to reduce by up to five percent the hourly rates of nonbargaining unit employees.

(b) The chief justice is authorized to apply provisions of the judiciary collective bargaining unit to exempt permanent state employees of the judicial branch who are not judicial officers.

Sec. E.205 State's attorneys

(a) In fiscal year 2012, the annual salaries of all state's attorneys shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1183.

Sec. E.206 Special investigative unit

(a) The director of the state's attorneys shall report to the joint fiscal committee and the house and senate committees on judiciary and appropriations by November 15, 2011 on issues related to the effectiveness of the special investigation units (SIU). The report shall be made in consultation with the state and local law enforcement agencies, the department for children and families, and victims' organizations. The report shall include information by SIU about the number of investigations and referrals; the number of reported claims of abuse, entity who first responded to the claim, response time, percentage of those cases that were referred to SIU; and total funding including state, county, and local direct and indirect support. The report shall also specifically report by SIU the region covered by each SIU and the support each county and community contribute to the SIU. The report shall also include recommendations for changes in structure and practice that would increase SIU effectiveness or redirect these resources to alternative program models that better achieve the intended outcomes.

Sec. E.207 Sheriffs

(a) In fiscal year 2012, the annual salaries of sheriffs earning \$60,000 or more shall be reduced by five percent from the salaries which would otherwise be paid under the provisions of 32 V.S.A. § 1182, and the annual salaries of sheriffs earning less than \$60,000 shall be reduced by three percent from the

salaries which would otherwise be paid under the provision of 32 V.S.A. § 1182.

Sec. E.208 Public safety–administration

(a) Of the funds appropriated to the department of public safety, \$25,000 shall be used to make a grant to the Essex County sheriff's department for a performance-based contract to provide after-hours coverage.

Sec. E.209 Public safety - state police

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

(b) Of the \$255,000 allocated for grants funded in this section, \$190,000 shall be used by the Vermont drug task force to fund three town task force officers. These town task force officers shall be dedicated to enforcement efforts with respect to both regulated drugs as defined in subdivision 4201(29) of Title 18 and the diversion of legal prescription drugs. Any additional available funds shall remain as a "pool" available to local and county law enforcement to fund overtime costs associated with drug investigations. Any unexpended funds from prior fiscal years' allocations under this section shall be carried forward.

Sec. E.209.1 STATE POLICE - RECRUITMENT

(a) The secretary of administration, the commissioner of public safety, and the commissioner of human resources shall review the current process, procedures, and entry level pay in recruitment of new state troopers and shall make recommendations for changes by November 15, 2011 to the joint fiscal committee and to the senate and house committees on appropriations, on judiciary, and on government operations.

Sec. E.212 [DELETED]

Sec. E.214 Public safety - emergency management - radiological emergency response plan

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

Sec. E.215 Military – administration

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

(b) In the event federal funding is not available subsequent to September 20, 2011 to the military department to provide outreach and hotline services for recently deployed Vermont veterans, the emergency board pursuant to 32 V.S.A. § 706 is authorized to transfer up to \$560,000 of general or special funds from existing appropriations to the military.

Sec. E.219 Military - veterans' affairs

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

Sec. E.220 Center for crime victim services

(a) Of this appropriation, the amount of \$806,195 from the victims' compensation fund created by 13 V.S.A. § 5359 is appropriated for the Vermont network against domestic and sexual violence initiative. Expenditures for this initiative shall not exceed the revenues raised in fiscal year 2012 from the \$10.00 increase authorized by Sec. 20 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the assessment in 13 V.S.A. § 7282(a)(8)(B) and from the \$20.00 authorized by Sec. 21 of No. 174 of the Acts of the 2007 Adj. Sess. (2008) applied to the fee in 32 V.S.A. § 1712(1).

Sec. E.221 REPEAL

(a) 20 V.S.A. § 2363 (criminal justice training council special fund) is repealed. Upon repeal, balances in the fund shall be transferred to the general fund.

Sec. E.221.1 13 V.S.A. chapter 223, subchapter 4 is amended to read:

Subchapter 4. Assessment and Collection of Additional
Fees Surcharges

* * *

Sec. E.221.2 REPEAL

(a) 13 V.S.A. § 7281 (statement of legislative intent) is repealed.

Sec. E.221.3 13 V.S.A. § 7282 is amended to read:

§ 7282. ASSESSMENT SURCHARGE

(a) In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense or any civil penalty imposed for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or judicial bureau shall levy an additional ~~fee~~ surcharge of:

* * *

(5) \$20.50 for any offense or violation committed after June 30, 2001, but before July 1, 2003, of which \$13.50 shall be deposited into a special fund account to be known as the victims' compensation fund, ~~and \$2.00 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(6) For any offense or violation committed after June 30, 2003, but before July 1, 2005, \$21.00, of which \$13.75 shall be deposited into the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(7) For any offense or violation committed after June 30, 2005, but before July 1, 2006, \$22.00, of which \$14.75 shall be deposited into the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(8)(A) For any offense or violation committed after June 30, 2006, but before July 1, 2008, \$26.00, of which \$18.75 shall be deposited in the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(B) For any offense or violation committed after June 30, 2008, \$36.00, of which \$28.75 shall be deposited in the victims' compensation special fund ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

(C) For any offense or violation committed after June 30, 2009, \$41.00, of which \$33.75 shall be deposited in the victims' compensation special fund, ~~and \$2.25 shall be deposited into the criminal justice training council special fund established in section 2363 of Title 20.~~

* * *

(b) ~~The fees surcharges imposed by this section shall be used for the purposes set out in section 7281 of this title and shall not be waived by the court.~~

(c) ~~SIU Assessment surcharge. Notwithstanding section 7281 of this title and subsection (b) of this section, in~~ In addition to any penalty or fine imposed by the court or judicial bureau for a criminal offense committed after July 1, 2009, the clerk of the court or judicial bureau shall levy an additional fee surcharge of \$100.00 to be deposited ~~with~~ in the general fund, in support of the specialized investigative unit grants board created in 24 V.S.A. § 1940(c) to be, and used to pay for staffing for the costs of specialized investigative units.

Sec. E.221.4 REPEAL

(a) 13 V.S.A. § 7283 (collection and transmittal) is repealed.

Sec. E.221.5 Criminal justice training council

(a) By January 15, 2012, and as part of testimony on the fiscal year 2013 budget, the executive director of the criminal justice training council shall provide a report to the house and senate committees on appropriations on revenue received and accounts receivable for the period July 1, 2011 to December 31, 2011, due to charges for training programs pursuant to 20 V.S.A. § 2355(f); and revenue collected by the judiciary pursuant to the surcharges in 13 V.S.A. § 7282(a)(1)–(8), approximately five percent of which would have been, prior to July 1, 2011, deposited into the criminal justice training council special fund. By January 15, 2013, and as part of testimony on the fiscal year 2014 budget, the executive director of the criminal justice training council shall provide a corresponding report for fiscal year 2012, and for the period July 1, 2012 to December 31, 2012.

(b) By January 15, 2012 and as part of testimony on the fiscal year 2013 budget, the executive director of the criminal justice training council shall report on training units delivered and training revenues collected in fiscal year 2011, as authorized by 20 V.S.A. § 2355(f); and accounts receivable on June 30, 2011 that were not fully paid by December 31, 2011.

Sec. E.224 Agriculture, food and markets – agricultural development

(a) The \$75,000 appropriated in H.287 of 2011, an act relating to job creation and economic development, for the farm-to-school investment program, shall be considered base funding.

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

(a) As part of the department's best management practices program, \$50,000 of the appropriation shall be granted to the Farmer's Watershed Alliance as a grant for the purpose of conducting water quality improvement programs and practices in the northern watershed of Lake Champlain.

Sec. E.231 Banking, insurance, securities, and health care administration – health care administration

(a) The department of banking, insurance, securities, and health care administration (BISHCA) shall use the Global Commitment funds appropriated in this section for health care administration for the purpose of funding certain health-care-related BISHCA programs, projects, and activities to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.232 Secretary of state

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

* * * HUMAN SERVICES * * *

Sec. E.300 Agency of human services – secretary's office

(a) The secretary of human services and the commissioner of disabilities, aging, and independent living are authorized to set the level for IADLs and respite/companion services within the Choices for Care program that is consistent both with the funding provided in this act and what the commissioner determines will to the greatest extent possible minimize individuals from moving from his or her home to a nursing home, including the utilization of variances where the commissioner determines appropriate. Prior to reducing the level for these services from the current baseline, the secretary and the commissioner shall review actual fiscal year 2011 Choices for Care expenditures to determine if fiscal year 2012 funding in context with actual expenditure experience of fiscal year 2011 would require a reduction in the baseline. The secretary and the commissioner shall provide a report to the joint fiscal committee in July 2011 on the fiscal year 2012 levels for IADLs and respite/companion services as well as total actual expenditures of the Choices for Care waiver for fiscal year 2011. The secretary and the commissioner shall provide a report to the joint fiscal committee in November 2011 on the status of the federal Money Follows the Person grant and how any state savings resulting from the grant will be used to strengthen the home and community based services that allow eligible Vermonters to remain in their homes.

