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Agency of Administration

April 15, 2015

The Honorable Senator Jane Kitchel, Chair
Senate Appropriations Committee
State House
Montpelier, VT 05602

Dear Senator Kitchel,

This letter provides the Administration's review of H.490, the House-passed Fiscal Year (FY) 2016 Appropriations Bill, and outlines specific areas of concern that may be helpful to the Senate in its own review. The Administration appreciates the difficult task completed by the House, and accepts many of the provisions of the House-passed budget. However, there are a number of provisions in the bill that raise specific concerns for the Administration, as follows:

Sec. B.122 Buildings and general services – fee for space

Sec. B.1103(c)(1) and (c)(2) FISCAL YEAR 2016 STATEWIDE OPERATIONAL REDUCTIONS

As part of the House-passed version of the Budget Bill, the Administration is instructed to achieve statewide administrative savings. Sec. B.1103(c)(1) included the consolidation and divestiture of state facilities. Per 29 V.S.A. Sec.166(b) and (d), the proceeds from the sale or divestiture of state buildings must be used for future capital construction projects; proceeds cannot be used for the operating budget. The Administration believes that it is appropriate to follow the current statute and is concerned at upsetting precedent by allowing capital earnings to be used for the operating budget. However, the Administration understands the challenges of this budget year and BGS has agreed to work to achieve the savings target established in B.1103(c)(1) by finding savings through the efficient use of space as outlined in section B.122.

The Administration recommends the following change to align the language with current law while instructing BGS to achieve savings:

(Gray means remove)

(c)(1) Facilities operations efficient use of space \$300,000 of which \$120,000 is general fund: The Commissioner is authorized to undertake consolidations of owned or leased space, and the divestiture of State-owned lands or buildings not currently used and not slated for reuse. In fiscal year 2016, proceeds from the divestiture of State-owned real property made as a result of this section, shall be reserved for future expenses identified within an overall state space/facilities strategic plan that aligns future space operating costs with a sustainable budget.

Additionally, in Sec. B.1103(c)(2) the Administration is instructed to achieve savings through energy efficiency improvements to state buildings by working with Efficiency Vermont. While additional investment in energy savings initiatives will provide savings in the long-run, efficiency measures nearly



always take years to achieve savings and therefore booking efficiency savings at the FY2016 level contemplated in the House budget may prove difficult.

B.215 Military – administration

The House-passed version of the budget included a \$100K reduction to Military Department investments in building upgrades and green energy projects. These funds are used to provide an average 25% match to federal dollars. Thus, a \$100K General Fund decrease would result in a loss of \$300K of federal matching funds. Given the need for these upgrades and the availability of federal funds at this time, the Administration recommends that this appropriation be restored to its full amount.

B.306 Department of Vermont health access – administration

The General Funds appropriated for Vermont Health Connect (VHC) were reduced by \$5M in the House-passed budget. Of that reduction, DVHA acknowledges that the \$3.5M included in the Governor’s budget is no longer required because functionality for a small business marketplace will not be implemented in FY2016. The remaining \$1.5M General Fund reduction (equivalent to \$3.3M of Global Commitment funds) will be difficult for VHC to achieve. DVHA will work throughout FY2016 to reevaluate the operating budget of the exchange as VHC moves towards a steady state of operations.

B.307 Department of Vermont health access – Medicaid program – global commitment

E.306.3(a) MEDICAID PROGRAM SAVINGS INITIATIVES (Autism)

Sec. E.306.3(a) requires DVHA to review the scope of autism services currently provided by the State to ensure they are consistent with private insurance. This section is associated with a \$500K General Fund target (\$1.1M Global Commitment funds) in Sec. B. 307. Due to the requirements of 8 V.S.A. § 4088i, the State must provide services that comply with all federal requirements for the diagnosis and treatment of early childhood developmental disorders including autism. The requirement of the language in Sec. B.306.3(a) is in conflict with current state law. The Administration recommends that this language be removed from the bill or updates be made to 8 V.S.A. § 4088i to allow DVHA to meet the budget target.

