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APPROPRIATIONS

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**MEMORANDUM**

To: Rep. Emmons, Chair, House Committee on Corrections and Institutions

From: Rep. Johnson, Chair, House Committee on Appropriations

Date: February 12, 2015

Subject: Review of Provisions in Governor's Proposed FY 2016 Budget

The House Appropriations Committee is in the process of taking testimony on the Governor's fiscal year 2016 budget proposal. There are several provisions that fall under the jurisdiction of the House Committee on Corrections and Institutions. Some sections of the budget are included in this memo for general informational purposes. It would be helpful if your committee could review the provisions and provide recommendations by March 11.

Please find below the items that I would like your committee to review. Thank you very much for your consideration.

**Sec. B.1102** SPECIAL FUND APPROPRIATION FOR TAX COMPUTER SYSTEMS  
(a) \$15,500,000 is appropriated from the Tax Computer System Modernization Special Fund established pursuant to 2007 Acts and Resolves No. 65, Sec. 282, as amended in 2011 Acts and Resolves No. 63, Sec. C.103 and 2013 Acts and Resolves No.1, Sec. 65, and as further amended in 2014 Acts and Resolves No. 95, Sec. 62. This appropriation shall carry forward through fiscal year 2024. The Commissioner of Finance and Management may anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

**EXPLANATION:** The Tax Computer System Modernization project is continuing, towards the goal of an integrated tax system. Enhanced revenue is split 80/20 between the Modernization Fund and the General Fund, and vendors are paid when and as the project produces sufficient enhanced revenue. The legislature has approved three appropriations, in FY 2008, FY 2011, and FY 2013. The current appropriation request is the anticipated amount needed to cover payments to the vendors under their contracts through 2018 if enhanced revenue projections are met, as well as associated modernization costs (though the schedule of work is subject to adjustments; and the entire project is planned to be completed July, 2024).

**Sec. E.113** Buildings and general services – engineering

(a) The \$3,567,791 interdepartmental transfer in this appropriation shall be from the General Bond Fund appropriation in the Capital Bill of the 2015 legislative session.

**EXPLANATION:** Clarifies that BGS Engineering is funded through the capital bill.

**Sec. E.113.1** 2013 Acts and Resolves No.1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2015~~ July 1, 2017.

**EXPLANATION:** Use of Capital funds to support certain engineering activities will be proscribed starting with the FY 2018 budget.

**Sec. E.225.1** VERMONT AGRICULTURAL AND ENVIRONMENTAL LABORATORY

(a) Effective July 1, 2015, the functions of the Department of Environmental Conservation environmental laboratory and the Agency of Agriculture, Food and Markets agricultural laboratory are consolidated in the Vermont Agricultural and Environmental Laboratory, under the direction of the Agency and separately appropriated there. The environmental laboratory positions in the Department and positions in the Agency associated with agricultural laboratory operations are transferred to that appropriation.

(b) The Department of Environmental Conservation shall utilize the Agricultural and Environmental Laboratory for chemical analytical samples unless any of the following apply:

(1) The Agricultural and Environmental Laboratory cannot perform the analysis being requested by the Department of Environmental Conservation.

(2) The Agricultural and Environmental Laboratory cannot process the samples within the timeframe established by the Department of Environmental Conservation.

(3) The fees charged by the Agricultural and Environmental Laboratory are 120 percent or greater than for comparable analyses performed by a private environmental laboratory.

**EXPLANATION:** In order to provide greater efficiency, lower costs of analysis and reduce redundancy of services, the Agency of Agriculture and Department of Environmental Conservation laboratory analytical services will be merged into a single laboratory functional group. In order to accomplish this merger, certain statutory amendments are required as noted here.

**Sec. E.225.2** 6 V.S.A. Sec. 121 is amended to read:

Sec. 121. Creation and purpose

There is created within the agency of agriculture, food and markets a central testing laboratory for the purpose of assisting the agency in the performance of the duties required of it by law providing agricultural and environmental testing services.

**EXPLANATION:** In order to provide greater efficiency, lower costs of analysis and reduce redundancy of services, the Agency of Agriculture and Department of Environmental Conservation laboratory analytical services will be merged into a single laboratory functional group. In order to accomplish this merger, certain statutory amendments are required as noted here.