(b) The secretary of human services, the commissioner of disabilities, aging, and independent living, the commissioner of mental health, and the designated providers of mental health and developmental disability services shall continue to work in partnership to ensure that to the greatest extent possible any negative impact to consumers of these services as a result of the funding levels provided for in this act is minimized. The secretary is encouraged to seek changes to the current regulatory or statutory provisions regarding these services if such changes result in a more cost-effective provision of high-quality services for Vermonters.

(c) The commissioner of disabilities, aging, and independent living shall report to the house and senate committees on appropriations by January 15, 2012 with recommendations regarding the scope of providers that the department may contract with to provide services under the Choices for Care program. The recommendations shall be made in consultation with home health agencies and other partner organizations and shall consider, among other things: the relative impacts on provider cost structure of state assessments and requirements; whether a lack of access by patients to the services justifies expanding the scope of providers; whether contracting with additional providers will affect the ability of patients to access Choices for Care services; and whether Choices for Care services should be removed from being considered “designated” services.

Sec. E 300.1 AUSTISM; DATES OF COVERAGE

(a) Notwithstanding any provision of law to the contrary, the requirements for insurance coverage pursuant to 8 V.S.A. § 4088i shall take effect January 1, 2012 for all insurers, except that coverage by the state Medicaid program shall take effect July 1, 2012.

Sec. E.301 Secretary’s office – Global Commitment

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

(b) In addition to the state funds appropriated in this section, a total estimated sum of \$27,726,781 is anticipated to be certified as state matching funds under the Global Commitment as follows:

(1) \$17,066,700 certified state match available from local education agencies for eligible special education school-based Medicaid services under

the Global Commitment. This amount combined with \$23,433,300 of federal funds appropriated in Sec. B.301 of this act equals a total estimated expenditure of \$40,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment fund to the Medicaid reimbursement special fund created in 16 V.S.A. § 2959a.

(2) \$3,774,162 certified state match available from local education agencies for direct school-based health services, including school nurse services, that increases the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

(3) \$2,290,874 certified state match available from local education agencies for eligible services as allowed by federal regulation for early periodic screening, diagnosis, and treatment programs for school-aged children.

(4) \$2,479,534 certified state match available via the University of Vermont's child health improvement program for quality improvement initiatives for the Medicaid program.

(5) \$2,115,511 certified state match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

Sec. E.301.1 MEDICAID PHARMACY; RADIOLOGY TIER AUTHORIZATION

(a) The department of Vermont health access shall reduce spending on prescription drugs by managing over-the-counter drugs with the preferred drug list, establishing lower reimbursements for specialty drugs, and requiring justification for prescribing multi-source brand-name drugs.

(b) The department of Vermont health access shall reduce spending on radiology services by implementing a multiple procedure payment reduction to cases with multiple outpatient radiology imaging services.

Sec. E.301.2 CATAMOUNT HEALTH; STATE SAVINGS DIFFERENTIAL ADJUSTMENT

(a) Notwithstanding the provisions of 8 V.S.A. § 4080f, effective July 1, 2011 and thereafter, the carriers offering Catamount Health shall in subscriber billing include in addition to the premium rates established pursuant to 8 V.S.A. § 4080f(g) a state savings differential adjustment of 11 percent based on the lowest premium established by the carriers of the plan. This adjustment shall be remitted by the carriers on a monthly or quarterly basis to the state and

deposited into the catamount fund. This adjustment shall be waived or netted from the bills that carriers submit to the state for Catamount Health subscribers who are eligible for premium assistance pursuant to 33 V.S.A. chapter 19, subchapter 3A.

Sec. E.301.3 CATAMOUNT HEALTH; PROVIDER REIMBURSEMENTS

(a) Notwithstanding the reimbursement indexing provided in 8 V.S.A. § 4080f(f)(1), a carrier who sells, offers, or renews Catamount Health shall recalculate the reimbursements paid to health care professionals under Catamount Health to pay the lowest of the health care professional's contracted rate, the health care professional's billed charges, or the rate derived from the Medicare fee schedule, at an amount 10 percent greater than fee schedule amounts paid under the Medicare program in 2006.

Sec. E.301.4 8 V.S.A. § 4080f(f)(2) is amended to read:

(2) Payments for hospital services shall be calculated using a hospital-specific cost-to-charge ratio approved by the commissioner, adjusted for each hospital to ensure payments at ~~44~~ 100 percent of the hospital's actual cost for services. The commissioner may use individual hospital budgets established under 18 V.S.A. § 9456 to determine approved ratios under this subdivision. Payments under this subdivision shall be indexed to changes in the Medicare payment rules, but shall not be lower than ~~40~~ 100 percent of the hospital's actual cost for services. The commissioner may approve adjustments to the amounts paid under this section in accordance with a carrier's pay for performance, quality improvement program, or other payment methodologies in accordance with the Blueprint for Health established under chapter 13 of Title 18.

Sec. E.301.5 [DELETED]

Sec. E.301.6 CATAMOUNT HEALTH; ADMINISTRATION;
ENFORCEMENT

(a) For fiscal year 2012, a carrier who sells, offers, or renews Catamount Health shall not charge more than six percent of the overall premium for amounts attributable to administrative costs excluding contributions to surplus, as defined by the commissioner of banking, insurance, securities, and health care administration.

(b) Beginning July 1, 2012, a carrier who sells, offers, or renews Catamount Health shall file for a rates which shall be for a 12- month period with the commissioner of banking, insurance, securities, and health care administration.

(c) Notwithstanding any conflicting provision in 8 V.S.A. chapter 107, the commissioner of banking, insurance, securities, and health care administration shall include the provisions of Secs. E.301.1 through E.301.5 of this act in the rate review and approval process.

Sec. E.301.7 CATAMOUNT TRANSITION PROVISIONS

(a) It is the intent of the general assembly that amendments to Catamount Health result in a full year of budgetary savings and the changes are implemented beginning July1, 2011. To achieve this goal, notwithstanding any provision of law to the contrary, all subscribers' anniversary dates will be reset effective July 1, 2011. Rate filings to reflect these changes shall be submitted from the carriers and the rate review processes by the department of banking, insurance, securities, and health care administration shall be made notwithstanding any provision of law to the contrary to be effective July 1, 2011.

(b) For fiscal year 2012, a carrier who sells, offers, or renews Catamount Health shall offer participants in the program as of June 30, 2011 a one-time option to apply their expenditures made from April 1, 2011 to June 30, 2011 in excess of any prior deductible toward the deductible requirements incurred for fiscal year 2012. The participants shall be informed of this opportunity and provided with an application process to access this option.

Sec. E.301.8 [DELETED]

Sec. E.302 PAYMENT RATES FOR PRIVATE NONMEDICAL INSTITUTIONS PROVIDING RESIDENTIAL CHILD CARE SERVICES

(a) Notwithstanding any other provisions of law, for state fiscal year 2012, the division of rate setting shall calculate payment rates for private nonmedical institutions (PNMI) providing residential child care services as follows.

(1) General rule. The division of rate setting shall calculate PNMI per diem rates for state fiscal year 2012 as 100 percent of each program's final per diem rate in effect on June 30, 2011. These rates shall be issued as final.

(2) Reporting requirements.

(A) Providers are required to submit annual audited financial statements to the division within 30 days of receipt from their certified public accountant, but no later than four months following the end of each provider's fiscal year.

(B) Providers are not required to submit funding applications pursuant to section 3 of the PNMI rate setting rules for state fiscal year 2012.

(3) Exception to the general rule. For programs categorized by the placement authorizing departments (PADs) as crisis/stabilization programs with typical lengths of stay from 0–10 days, final rates for state fiscal year 2012 are set retroactively as follows:

(A) The allowable budget is 100 percent of the final approved budget for the rate year which includes June 30, 2011. The monthly allowable budget is the allowable budget divided by 12.

(B) Within five days of the end of each month in state fiscal year 2012, the program shall submit the prior month's census to the division of rate setting. The per diem rate shall be set for the prior month by dividing the monthly allowable budget amount by the total number of resident days for the month just ended.

(4) Adjustments to rates. Rate adjustment applications may not be used as a tool to circumvent the rate setting process for state fiscal year 2012 in order to submit a new budget for the entire program or for the sole reason that actual costs incurred by the facility exceed the rate of payment.

(A) The following provisions amend section 8 of the PNMI rules regarding adjustments to rates for state fiscal year 2012.

(i) The three-month waiting period of section 8.1(b) for the submission of a rate adjustment application is waived.

(ii) In rate adjustment applications, the division shall only consider budget information specific to the program change and limited to direct program costs. Providers may not apply for increases to costs that are part of the current program and rate structure before the program change.

(iii) In its findings and order, the division may elect to use financial information from prior approved budget submissions to determine allowable costs related to the program change.