B.307 Department of Vermont health access – Medicaid program – global commitment

E.306.3(b) MEDICAID PROGRAM SAVINGS INITIATIVES (Geriatric Psych Alternative)

Sec.E.306.3(b) of the House-passed budget requires DAIL, DMH, VDH and DVHA to implement service alternatives for individuals qualified as “geriatric psych” patients who would otherwise be discharged from hospitals but for the lack of somewhere else to go to meet their needs. This section is also associated with a \$500K General Fund savings target (\$1.1M Global Commitment funds) in Sec.B.307. To implement this program, AHS will need to do some additional work to define the population, to assess the resources needed to manage the initiative, and to determine the amount of savings that could be achieved.

The Administration agrees that this is an important issue to understand and address, especially if savings can be realized while better serving Vermonters. As such, the Administration requests updating the language in Sec.E.306.3(b) to require AHS to investigate this issue and develop a program proposal to be integrated into the FY2017 budget. The language below should be included to allow for this analysis. Until an analysis is complete, a savings target should not be included in the budget bill; the Agency will include savings if identified in the FY 2017 budget.

(Gray means remove, yellow means add)

Sec. E.306.3(b) Geriatric Psyche Alternative **Appropriate Level of Care for Older Adults with Psychiatric Illness:**

(b) The Agency of Human Services, with the Departments of Health, of Vermont Health Access, of Mental Health, and of Disabilities, Aging, and Independent Living is authorized to implement service

alternatives will investigate the implementation of service alternatives for older adults with psychiatric illness that reduces length of hospital stay for individuals who would otherwise be discharged but for a lack of placement alternative to meet their medical needs. The Agency shall consult with community providers, including nursing homes, hospitals, and designated agencies in implementing a service alternative for this population and provide a proposal to implement these service alternatives in the FY 2017 Budget.

B.300 Human services - agency of human services – secretary’s office

The House accepted the Governor’s Proposal to modify the role of the Tobacco Review Board to an advisory body by decreasing the appropriation for the Board. However, the House-passed budget did not include necessary language updates needed to define the new role of the Board. Therefore, the funding has been eliminated while the functionality and role of the Board has not been modified. The Administration recommends that the language included in Appendix 1 be added to the budget bill to align the role of the Board with the funding available.

B.312 Health – public health

The Governor’s budget recommended fee increases to support the food and lodging licensing program at the Department of Health. These fees were not included in the House-passed version of the Fee bill, H.184, and were subsequently removed from the House-passed version of the budget. The Administration recommends that both the fees and associated appropriations be reinstated so that the Health Department has sufficient resources to administer food and licensing fees pursuant to 18 V.S.A. § 4353, and eliminate the need to support this program with General Funds.

B.501 Education - education services

The House-passed version of the bill includes a \$100K reduction in grants from the Agency of Education. Of this reduction, \$21K was for the Early Education grant; this grant was eliminated in the Governor’s recommended budget and therefore the House elimination duplicates \$21K in savings. If the Senate decides to accept the full \$100K reduction to Education grants, the Agency proposes reducing the Adult Education Coordinator grant by an additional \$21K.

B.504 Education – adult education and literacy

This section includes a reduction to the Education Funds for adult education and literacy under the assumption that there is an overlap between the services provided by adult education and the Community High School (CHS) of Vermont. Currently only people “who are committed to the custody of the Commissioner” (28 V.S.A § 120 (a)) can attend the CHS; other adults receive education through the Agency of Education programs. The Administration recognizes that there may be some overlap between the adult education programs and the CHS. However, at this time potential overlaps have not been investigated and quantified. The Administration therefore recommends that the Legislature include language recommending that the Administration review these two separate programs and provide recommendations for efficiencies in the FY2017 Governor’s budget. The Administration requests that the Legislature maintain adult education and literacy funding until that review occurs.