**Sec. E.225.3** 6 V.S.A. Sec. 122 is amended to read:

Sec. 122. Fees

Notwithstanding 32 V.S.A. § 603, the agency shall establish fees for ~~any tests conducted~~ providing agricultural and environmental testing services at the request of private individuals and State agencies. The fees shall ~~cover the costs of the tests and any administrative work performed in conjunction with the test, including but not limited to collection costs~~ be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

**EXPLANATION:** In order to provide greater efficiency, lower costs of analysis and reduce redundancy of services, the Agency of Agriculture and Department of Environmental Conservation laboratory analytical services will be merged into a single laboratory functional group. In order to accomplish this merger, certain statutory amendments are required as noted here.

**Sec. E.225.4 REPEAL**

(a) 3 V.S.A. Sec. 2822(n) (environmental testing laboratory services) is repealed.

(b) The balance in the Environmental Conservation – Laboratory Receipts Special Fund (SF#21861) is transferred to the Agriculture, Food and Markets – Laboratory Testing Special Fund (SF#21667).

**EXPLANATION:** In order to provide greater efficiency, lower costs of analysis and reduce redundancy of services, the Agency of Agriculture and Department of Environmental Conservation laboratory analytical services will be merged into a single laboratory functional group. In order to accomplish this merger, certain statutory amendments are required as noted here.

**Sec. E.337** 28 V.S.A. Sec. 120 is amended to read:

Sec. 120. Department of Corrections education program; independent school

\* \* \*

(d) Curriculum. The education program shall offer a ~~minimum~~ course of study, as defined in 16 V.S.A. § 906, and special education programs as required in 16 V.S.A. chapter 101 ~~at each correctional facility and Department service center~~ in at least one correctional facility in which female inmates are incarcerated and one correctional facility in which male inmates are incarcerated, but is not required to offer a driver training course or a physical educational course.

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**EXPLANATION:** This language would allow the Community High School of Vermont to focus available resources on its core mission for those who are incarcerated. Inmates will be located so as to guarantee participation in educational programs as required by law.

**EXPLANATION FOR REDUCTIONS INCORPORATED IN CORRECTIONS PROPOSED APPROPRIATIONS (NOT PART OF APPROPRIATIONS BILL):**

Numerous statute changes are needed to implement a policy that would mandate the use of home detention and home confinement for persons charged with and convicted of nonviolent misdemeanors and felonies. These statute changes have been submitted to the various Committees of jurisdiction.

Summary of the statute changes:

(1) 13 V.S.A. § 7554 will need to be amended to preclude bail as an option for persons charged with nonviolent misdemeanors and felonies. Under the proposed amendments, judges would have the option of releasing the person charged on personal recognizance

or imposing conditions of release or home detention. Bail would be eliminated as an option for persons charged with nonviolent misdemeanors and felonies.

(2) 13 V.S.A. § 7557 will need to be amended to eliminate bail as an option for persons charged with nonviolent misdemeanors and felonies whose trials are postponed.

(3) 28 V.S.A. § 808b will need to be amended to eliminate the 180-day maximum period of home confinement furlough. This will permit judges to impose home confinement furlough for a period greater than 180 days and, presumably, equivalent to the period of incarceration that the statutes currently permit judges to impose as punishment for the crime.

Finally, when the legislature identifies the misdemeanors and felonies that are nonviolent, each statute defining those crimes and punishments will need to be amended to eliminate incarceration in a correctional facility as a punishment and included home confinement furlough as a punishment. Given the differences in opinion as to what constitute violence, we have not attempted to identify the crimes that would qualify.

**Sec. E.342.1** 20 V.S.A. § 1713(b) is amended to read:

(b) The Board shall consist of ~~21~~ 20 members:

~~(1) Twenty~~ members shall be appointed by the Governor for staggered terms of three years, at least 15 of whom shall be veterans who have been honorably discharged from any branch of the U.S. Armed Forces. Each appointed trustee shall serve until a successor has been appointed. In the event an appointed trustee vacates the Board, is unable to serve, or is removed by the Governor for cause, the Governor shall appoint another trustee to serve the unexpired term of the departing trustee.

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**EXPLANATION:** The July 1, 2017 repeal of the requirement for a classified employee on the Veterans' Home Board of Trustees (in 2014 Act 179 Sec. E.342.2) left unclear whether the Vermont Veterans' Home Board of Trustees was then intended to remain at 21 trustees, with no provision of how the 21<sup>st</sup> Trustee would be appointed. This amendment to the Board membership, with the effective date of 7/1/17 reflects the intent to have the Board return to 20 trustees. (This amendment was suggested in the FY 2015 Statement of Legislative Intent.) Effective date is 7/1/17 (see Effective Dates section)