(iv) The materiality test in section 8.1(c) is waived.

(B) Adjustments to rates based on changes in licensed capacity. Programs that increase or decrease licensed capacity in state fiscal year 2012 shall provide prior written notification to the division of the change in licensed capacity.

(i) Decreased licensed capacity. In the case of programs that decrease licensed capacity in state fiscal year 2012, programs must have prior written approval from the PADs before applying to the division for an adjustment to the state fiscal year 2012 per diem rate.

(I) The allowable budget amount for state fiscal year 2012 may be no more than the final approved budget for the rate year which includes June 30, 2011.

(II) In its application for a rate adjustment, a program shall provide to the division financial and staffing information directly related to the decrease in licensed capacity.

(III) In its findings and order, the division shall reduce the allowable budget amount by any decreased costs directly related to the change in licensed capacity.

(IV) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

(ii) Increased licensed capacity. In the case of programs that increase licensed capacity in state fiscal year 2012, the division shall automatically adjust the program's rate as follows.

(I) The initial allowable budget is 100 percent of the final approved budget amount for the rate year that includes June 30, 2011.

(II) With prior written approval from the PADs, programs may apply to the division for an adjustment to the allowable budget for costs directly related to the program change.

(III) The division shall divide the final allowable budget amount by the estimated occupancy level at the new licensed capacity to calculate the per diem rate.

Sec. E.306 Department of Vermont health access – administration

(a) The establishment of one (1) new classified position - Palliative Care Nurse Manager - is authorized in fiscal year 2012.

Sec. E.306.1 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS;
APPOINTMENT; TERM

(a) The secretary, with the approval of the governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the secretary.

(b) For the department of health, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

(1) public health;

(2) substance abuse.

(c) For the department for children and families, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

- (1) economic services;
- (2) child development;
- (3) family services.

(d) For the department of Vermont health access, the secretary, with the approval of the governor, shall appoint deputy commissioners for the following divisions of the department:

- (1) Medicaid health services and managed care;
- (2) Medicaid policy, fiscal, and support services;
- (3) health care reform;
- (4) Vermont health benefit exchange.

(e) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the office of the secretary of state.

Sec. E.306.2 [DELETED]

Sec. E.307 CATAMOUNT HEALTH ASSISTANCE; WAIVER AMENDMENT

(a) If necessary, the commissioner of Vermont health access shall seek an amendment to Global Commitment to include the provisions in Secs. E.301.1 through E.301.7 of this act.

Sec. E.307.1 33 V.S.A. § 1984(b) is amended to read:

(b) The agency of administration or designee shall establish individual and family contribution amounts for Catamount Health under this subchapter based on the individual contributions established in subsection (c) of this section and shall index the contributions annually to the overall growth in spending per enrollee in Catamount Health as established in 8 V.S.A. § 4080f; provided, however, that ~~to the extent that spending per Catamount Health enrollee decreases as a result of changes in benefit design or deductible amounts, contributions shall not be decreased by the percentage change attributable to such benefit design or deductible changes~~ the contribution amount shall not be less than the contribution amount for the previous year. The agency shall

establish family contributions by income bracket based on the individual contribution amounts and the average family size.

Sec. E.307.2 REPEAL

(a) Subsections (a), (b), and (c) of Sec. E.309.3 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) as further amended by Sec. 64 of No. 3 of the Acts of 2011 (suspension of automatic premium increases) are repealed.

Sec. E.307.3 EMERGENCY RULES

(a) In order to implement the amendments to the Catamount Health and Catamount Health Assistance program provided in Secs. E.301.1 through E.301.6 of this act no later than July 1, 2011, the agency of human services shall be deemed to have met the standard for the adoption of emergency rules as required in 3 V.S.A. § 844(a).

(b) In order to implement Sec. E. 309.1 (health care coverage; legal immigrant children and pregnant women), Sec. E. 309 (State Children's Health Insurance Program (SCHIP) and Medicaid programs covering children premium grace period), and Sec. E.301.1 (Medicaid pharmacy; radiology tier authorization) of this act no later than July 1, 2011, the agency of human services shall be deemed to have met the standard for adoption of emergency rules as required by 3 V.S.A. § 844(a). Notwithstanding 3 V.S.A. § 844, the agency shall provide a minimum of five business days for public comment in advance of filing the emergency rules as provided for in 3 V.S.A. § 844(c).

Sec. E.307.4 [DELETED]

Sec. E.307.5 [DELETED]

Sec. E.307.6 [DELETED]

Sec. E.307.7 [DELETED]

Sec. E.307.8 [DELETED]

Sec. E.307.9 [DELETED]

Sec. E.307.10 [DELETED]

Sec. E.307.11 REPEAL

(a) Sec. 22 of No. 61 of the Acts of 2009 (Global Commitment waiver amendments; rulemaking) is repealed.

Sec. E.307.12 REPEAL

(a) Sec 2(c) of No. 71 of the Acts of 2007, as amended by Sec. 5.903 of No. 192 of the Acts of the 2007 Adj. Sess. (2008) and Sec. 103 of No. 4 of the Acts of 2009 (VHAP payment beginning with date of application) is repealed.

Sec. E.308 FISCAL YEAR 2012 NURSING HOME RATE SETTING

(a) Notwithstanding any other provisions of law, the division of rate setting shall maintain the decrease by one-half in the case-mix weights for the following resource utilization groups: Impaired Cognition A (IA1), Challenging Behavior A (BA1), Reduced Physical Functioning A 2 (PA2), and Reduced Physical Functioning A 1 (PA1). The decrease by one-half in these case-mix weights shall be maintained in each facility's average case-mix score for Medicaid residents from picture dates in the January 2010, April 2010, and July 2010 quarters, which were used to set the July 2010, October 2010, and January 2011 rates.

Sec. E.309 STATE CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) AND MEDICAID PROGRAMS COVERING CHILDREN PREMIUM GRACE PERIOD

(a) Notwithstanding any other provisions of law, effective beginning fiscal year 2012 and continuing thereafter, the commissioner shall make such changes in the billing and collection process as are necessary to achieve state compliance with the premium grace period and notice requirements of section 504 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) (42 U.S.C. § 1397cc(e)(3)(C)). These changes shall:

(1) Afford children enrolled in state health programs a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before coverage may be terminated. The new coverage period will begin the month immediately following the last month for which a premium was paid.

(2) Inform children in state health care programs not later than seven days after the first day of such grace period provided under subdivision (1) of this subsection:

(A) that failure to make a required premium payment within the grace period will result in termination of coverage; and

(B) of the individual's right to challenge the proposed termination pursuant to applicable rules.

(3) Provide this same grace period and notice as provided under this subsection for each coverage period for which a premium has not been received.

Sec. E.309.1 HEALTH CARE COVERAGE; LEGAL IMMIGRANT CHILDREN AND PREGNANT WOMEN

(a) In accordance with the provisions of the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3, section

214, the agency of human services shall provide coverage under Medicaid and CHIP to legal immigrant children and pregnant women who are residing lawfully in Vermont and who have not met the five-year waiting period required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Sec. E.309.2 FAMILY PLANNING OPTION

(a) Beginning April 1, 2012, the commissioner of Vermont health access shall modify necessary rules and procedures related to eligibility and services to implement the family planning option of section 2303 of the Affordable Care Act of 2010, Public Law 111-148.

Sec. E. 311 MEDICATION MANAGEMENT PILOT PROJECT

(a) The department of health shall make recommendations to the joint fiscal committee for a medication management pilot program in September, 2011.

Sec. E.312 Health - public health

(a) AIDS/HIV funding:

(1) In fiscal year 2012 and as provided for in this section, the department of health shall provide grants in the amount of \$335,000 in Global Commitment funds to Vermont AIDS service and peer-support organizations for client-based support services. It is the intent of the general assembly that if the Global Commitment funds appropriated in this subsection are unavailable, the funding for Vermont AIDS service and peer-support organizations for client-based support services shall be maintained through the general fund or other state-funding sources. The department of health AIDS program shall meet at least quarterly with the community advisory group (CAG) with current information and data relating to service initiatives. The funds shall be allocated as follows:

(A) AIDS Project of Southern Vermont, \$84,488;

(B) HIV/HCV Resource Center (formerly ACORN), \$24,599;

(C) VT CARES, \$157,213;

(D) Twin States Network, \$31,850;

(E) People with AIDS Coalition, \$36,850.

(2) Ryan White Title II funds for AIDS services and the AIDS Medication Assistance Program shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by state general funds.

(3)A) Notwithstanding the provisions of Sec. E.312(a)(6) of Act No. 1 of the 2009 special session, the department of health shall carry forward \$140,000 in general funds from fiscal year 2009 to provide assistance to individuals in the HIV/AIDS Medication Assistance Program (AMAP), including the costs of prescribed medications, related laboratory testing, and nutritional supplements. These funds may not be used for any administrative purposes by the department of health or by any other state agency or department. Before using the general fund allocation to cover the costs of AMAP, the department of health shall use pharmaceutical rebate special funds to cover the costs of AMAP. Any carry-forward general funds remaining at the end of fiscal year 2012 shall be distributed to AIDS service organizations in the same proportion as those outlined in this subsection.