B.603 and E.603 Vermont state colleges - allied health

These sections of the House-passed bill include an appropriation and associated language allocating Global Commitment Funds to be paid to Vermont Interactive Technologies (VIT) for costs associated with VSC Allied Health classes taught through VIT. While we understand the worth of the VSC Allied Health classes taught through VIT, the capacity of the State to accept new MCO investments, for this or any other purpose is limited. The Administration continues to recommend the VIT funding cut in the Governor’s budget and cannot support a Global Commitment allocation for this purpose.

B.806 Tourism and marketing

The House budget bill required that the Department of Tourism and Marketing reduce the grants to the Vermont Ski Areas Association by 10%. The Department agrees to reduce expenditures, however they suggest that the Legislature allow the Department to achieve the savings through a less prescriptive target, working within the reduced operating budget to find the savings.

B.1100 (a)(1)(A) NEXT GENERATION; APPROPRIATION AND TRANSFERS; Workforce Education and Training Fund (WETF)

E. 605.1 NEED-BASED STIPEND FOR DUAL ENROLLMENT AND EARLY COLLEGE STUDENTS

These sections of the bill decrease the amount of Next Generation funds transferred to the Workforce Education and Training Fund (WETF) and increases the amount used for Dual Enrollment. Decreasing the transfer to the WETF will impact the Department of Labor's ability to provide services to unemployed Vermonters. The Administration recommends restoring the full transfer as presented in the Governor's recommended budget and not reallocating the funds as originally proposed.

B.1104 SECRETARY OF ADMINISTRATION; FISCAL YEAR 2016 PERSONNEL AND LABOR COST SAVINGS

This language, originally proposed by the Administration, includes a \$5M budget reduction through labor savings. When the language was proposed it was assumed that the Administration would be able to work with the state employees union to identify areas of savings, possibly by reopening the employee contract. At this time the union is not willing to reopen the contract and the Administration will have to find the labor savings on its own through other means, such as a reduction in force and other measures. The Administration therefore recommends striking the words "agreed upon" from section B.1104.

D.100.1 LIHEAP CONTINGENCY FUNDING

The House added a provision that requires the first \$5M of General Funds remaining at the close of the fiscal year, after statutory transfers are satisfied, to be transferred to the Secretary of Administration to meet LIHEAP funding needs. As the legislative session and the fiscal year draw to a close, the Administration looks forward to working with the Legislature to determine the most appropriate use of surplus General Funds to support the needs of the State.

Sec. E.208.1 DISPATCH FUNDING

The language as passed by the House requires the Commissioner of Public Safety to wait until September 15, 2015 to consolidate the Rutland and Derby PSAPs into Williston and Rockingham. In order to achieve a full fiscal year of savings the Administration recommends returning to the Governor's original proposal. The House language postpones the on-going savings and uses E-911 funds to bridge the funding of the Rutland and Derby PSAPs between July 1 and September 15. Additionally, the House language does not recognize the difference between call taking and dispatch. The Administration recommends removing this language to ensure the full value of the on-going savings is achieved.

Sec. E.208.3 DISPATCH REQUIREMENTS

This section directs the Commissioner to report to the JFC on the costs of performing dispatch. The Administration recommends clarifying what costs will be included for the May 15, 2015 report, as follows:

(Gray means remove, yellow means add)

(a) By May 15, 2015, the Commissioner of Public Safety shall report to the Joint Fiscal Committee on the costs required to support the current level of dispatching services at the four State-operated public safety answering points in Derby, Rockingham, Rutland, and Williston. For the purposes of this section, costs required to support the current level of dispatching services shall not include any costs associated with taking 911 calls, but shall include the following types of dispatch calls: police departments, excluding the Vermont State Police; constabularies; emergency medical services; and fire and rescue departments. This cost information shall be calculated by determining the minimum number of full time dispatching personnel that would be needed if the combined emergency service providers mentioned above were to provide their own dispatching within the areas of the four dispatch centers in Derby, Rockingham, Rutland and Williston. The costs shall be made available to the municipalities that rely on dispatch services from the four State-operated public safety answering points and dispatch centers.

Sec. E.208.4 CONTRACTS FOR SERVICES

The House added language regarding how Public Safety shall work with communities to determine how dispatch should be provided and the process for executing contracts. The administration recommends adding detail to (a) expedite the establishment of contract agreements for dispatch services and (d) remove Legislative approval of Executive Branch contracts. The remaining changes are more technical in nature.

(Gray means remove, yellow means add)

(a) The Commissioner of Public Safety shall meet with regional groups forward cost proposals for operating a dispatch center to regional groups, municipalities and interested parties in the areas of the four state operated call handling and dispatch centers in order to determine if those groups want to contract for State dispatch services. As used in this subsection, "regional groups" include the State legislators, assistant judges, municipal officials, and emergency service representatives for the areas served by the dispatching functions of the State-operating public safety answering points State-operated call handling and dispatch centers. The Commissioner shall work with receive proposals from each regional group to calculate the cost of desired dispatch services and determine concerning whether each regional group would like to contract for dispatch services with the State or to provide their own dispatching using the facilities of the dispatch centers at Derby and or Rutland.

(b) If agreement is reached with a regional group on or before September 15, 2015, the Commissioner of Public Safety shall contract with the assistant judges, acting on behalf of a county of the State under this section, to provide dispatching functions, at a public safety answering point dispatching center, paid for at the local level as part of the county budget. Funds received by the Commissioner under contracts entered into under this section shall be deposited in a special fund called the Dispatch Fund, created in accordance with 32 V.S.A. chapter 7, subchapter 5, and shall be available to provide full funding of the operation of public safety answering points. The cost of contracts entered into by a county under this section shall be considered an expense and obligation of the county under 24 V.S.A. § 133(e).

(c) In order to reach an agreement under this section, the Commissioner of Buildings and General Services, with consultation from the Commissioner of Public Safety, is authorized to lease, rent, or otherwise convey any personal property, real property, fixtures, or intangible rights currently held by the State for the provision of dispatch services at a public safety answering point.

(d) The Commissioner shall obtain the approval of report to the Joint Fiscal Committee for on the contract amounts to be entered into for fiscal year 2016 and after.

Sec. E.301.1 REVIEW OF VERMONT MEDICAID BENEFITS

The House added language requiring the Director of Health Care Reform to analyze and compare the benefits offered by Vermont's Medicaid program versus all other major Medical Plans offered in Vermont. The Administration agrees that doing an analysis comparing how Vermont's Medicaid plan

aligns with other major medical plans is important. However neither the Director of Health Care Reform nor the Department of Vermont Health Access currently have the resources to undertake an analysis of this breadth and depth. In order to accomplish this important analysis with available resources, and within a meaningful timeframe, the Administration proposes reducing the analysis to include only a comparison between Medicaid and the Blue Cross Blue Shield benchmark plan used to establish the essential health benefits required by the Affordable Care Act. The Administration recommends striking the words “major medical health insurance plans” in the first sentence and replacing them with “the Blue Cross Blue Shield benchmark plan used to establish the essential health benefits required by the Affordable Care Act”.

Sec. E. 306.2 HOME HEALTH AGENCY ASSESSMENT REVIEW

This section requires the Visiting Nurses Associations of Vermont to review the home health agency assessment established in 33 V.S.A. § 1955a. The Administration agrees that assessment should be reviewed; however the success of this review is contingent upon having results that are in compliance with state and federal regulations. The Administration recommends updating the language accordingly to ensure that the results of the study are in agreement with federal law:

(Gray means remove, yellow means add)

(a) By November 15, 2015, the Visiting Nurse Associations of Vermont, in consultation with Bayada Home Health Care, the Department of Vermont Health Access, and the Department of Disabilities, Aging, and Independent Living, shall study and develop recommendations regarding the home health agency assessment as established in 33 V.S.A. § 1955a. The study shall include a review of the home health agencies’ net operating revenue currently used as the base for the assessment and of the total tax revenue generated by the home health agency assessment, and shall recommend revisions to ensure that the assessment is recommendations for changes to the home health agency assessment which are equitable to all home health agencies, and a legal analysis of such recommendations to ensure compliance with 42 C.F.R. § 433.68. These recommendations Recommendations shall be reported to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance.