(B) The secretary of human services shall immediately notify the joint fiscal committee if at any time there are insufficient funds in AMAP to assist all eligible individuals. The secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to AMAP medications until such time as the general assembly can take action.

(C) As provided for in this section, the secretary of human services shall work in collaboration with the AMAP advisory committee, which shall be composed of no less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2012, the department of health shall provide grants in the amount of \$100,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; anti-stigma campaigns; and promotion of needle exchange programs. No more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds are distributed shall be determined by mutual agreement of the department of health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(b) The commissioner of health in consultation with AIDS service organizations shall report to the joint fiscal committee by November 15, 2011 on whether the base level of funding for AIDS service organizations should be

revised in lieu of providing supplemental funding to these organizations from unexpended AIDS/HIV medication allocations.

(c) Funding for the tobacco programs in fiscal year 2012 shall consist of the \$1,594,000 in tobacco funds and \$302,507 in Global Commitment funds appropriated in Sec. B.312 of this act. The tobacco evaluation and review board shall determine how these funds are allocated to tobacco cessation, community-based, media, public education, surveillance, and evaluation activities. This allocation shall include funding for tobacco cessation programs that serve pregnant women. Of these funds, \$20,000 shall be granted to the teen centers to provide coordination and grant writing assistance in performing and seeking funding for tobacco and substance abuse prevention services.

Sec. E.313 Health - alcohol and drug abuse programs

(a) For the purpose of meeting the need for outpatient substance abuse services when the preferred provider system has a waiting list of five days or more or there is a lack of qualified clinicians to provide services in a region of the state, a state-qualified alcohol and drug abuse counselor may apply to the department of health, division of alcohol and drug abuse programs, for time-limited authorization to participate as a Medicaid provider to deliver clinical and case coordination services, as authorized.

(b)(1) In accordance with federal law, the division of alcohol and drug abuse programs may use the following criteria to determine whether to enroll a state-supported Medicaid and uninsured population substance abuse program in the division's network of designated providers, as described in the state plan:

(A) The program is able to provide the quality, quantity, and levels of care required under the division's standards, licensure standards, and accreditation standards established by the commission of accreditation of rehabilitation facilities, the joint commission on accreditation of health care organizations, or the commission on accreditation for family services.

(B) Any program that is currently being funded in the existing network shall continue to be a designated program until further standards are developed, provided the standards identified in this subdivision (b)(1) are satisfied.

(C) All programs shall continue to fulfill grant or contract agreements.

(2) The provisions of subdivision (1) of this subsection shall not preclude the division's "request for bids" process.

(c) All funding allocated for student assistance professionals in the department of health shall be directly administered by the department and shall be used to provide competitive performance-based grants to schools or supervisory unions for evidence-based department-specified prevention activities that are in alignment with the department's mission. A criteria for grant award shall be matching funds or in-kind services provided by the grantee. The department shall identify measures and develop a process for evaluating the performance of the grants. The department is authorized to transfer any portion of these funds for eligible expenses to the Global Commitment waiver to maximize the total funding available for these grants.

Sec. E.315 Mental health - Vermont state hospital

(a) Effective July 1, 2011 the classified position of Chief Executive Officer (Position # 840184) shall be converted to the exempt position of Vermont State Hospital Chief Executive Officer.

Sec. E.315.1 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital and shall be responsible for patients receiving involuntary treatment at a hospital designated by the department of mental health.

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. E.316 Department for children and families – administration and support services

(a) The establishment of one (1) new position - Eligibility Worker - in the department for children and families is authorized during fiscal year 2012 to support Sec. E.310.

Sec. E.317 Department for children and families - family services

(a) The commissioner for children and families shall provide to the general assembly by January 15, 2012 a geographic inventory of the residential and non-residential services that are available to serve at-risk youth under the age of 23, and the public and private funding available to these providers. The department shall also provide recommendations on how to evaluate this system.

Sec. E.319 33 V.S.A. § 4103 is amended to read:

§ 4103. REGISTRY

* * *

(b) All orders for child support subject to wage withholding shall require that payment be made through the registry and shall be deemed IV-D cases. All orders for child support not subject to wage withholding made or modified on or after July 1, 1990 shall require that payment be made through the registry as a IV-D case unless the parties have agreed that the obligor will pay the obligee directly.

(c) In the case where neither parent requests services under Title IV-D of the Social Security Act or where the case is not a IV-D case by operation of law, the office of child support services may recover the administrative costs of processing payments through the child support registry, not to exceed an administrative fee of \$5.00 per month. The family division of the superior court shall increase the monthly support obligation to take the administrative cost into account unless the noncustodial parent is below the federal poverty level. The office of child support services shall deduct the cost from the first payment received each month. Fees collected under this subsection shall be credited to a special fund and shall be available to the office of child support services to offset the costs of its administrative services.

* * *

Sec. E.320 Department for children and families – aid to aged, blind and disabled

(a) The department for children and families shall analyze the actions necessary for the department to perform the function of transmitting the state supplement to the federal SSI benefit to AABD clients, rather than relying on the federal government to perform this function. Should the analysis result in it being fiscally advantageous for the state to issue the state supplemental benefit, the department shall implement the process.

Sec. E.321 GENERAL ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM

(a) Commencing with state fiscal year 2007, the agency of human services may establish a housing assistance program within the general assistance program to create flexibility to provide these general assistance benefits. The purpose of the program is to mitigate poverty and serve applicants more effectively than they are currently served with the same amount of general assistance funds. The program shall operate in a consistent manner within existing statutes and rules except that it may grant exceptions to this program's eligibility rules and may create programs and services as alternatives to these rules. Eligible activities shall include, among others, the provision of shelter, overflow shelter, case management, transitional housing, deposits, down

payments, rental assistance, and related services that assure that all Vermonters have access to shelter, housing, and the services they need to become safely housed. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The program may operate in up to 12 districts designated by the secretary of human services. This program will be budget neutral. For each district in which the agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The agency shall report annually to the general assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program.

(c) The agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of the general assistance flexibility program.

Sec. E.321.1 GENERAL ASSISTANCE; EMERGENCY SHELTER GRANTS; OUTCOME MEASURES

(a) The agency of human services shall develop a baseline to measure results of the investment in the emergency shelter grants and case management to assist the homeless population. These measurements shall include homelessness prevention outcome measures for the clients served by the investment. The outcomes shall be reported annually to the house and senate committees on appropriations during the department's budget testimony.

Sec. E.321.2 33 V.S.A. § 2101(1) is amended to read:

(1) "District welfare director" means an employee of the department or of the agency of human services so designated by the commissioner.

Sec. E.323 33 V.S.A. § 1121 is amended to read:

§ 1121. AUTHORIZATION TO SEGREGATE STATE FUNDS AND CREATE SEPARATE STATE AND SOLELY STATE-FUNDED PROGRAMS

* * *

(g)(1) Any family receiving or applying for Reach Up financial assistance who is being referred by the department to apply for or who is applying for Supplemental Security Insurance (SSI) or aid to the aged, blind, or disabled (AABD) under chapter 13 of this title shall authorize the department to reimburse the state for the amounts described in subdivision (2) of this subsection from any initial SSI payment owed the individual that includes SSI payment for retroactive amounts. The family shall authorize the Social

Security Administration to send the initial SSI payment directly to the department. The department may require an individual to sign a recovery of financial assistance agreement as authorization.

(2) The department may deduct an amount equal to the state-funded Reach Up financial assistance paid to the family for the needs of the SSI applicant during the period or periods in which the family received Reach Up financial assistance paid for with state funds. The deduction shall be for no more than the prorated portion of Reach Up financial assistance provided for those family members receiving SSI who are included in the SSI grant. The department shall send any remainder due to the family within 10 days of receiving the payment from the Social Security Administration.

(h) In furtherance of the policy goals of this section and in order to establish an excess of maintenance-of-effort state funds, the commissioner shall maximize maintenance-of-effort state funds in the reports to the U.S. Administration for Children and Families.

Sec. E.324 Department for children and families – home heating fuel assistance/LIHEAP

(a) Of the funds appropriated for home heating fuel assistance/LIHEAP in this act, no more than \$450,000 shall be expended for crisis fuel direct service/administration exclusive of statewide after-hours crisis coverage.

Sec. E.324.1 HOME HEATING FUEL ASSISTANCE/LIHEAP

(a) For the purpose of a crisis set-aside, for seasonal home heating fuel assistance through December 31, 2011, and for program administration, the commissioner of finance and management shall transfer \$2,550,000 from the home weatherization assistance trust fund to the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are not available. An equivalent amount shall be returned to the home weatherization trust fund from the home heating fuel assistance fund to the extent that federal LIHEAP or similar federal funds are received. Should a transfer of funds from the home weatherization assistance trust fund be necessary for the 2011–2012 crisis set-aside and for seasonal home heating fuel assistance through December 31, 2011, and if LIHEAP funds awarded as of December 31, 2011, for fiscal year 2012 do not exceed \$2,550,000, subsequent payments under the home heating fuel assistance program shall not be made prior to January 30, 2012. Notwithstanding any other provision of law, payments authorized by the office of home heating fuel assistance shall not exceed funds available, except that for fuel assistance payments made through December 31, 2011, the commissioner of finance and management may anticipate receipts into the home weatherization assistance trust fund.

Sec. E.325 Department for children and families – office of economic opportunity

(a) Of the general fund appropriation in this section, \$792,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal McKinney emergency shelter funds. Grant decisions shall be made with assistance from the coalition of homeless Vermonters.

Sec. E.325.1 INDIVIDUAL DEVELOPMENT SAVINGS PROGRAM

(a) In fiscal year 2012, the funding for the individual development (IDA) savings program established in 33 V.S.A. § 1123 shall be from two sources, general funds and community services block grant funds.

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

(a) Of the special fund appropriation in this section, \$400,000 is for the replacement and repair of home heating equipment.

(b) Appropriations from the weatherization trust fund may be limited based on the revenue forecast for the fund from the gross receipts tax as adopted pursuant to 32 V.S.A. § 305a.

Sec. E.327 Department for children and families – Woodside rehabilitation center

(a) The establishment of one (1) new classified position – nurse – is authorized in fiscal year 2012.

Sec. E.329 VERMONT VETERANS' HOME; REGIONAL BED CAPACITY

(a) The agency of human services shall not include the bed count at the Vermont veterans' home when recommending and implementing policies that are based on or intended to impact regional nursing home bed capacity in the state.

Sec. E.329.1 33 V.S.A. § 7111(i) and (j) are added to read:

(i) The licensing agency may enforce a final order by filing a civil action in the superior court in the county in which the facility is located, or in Washington superior court.

(j) The remedies provided in this chapter are cumulative.

Sec. E.329.2 33 V.S.A. § 7112 is added to read:

§ 7112. CONFIDENTIAL INFORMATION

(a) Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this chapter, except information that pertains to unsubstantiated complaints or the identity of residents and complainants, shall be made available to the public.

(b) Prior to release of information the commissioner shall consult with representatives from the nursing home industry and the office of state long-term care ombudsman to develop:

(1) Guidelines for the release of information to the public that ensure the confidentiality and privacy of complainants and individuals who are receiving or have received care or services in nursing facilities in conformance with state and federal requirements.

(2) Indicators, derived from information databases maintained by the licensing agency and the division of rate setting, that shall be disseminated to consumers in a readily understandable format designed to facilitate consumers' ability to compare the quality of care provided by nursing facilities. The commissioner shall continually update quality indicators and refine and improve the information disseminated to consumers.

Sec. E.330 Disabilities, aging, and independent living - advocacy and independent living

(a) Certification of adult day providers shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region and does not have an adverse impact on existing adult day services.

(b) Of this appropriation, \$209,995 in general funds shall be allocated for base funds to adult day programs in the same proportion as they were allocated in fiscal year 2011. The commissioner is authorized to transfer the state share of funding contained in the choices for care program for adult day services to this appropriation upon determination that state funds and corresponding federal matching funds will not be expended for adult day services due to the need requirements of choices for care eligible enrollees.

(c) The department shall manage the budget for the attendant services program for people whose incomes are over the level required for Medicaid eligibility by reviewing client's service packages prior to freezing enrollment or creating a waiting list. The department shall review the expenditures of this program to determine if any of these expenditures are eligible for inclusion as an investment in the Global Commitment waiver.

Sec. E.330.1 EXPEDITED RULES; LONG-TERM CARE AND DISABILITIES, AGING, AND INDEPENDENT LIVING

(a) In order to administer the provisions of this act in Sections B.308, B.330, and B.333, relating to the changes in Choices for Care 1115 Medicaid Waiver Programs, Attendant Services Programs, Developmental Disabilities Services Waiver Program, notwithstanding the provisions of 3 V.S.A. chapter 25, the department of disabilities, aging, and independent living shall adopt rules pursuant to the following:

(1) The commissioner shall file final proposed rules with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841 after publication in three daily newspapers with the highest average circulation in the state of a notice that lists the rules to be adopted pursuant to this process and a seven-day public comment period following publication.

(2) The commissioner shall file final proposed rules with the legislative committee on administrative rules no later than 28 days after the effective date of this act.

(3) The legislative committee on administrative rules shall review and may approve or object to the final proposed rules under 3 V.S.A. § 842, except that its action shall be completed no later than 14 days after the final proposed rules are filed with the committee.

(4) The commissioner may adopt a properly filed final proposed rule after the passage of 14 days from the date of filing final proposed rules with the legislative committee on administrative rules or after receiving notice of approval from the committee, provided the secretary:

(A) has not received a notice of objection from the legislative committee on administrative rules; or

(B) after having received a notice of objection from the committee, has responded pursuant to 3 V.S.A. § 842.

(5) Rules adopted under this section shall be effective upon being filed with the secretary of state and shall have the full force and effect of rules adopted pursuant to 3 V.S.A. chapter 25. Rules filed by the commissioner of disabilities, aging, and independent living with the secretary of state pursuant to this section shall be deemed to be in full compliance with 3 V.S.A. § 843, and shall be accepted by the secretary of state if filed with a certification by the commissioner of disabilities, aging, and independent living that the rule is required to meet the purposes of this section.

Sec. E.333 Disabilities, aging, and independent living – developmental services

(a) Providers shall include developmental service program participants in decisions regarding changes in their service plans.

Sec. E.337 REPEAL

(a) 28 V.S.A. § 120(g) (annual budget: appropriation to the department of corrections based on full-time equivalent students times statewide per pupil spending) is repealed.

Sec. E.338 Corrections – correctional services

(a) The establishment of ten (10) new classified positions - Correctional Officer I –is authorized in fiscal year 2012 to accommodate the expansion of the Caledonia Community Work Camp (two positions), and the conversion of temporary Correctional Officer I to full-time classified positions (eight positions).

(b) Notwithstanding any law, rule or regulation to the contrary, the commissioner may discontinue use of uniforms for incarcerated persons at any correctional facility where uniforms are currently used.

(c) The commissioner of corrections shall report the joint corrections oversight committee and the joint fiscal committee by September 2011 on the proposed distribution of justice reinvestment funds.

Sec. E.339 Correctional services – out-of-state beds

(a) The level of funding in this appropriation is contingent upon enactment of separate legislation related to reduced incarceration of specified nonviolent misdemeanants.

Sec. E.342 Vermont veterans' home – care and support services

(a) If Global Commitment fund monies are unavailable, the total funding for the Vermont veterans' home shall be maintained through the general fund or other state funding sources.

(b) The Vermont veterans' home will use the Global Commitment funds appropriated in this section for the purpose of increasing the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

* * * LABOR * * *

Sec. E.401 Labor - programs

(a) The workforce development council shall allocate funding to the workforce investment boards based upon the performance of the local workforce investment boards, measured according to standards established by the council.

* * * K-12 EDUCATION * * *

Sec. E.500 Education – finance and administration

(a) The Global Commitment funds appropriated in this section for school health services, including school nurses, shall be used for the purpose of funding certain health-care-related projects. It is the goal of these projects to reduce the rate of uninsured or underinsured persons or both in Vermont and to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.502 Education – special education: formula grants

(a) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed \$3,300,654 shall be used by the department of education in fiscal year 2011 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the commissioner shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d). In addition to funding for 16 V.S.A. § 2967(b)(2)–(6), up to \$169,061 may be used by the department of education for its participation in the higher education partnership plan.

Sec. E.503 Education – state-placed students

(a) The independence place program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504 Education – adult education and literacy

(a) Of this appropriation, the amount from the education fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 1049a(c).

Sec. E.512 Education – Act 117 cost containment

(a) Notwithstanding any other provision of law, expenditures made from this section shall be counted under 16 V.S.A. § 2967(b) as part of the state's 60 percent of the statewide total special education expenditures of funds which are not derived from federal sources.

Sec. E.513 Appropriation and transfer to education fund

(a) Notwithstanding the provisions of 16 V.S.A. § 4025(a)(2), for fiscal year 2012, the general fund transfer to the education fund shall be \$276,240,000.

Sec. E.513.1 16 V.S.A. § 4025(a)(2) is amended to read:

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the education fund shall be ~~\$280,200,000.00~~ \$276,240,000.00 increased by the most recent New England economic project cumulative price index, as of November 15, for state and local government purchases of goods and services from fiscal year ~~2008~~ 2012 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

Sec. E.513.2 16 V.S.A. § 4025(b)(1) is amended to read:

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, other provisions of this chapter, and the provisions of chapter 135 of Title 32, ~~and~~ to make payments to carry out programs of adult education in accordance with section 1049(a) of this title, and to provide funding for the community high school of Vermont.

Sec. E.514 State teachers' retirement system

(a) The annual contribution to the Vermont state teachers' retirement system shall be \$52,991,932, of which \$51,241,932 shall be contributed in accordance with 16 V.S.A. § 1944(g)(2) and an additional \$1,750,000 in general funds.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$10,574,040 is the "normal contribution," and \$40,667,892 is the "accrued liability contribution."

(c) A combination of \$51,672,307 in general funds and an estimated \$1,319,625 of Medicare Part D reimbursement funds is utilized to achieve funding at \$1,750,000 above the actuarially recommended level of \$51,241,932.

Sec. E.515 [DELETED]

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with state matching fund requirements necessary for the receipt of available federal or private funds or both.

(c) If Global Commitment fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the general fund or other state funding sources.

(d) The University of Vermont will use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high-quality health care services to Medicaid beneficiaries and to the uninsured or underinsured persons or both in Vermont and across the nation.

Sec. E.600.1 Higher Education Funding

(a) Annually, the higher education subcommittee of the education council created pursuant to 16 V.S.A. § 2905(d) shall review and assess the current state grant funding allocation for the University of Vermont, the Vermont State Colleges, and the Vermont Student Assistance Corporation and report to the house and senate committees on appropriations and on education by January 15 each year, any recommendations for changes to the allocation formula.

(1) In making the recommendation the subcommittee shall consider:

(A) the number of enrolled Vermont students at each institution,

(B) the retention and graduation rates for Vermont students,

(C) financial aid provided by each institution to Vermont students,

(D) the actual cost of attendance for Vermont students,

(E) the grant funding provided for enrolled students through the state appropriation to the Vermont Student Assistance Corporation.

(2) Annually, the subcommittee shall also make recommendation on the base level of funding for higher education and the methodology of how to apply any increase in the base funding for higher education across these entities.

Sec. E.602 Vermont state colleges

(a) The commissioner of finance and management shall issue warrants to pay one-twelfth of this appropriation to the Vermont state colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, \$427,898 shall be transferred to the Vermont manufacturing extension center for the purpose of complying with state

matching fund requirements necessary for the receipt of available federal or private funds or both.

Sec. E.603 Vermont state colleges – allied health

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont state colleges shall be maintained through the general fund or other state funding sources.

(b) The Vermont state colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs which graduate approximately 250 health care providers annually. These graduates deliver direct, high-quality health care services to Medicaid beneficiaries and uninsured or underinsured persons or both.

Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, \$25,000 is appropriated from the general fund to the Vermont Student Assistance Corporation to be deposited into the trust fund established in 16 V.S.A. § 2845.

(b) Except as provided in subsection (a) of this section, not less than 93 percent of grants shall be used for direct student aid.

(c) Of state funds available to the Vermont Student Assistance Corporation pursuant to Secs. E.215(a) and B.1100(a)(3)(B) of this act, \$250,000 shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from these allocations shall carry forward for this purpose.

* * * NATURAL RESOURCES * * *

Sec. E.702 Fish and wildlife - support and field services

(a) The commissioner of fish and wildlife shall report to the joint fiscal committee on November 15, 2011 on the status of recruitment for vacant game warden positions.

Sec. E.704 Forests, parks and recreation - forestry

(a) This special fund appropriation shall be authorized, notwithstanding the provisions of 3 V.S.A. § 2807(c)(2).

Sec. E.704.1 10 V.S.A. § 2603(h) is added to read:

(h) All interest accrued from bonds deposited in the agency fund and forfeited bonds in the agency fund for the department of forests, parks and recreation's timber management program may be transferred annually by the commissioner, with the approval of the commissioner of finance and management, to the natural resources management fund.

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.803 Community development block grants

(a) Community development block grants shall carry forward until expended.

(b) Community development block grant (CDBG) funds shall be expended in accordance with and in the order of the following priorities.

(1) The greatest priority for the use of CDBG funds will be the creation and retention of affordable housing and jobs.

(2) The overarching priority and fundamental objective in the use of funds for all affordable housing is to achieve perpetual affordability through the use of mechanisms that produce housing resources that will continue to remain affordable over time. It is the goal of the state to maintain at least 45 to 55 percent of CDBG funds for affordable housing applications.

(3) Among affordable housing applications, the highest priorities are to preserve and increase the supply of affordable family housing, to reduce and strive to eliminate childhood homelessness, to preserve affordable housing developments and extend their useful life, and to serve families and individuals at or below 30 percent HUD area median income and people with special needs. Housing for seniors should be considered a priority when it meets clear unmet needs in the region for the lowest income seniors.

(4) CDBG and other public funds are intended to create and preserve affordable housing for households for income-eligible families, seniors, and those with special needs. Limited public funding must focus on these households. Therefore, funding for projects which intend to serve households which exceed the CDBG income limits shall be consistent with the Vermont housing finance agency's qualified allocation plan.

(5) Preference shall be given to projects that maintain the historic settlement patterns for compact village and downtown centers separated by a rural landscape. Funds generally should not be awarded on projects that promote or constitute sprawl, defined as dispersed development outside compact urban and village centers or along highways and in rural areas.

* * * TRANSPORTATION * * *

Sec. E.909 Transportation – central garage

(a) Of this appropriation, \$6,070,010 is appropriated from the transportation equipment replacement account within the central garage fund for the purchase of equipment as authorized in 19 V.S.A. § 13(b).

Sec. E.915 Transportation – town highway aid program

(a) This appropriation is authorized, notwithstanding the provisions of 19 V.S.A. § 306(a).

Sec. E.922 [DELETED]

* * * TRANSPORTATION INFRASTRUCTURE BOND AND DEBT
SERVICE FUNDS * * *

Sec. F.100 19 V.S.A. § 11f is amended to read:

§ 11f. TRANSPORTATION INFRASTRUCTURE BOND FUND

(a) There is created a special ~~account~~ fund within the transportation fund known as the transportation infrastructure bond fund to consist of funds raised from the motor fuel transportation infrastructure assessments levied pursuant to 23 V.S.A. §§ 3003(a) and 3106(a). Interest from the fund shall be credited ~~annually~~ to the fund, and the amount in the ~~account~~ fund shall carry forward from year to year.

~~(b)(1) Monies~~ As used in this section, the terms “transportation infrastructure bonds debt service fund” and “debt service obligations” are as defined in 32 V.S.A. § 951a.

(c) Monies in the transportation infrastructure bond fund shall be transferred to the transportation infrastructure bonds debt service fund to cover all debt service obligations of transportation infrastructure bonds that are due in the current fiscal year and as otherwise required in accordance with any trust agreement pertaining to such bonds.

(d) Provided that resources in the transportation infrastructure bonds debt service fund are sufficient in amount to cover all debt service obligations of transportation infrastructure bonds that are due in the current fiscal year and to meet all other obligations set forth in any trust agreement pertaining to any such bonds, any remaining balance in the transportation infrastructure bond fund may be used to pay for:

~~(A) to pay principal, interest, and related costs on transportation infrastructure bonds issued pursuant to 32 V.S.A. § 972; and~~

~~(B) to pay for:~~

~~(i)(1)~~ (1) the rehabilitation, reconstruction, or replacement of state bridges, culverts, roads, railroads, airports, and necessary buildings which, after such work, have an estimated minimum remaining useful life of 10 years;

~~(ii)(2)~~ (2) the rehabilitation, reconstruction, or replacement of municipal bridges, culverts, and highways which, after such work, have an estimated minimum remaining useful life of 10 years; and

~~(iii)~~(3) up to \$100,000.00 per year for operating costs associated with administering the capital expenditures.

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

(e) To the extent in the current fiscal year any balance remains in the transportation infrastructure bond fund after all transfers required by subsection (c) of this section have been made and all appropriations authorized by subsection (d) of this section are accounted for, such remaining balance may be transferred to the transportation infrastructure bonds debt service fund to cover debt service obligations of transportation infrastructure bonds that are due in future fiscal years.

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

(g) Except as provided in subsection (h) of this section, all transfers of funds from the transportation infrastructure bond fund to the transportation infrastructure bonds debt service fund shall be approved by the general assembly.

(h) To minimize disruption of summer construction schedules, it is the policy of the state to have a balance in the transportation infrastructure bonds debt service fund at the end of each fiscal year that is sufficient in amount to cover all debt service obligations of transportation infrastructure bonds that are due or are anticipated to be due in the succeeding fiscal year. To achieve the policy objective of ensuring the state's transportation infrastructure bond obligations are fulfilled with a minimum of disruption to the construction schedules of approved projects, in the event that revenue, economic, or other conditions vary from those assumed in the consensus forecast and in the budget process in which the general assembly approved transfers to the transportation infrastructure bonds debt service fund, the secretary of transportation with the approval of the secretary of administration may, notwithstanding the provisions of 32 V.S.A. § 706:

(1) transfer appropriations of transportation infrastructure bond funds to the transportation infrastructure bonds debt service fund; and

(2) transfer appropriations of transportation funds to replace transportation infrastructure bond funds transferred under subdivision (1) of this subsection, provided no significant delay in the construction schedule of any approved project results from the transfer.

(i) After executing a transfer authorized by subsection (h) of this section, the administration shall give prompt notice thereof to the joint fiscal office and submit an explanation and description of the action taken to the joint fiscal committee at its next scheduled meeting.

Sec. F.101 32 V.S.A. § 951a is added to read:

§ 951a. DEBT SERVICE FUNDS

(a) Three governmental debt service funds are hereby established:

(1) the general obligation bonds debt service fund to fulfill debt service obligations of general obligation bonds from all funding sources;

(2) the transportation infrastructure bonds debt service fund to fulfill debt service obligations of transportation infrastructure bonds funded primarily by the revenues of the transportation infrastructure bond fund; and

(3) other debt service funds to fulfill debt service obligations of other long term debt funded by governmental fund dedicated revenue sources.

(b) Financial resources in each fund shall consist of appropriations by the general assembly to fulfill debt service obligations, the transfer of funding sources by the general assembly to fulfill future debt service obligations, bond proceeds raised to fund a permanent reserve required by a trust agreement entered into to secure bonds, transfers of appropriations effected pursuant to section 706 of this title, investment income earned on balances held in trust agreement accounts as required by a trust agreement, and such other amounts as directed by the general assembly or that are specifically authorized by provisions of this title. Each debt service fund shall account for the accumulation of resources and the fulfillment of debt service obligations within the current fiscal year and the accumulation of resources for debt service obligations maturing in future fiscal years.

(c) Debt service obligations of general obligation bonds, transportation infrastructure bonds, or other authorized long term obligations shall be fulfilled from the respective governmental debt service funds established in this section.

(d) As used in this section, “debt service obligations” of bonds include requirements to:

(1) pay principal and interest, sinking fund obligations, and redemption premiums;

(2) pay investment return on and the maturity value of capital appreciation bonds;

(3) provide for reserves required by a trust agreement entered into to secure bonds; and

(4) provide any additional security, insurance, or other form of credit enhancement required by a trust agreement entered into to secure bonds.

Sec. F.102 32 V.S.A. § 954 is amended to read:

§ 954. PROCEEDS

(a) The proceeds arising from the sale of such bonds, except premiums, shall be applied to the purposes for which they were authorized and such purposes shall be considered to include the expenses of preparing, issuing and marketing such bonds and any notes issued under section 955 of this title, and amounts for reserves, but no purchasers of such bonds shall be in any way bound to see to the proper application of the proceeds thereof. The state treasurer shall pay the interest on, principal of, investment return on and maturity value of such bonds and notes as the same fall due or accrue without further order or authority. Any premium received upon the sale of such bonds or notes shall be applied to the payment of the first principal or interest to come due thereon. The state treasurer with the approval of the governor, may establish sinking funds, reserve funds or other special funds of the state as he or she may deem for the best interest of the state. To the extent not otherwise provided, the amount necessary each year to ~~pay~~ fulfill the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on all such bonds then outstanding shall be included in and made a part of the annual appropriation bill for the expense of state government, and such principal and interest on, investment return and maturity value of, and sinking fund installments on the bonds as may come due before appropriations for the ~~payment fulfillment~~ fulfillment thereof have been made shall be ~~paid fulfilled~~ fulfilled from the ~~general fund or from the transportation or other applicable special debt service fund.~~

* * *

Sec. F.103 32 V.S.A. § 972 is amended to read:

§ 972. TRANSPORTATION INFRASTRUCTURE BONDS

* * *

(b) As used in this subchapter, the term “debt service obligations” is as defined in section 951a of this title.

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

~~(e)~~(d) Funds raised from bonds issued under this section may be used to pay for or fund:

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

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

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

(4) a permanent reserve required by a trust agreement entered into to secure the bonds.

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

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

Sec. F.104 32 V.S.A. § 973 is amended to read:

* * *

(d) The ~~principal, interest, investment returns, and maturity value~~ debt service obligations of transportation infrastructure bonds which require a cash payment shall be payable in lawful money of the United States or of the country in which the bonds are sold.

* * *

Sec. F.105 32 V.S.A. § 974 is amended to read:

§ 974. SECURITY DOCUMENTS

* * *

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

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

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

Sec. F.106 32 V.S.A. § 975 is amended to read:

§ 975. PROCEEDS

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

~~(b) The treasurer may pay for the interest on, principal of, investment return on, maturity value of, and associated costs as defined in subsection 972(b) of this title of bonds issued under this subchapter from the transportation infrastructure bond fund as they fall due without further order or authority.~~

~~(c) The general assembly shall appropriate the amount necessary to pay the maturing principal and interest of, investment return and maturity value of, and sinking fund installments on transportation infrastructure bonds then outstanding in the annual appropriations bill and the principal and interest on, investment return and maturity value of, and sinking fund installments on the transportation infrastructure bonds as may come due before appropriations for payment have been made shall be paid from the transportation infrastructure~~

~~bond fund, or with respect to bonds to which the full faith and credit of the state has been pledged and in accordance with subdivision 974(d)(2) of this title, from the general fund or other applicable fund.~~

Sec. F.107 32 V.S.A. § 975a is added to read:

§ 975a. AUTHORITY OF TREASURER

The treasurer may fulfill debt service obligations of bonds issued under this subchapter as they fall due without further order or authority. All such fulfillments shall be accounted for as a payment or provision made from the transportation infrastructure bonds debt service fund.

Sec. F.108 32 V.S.A. § 975b is added to read:

§ 975b. DEBT SERVICE APPROPRIATIONS

The general assembly shall appropriate in the annual appropriations bill the amount necessary from the appropriate funds to pay the debt service obligations of transportation infrastructure bonds which are due in the fiscal year covered by the appropriations bill.

Sec. F.109 32 V.S.A. § 979 is amended to read:

§ 979. AUTHORITIES

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

- (1) sections 951a, 953, 956, 958, and 960;
- (2) subsection 954(c), except that transfers shall be made only among projects to be funded with transportation infrastructure bonds; and
- (3) section 957, except that consolidation may be only among transportation infrastructure bonds, and the bonds shall be the lawful obligation of the transportation infrastructure bond fund and not of the remaining revenues of the state unless the treasurer has agreed to pledge the full faith and credit of the state pursuant to ~~subdivision 974(e)(2)~~ subsection 974(d) of this title.

* * * REPEAL OF REFERENCES TO HCRC * * *

Sec. G.100 3 V.S.A. § 2222a is amended to read:

§ 2222a. HEALTH CARE SYSTEM REFORM; IMPROVING QUALITY AND AFFORDABILITY

* * *

(d) The secretary shall report to ~~the commission on health care reform~~, the health access oversight committee, the house committee on health care, the senate committee on health and welfare, and the governor on or before December 1, 2006, with a five-year strategic plan for implementing Vermont's health care system reform initiatives, together with any recommendations for administration or legislation. Annually, beginning January 15, 2007, the secretary shall report to the general assembly on the progress of the reform initiatives.

(e) The secretary of administration or designee shall provide information and testimony on the activities included in this section to the health access oversight committee, ~~the commission on health care reform~~, and to any legislative committee upon request.

Sec. G.101 8 V.S.A. § 4089k is amended to read:

§ 4089k. HEALTH CARE INFORMATION TECHNOLOGY REINVESTMENT FEE

* * *

(e) No later than June 30, 2011, the secretary of administration, or his or her designee, shall assess the adequacy of funding and make recommendations to the ~~commission on health care reform~~ joint fiscal committee concerning the appropriateness of the duration of the health care information technology reinvestment fee.

Sec. G.102 18 V.S.A. § 702(b)(1)(A) is amended to read:

(b)(1)(A) The commissioner of Vermont health access shall establish an executive committee to advise the director of the Blueprint on creating and implementing a strategic plan for the development of the statewide system of chronic care and prevention as described under this section. The executive committee shall ~~consist of no fewer than 10 individuals, including~~ include the commissioner of health; the commissioner of mental health; a representative from the department of banking, insurance, securities, and health care administration; a representative from the department of Vermont health access; an individual appointed jointly by the president pro tempore of the senate and the speaker of the house of representatives; a representative from the Vermont medical society; a representative from the Vermont nurse practitioners association; a representative from a statewide quality assurance organization; a representative from the Vermont association of hospitals and health systems; two representatives of private health insurers; a consumer; a representative of the complementary and alternative medicine professions; a primary care professional serving low income or uninsured Vermonters; a representative of the Vermont assembly of home health agencies who has clinical experience; a

representative from a self-insured employer who offers a health benefit plan to its employees; and a representative of the state employees' health plan, who shall be designated by the ~~director~~ commissioner of human resources and who may be an employee of the third-party administrator contracting to provide services to the state employees' health plan. ~~In addition, the director of the commission on health care reform shall be a nonvoting member of the executive committee.~~

Sec. G.103 18 V.S.A. § 709(a) is amended to read:

(a) The director of the Blueprint shall report annually, no later than January 15, on the status of implementation of the Vermont Blueprint for Health for the prior calendar year and shall provide the report to the house committee on health care, the senate committee on health and welfare, and the health access oversight committee, ~~and the joint legislative commission on health care reform.~~

Sec. G.104 18 V.S.A. § 9351(c) is amended to read:

(c) The secretary of administration or designee shall update the plan annually to reflect emerging technologies, the state's changing needs, and such other areas as the secretary or designee deems appropriate. The secretary or designee shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities in order to update the health information technology plan pursuant to this section, including applicable standards, protocols, and pilot programs, and may enter into a contract or grant agreement with VITL or other entities to update some or all of the plan. Upon approval by the secretary, the updated plan shall be distributed to ~~the commission on health care reform~~; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the commissioner of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; the house committee on health care; affected parties; and interested stakeholders.

Sec. G.105 18 V.S.A. § 9352(e) is amended to read:

(e) Report. No later than January 15 of each year, VITL shall file a report with ~~the commission on health care reform~~; the secretary of administration; the commissioner of information and innovation; the commissioner of banking, insurance, securities, and health care administration; the commissioner of Vermont health access; the secretary of human services; the commissioner of health; the commissioner of mental health; the commissioner of disabilities, aging, and independent living; the senate committee on health and welfare; and

the house committee on health care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website.

Sec. G.106 32 V.S.A. § 10301 is amended to read:

§ 10301. HEALTH IT-FUND

* * *

(e) VITL and any other entity requesting disbursements from the health IT-fund shall develop a detailed annual plan for proposed expenditures from the health IT-fund for the upcoming fiscal year. The expenditure plan shall be included within the context of the entity's overall budget, including all revenue and expenditures. ~~Beginning with the fiscal quarter commencing October 1, 2008, VITL and any other entity requesting disbursements from the health IT-fund shall submit proposed quarterly spending plans for review by the health care reform commission and approval by the secretary of administration. Upon the general assembly beginning its consideration of the expenditure plans for fiscal year 2010, this quarterly plan requirement shall cease.~~

(f) The plan developed under subsection (e) of this section shall be submitted to the secretary of administration or his or her designee, ~~who shall then submit his or her recommendations on the plan to the health care reform commission.~~ the Green Mountain Care board, the house and senate committees on appropriations, the house committee on health care, and the senate committee on health and welfare.

(g) The secretary of administration or his or her designee shall submit an annual report on the receipts, expenditures, and balances in the health IT-fund to the joint fiscal committee at its September meeting and to the ~~commission on health care reform by October 1~~ Green Mountain Care board. The report shall include information on the results of an annual independent study of the effectiveness of programs and initiatives funded through the health IT-fund, with reference to a baseline, benchmarks, and other measures for monitoring progress and including data on return on investments made.

(h) VITL and any other beneficiary receiving funding shall submit quarterly expenditure reports to the secretary of administration and ~~the health care reform commission~~ to the Green Mountain Care board, including a year-end report by August 1.

* * *

Sec. G.107 33 V.S.A. § 1974(h) is amended to read:

(h) The agency shall report monthly to the joint fiscal committee, and the health access oversight committee, ~~and the commission on health care reform~~ with ~~on~~ the number of individuals enrolled in the premium assistance program, the income levels of the individuals, a description of the range and types of employer-sponsored plans that have been approved, the percentage of premium and cost-sharing amounts paid by employers whose employees participate in the premium assistance program, and the net savings or cost of the program.

Sec. G.108 REPEAL

(a) 2 V.S.A. chapter 25 (joint legislative commission on health care reform) is repealed on July 1, 2011.

* * * RETIREMENT * *

Sec. H.1 3 V.S.A. § 470 is amended to read:

§ 470. ~~POST-RETIREMENT~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

* * *

(c) For purposes of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

* * *

Sec. H.2 16 V.S.A. § 1949 is amended to read:

§ 1949. ~~POST-RETIREMENT~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

* * *

(c) For the purposes of this section, “consumer price index” shall mean the northeast region consumer price index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

* * *

Sec. H.3 24 V.S.A. § 5067 is amended to read:

§ 5067. ~~COST-OF-LIVING~~ POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

* * *

(b) For purposes of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as “CPI-U,” in the northeast region, as published by the United States Department of Labor, Bureau of Labor Statistics.

* * *

Sec. H.4 3 V.S.A. § 473 is amended to read:

§ 473. FUNDS

(a) All of the assets of the retirement system shall be credited to the Vermont state retirement fund.

(b) Member contributions.

* * *

(2) Contributions shall be made on and after the date of establishment at the rate of ~~five 6.3~~ percent of compensation ~~except for each group A, D, and F member and~~ at a rate of ~~6.18~~ 8.18 percent of compensation for each group C member ~~unless the member was a group C member on June 30, 1998 in which case contributions shall be at the rate of six percent of compensation for each group C member who has elected not to have his or her compensation from the state be subject to Social Security withholding or at the rate of five percent of compensation if the member elected to have compensation from the state subject to Social Security withholding and at the rate of five percent of compensation for each group F member and, commencing July 1, 2019, at the rate of 4.75 percent of compensation for each group F member. For the period of July 1, 2011 through June 30, 2016, should the annual value of the total increased contributions of group C, D, and F member contributions exceed \$5,300,000.00 on an aggregate basis, any amount in excess of \$5,300,000.00 shall remain in the retirement system and the state's contribution shall not be reduced by the amount in excess of \$5,300,000.00. Commencing July 1, 2016 or when the state employees' retirement system has been determined by the actuary to have assets at least equal to its accrued liability, whichever occurs first, contributions shall be five percent of compensation for group A, D, and F members and 6.88 percent of compensation for group C members. Commencing July 1, 2019, the rate of contribution applicable to all active group F members shall be 4.75 percent of compensation. In determining the amount earnable by a member in a payroll period, the retirement board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may~~

modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of the amounts shall be deducted until the member retires or otherwise withdraws from service, and when deducted shall be paid into the annuity savings fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.

Sec. H.5 VERMONT MUNICIPAL RETIREMENT FUND

(a) Notwithstanding the provisions of 24 V.S.A. § 5064(b), for the period July 1, 2011 through June 30, 2012, contributions shall be made by group A members at the rate of 2.5 percent of earnable compensation, by group B members at the rate of 4.5 percent of earnable compensation, and by group C members at the rate of 9.25 percent of earnable compensation.

Sec. H.6 REVIEW OF VERMONT STATE EMPLOYEES' RETIREMENT MEMBER CONTRIBUTION RATE STRUCTURE

(a) By July 1, 2016, the governor or his or her designee, the treasurer and representatives from the judicial branch, the Vermont state employees' association, and the Vermont troopers' association shall meet to review and evaluate the Vermont state employees' member contribution rate structure applicable to groups C, D, and F.

Sec. H.7 3 V.S.A. § 457(e) is added to read:

(e) For purposes of benefits available under this chapter, former county court employees hired by the counties to court positions on or before June 30, 2008 who became state employees on February 1, 2011 pursuant to No. 154 of the Acts of the 2009 Adj. Sess. (2010) shall be deemed to have been first included in membership of the system on or before June 30, 2008.

Sec. I.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (human services caseload reserve appropriation), C.101 (transportation infrastructure bond fund debt service transfer), C.102 (contingent transportation fund appropriation), C.103-C.103.1 (tax computer system special fund), C.104 (Medicaid state funds reserve), C.105-C.105.1 (DCF tiered sanctions), C.106-C.109 (transportation appropriations), C.110 (fiscal year 2011 general fund balance), D.102 (tobacco litigation settlement fund balance), E.127(b) (contract transfer), E.130(a) (auditor positions), E.130.1(b) (auditor work plan), E.301.6 (Catamount health administration enforcement), E.301.7(a) (Catamount transition provisions), E.307 (waiver), E.307.2 (suspension of automatic premium increases repeal), E.307.3 (emergency rules), E.329.1-E.329.2 (long-term care facility

receivership technical correction), E.330.1 (expedited rules – long-term care and disabilities, aging, and independent living), F.100-F.109 (transportation infrastructure bond and debt service funds), and G.101 (health care information technology reinvestment fee) of this act shall take effect upon passage.

(b) Sec. E.513.1 shall take effect July 1, 2012.

(c) Secs. H.1-H.3 of act shall take effect on July 1, 2011, with determinations for cost-of-living adjustments as required by 3 V.S.A. § 470, 16 V.S.A. § 1949, and 24 V.S.A. § 5067 being made on January 1, 2012 pursuant to the Northeast Region Consumer Price Index as of June 30, 2011.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

(For text see House Journal 3/25/11)