E. 307.3 MEDICARE SUPPLEMENTAL PLANS FOR DUAL ELIGIBLE MEDICAID BENEFICIARIES

This section requires the Department of Vermont Health Access to purchase Medicare supplemental plans for individuals who qualify for both Medicaid and Medicare. Many of the Medicare supplemental plans do not offer the broad array of services that populations enrolled in Medicaid through CRT, LTC and the DS waiver are entitled to as Medicaid enrollees. If the State were to move forward with this plan, AHS would have to continue to provide the services not covered by the supplemental plans to Medicaid enrollees. The Administration recommends that this language be struck as it does not comply with federal requirements and could be detrimental to Vermont’s most vulnerable populations.

Department of Vermont Health Access Report on the Cost Shift

The Governor’s budget recommended that the Cost Shift report required of DVHA in 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec. 42 be repealed because it is redundant. 18 V.S.A. 9375(d) already requires the Green Mountain Care Board to prepare a report on the cost shift. It is unnecessary to have the report written twice, and it is more appropriate for the Green Mountain Care Board to complete the work. The Administration recommends that the following language be included in the budget bill to remove the redundant report.

REPEAL

(a) 2000 Acts and Resolves No. 152, Sec. 117b, as amended by 2013 Acts and Resolves No. 79, Sec. 42 is repealed effective July 1, 2015.

E.316.1 Department for Children and Families – Data Collection

This section amends session law related to reporting requirements for the Department for Children and Families. The Administration agrees with most of the changes, but recommends striking the words “or other professionals” to remove ambiguity regarding which transports need to be reported.

E.318.1 Department for Children and Families – Child Care Services Program

The House bill amends 33 V.S.A. § 3512 to instruct the Department for Children and Families to manage child care subsidies within the amount appropriated. The Governor’s budget recommended adding language authorizing the Department to institute a waitlist in the event the cost of the program exceeds the amount appropriated. The Administration recommends adding the following language to (b)(5) after the first sentence, giving the Department express authority to use a waitlist as a tool to manage to the appropriation as required by this section.

The Department for Children and Families is authorized to implement a waitlist for eligible applicants seeking a subsidy through the child care financial assistance program if the Department anticipates that the program costs will exceed the amount appropriated.

E.333 Disabilities Aging and Independent Living – developmental services

This section requires the Department of Disabilities, Aging and Independent Living to establish a waitlist if funds are not available to provide developmental services to new clients rather than cut services to existing consumers. The System of Care Plan, which complies with the Developmental Disabilities Act, 18 V.S.A. Chapter 204A, provides mechanisms that allow the Department to manage the program within existing resources. The Administration recommends that this language be removed in its entirety since a process for managing this appropriation already exists.

E. 338 SOUTHEAST STATE CORRECTIONAL FACILITY; TRANSITION

The House version of the bill included a savings target for the Department of Corrections (DOC) that requires reducing the number of out-of-state beds and increasing investment in community supports to allow for the release of qualified offenders into the community. DOC is amenable to this change and will work to provide services so that more offenders can be reintegrated into the community to reduce expenditures on out-of-state beds. DOC asks that it be given discretion over the full \$750K allocated to DOC to best accomplish this purpose. The Governor’s budget did not recommend continuing the Washington County Mental Health Collaborative Solutions Integration project; DOC should be able to spend these dollars where DOC determines they can be successfully applied. The Administration recommends accepting the Governor’s proposal as it relates to this program. Given the challenge DOC is undertaking through this change, all of the allocated funding will be necessary to provide transition services along with the flexibility to spend the funds as DOC deems necessary.

This letter addresses the specific provisions of the House-passed budget bill, and does not address other legislation, such as water quality, health care, and the fee bill, with separate revenue impacts.

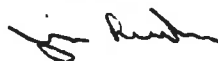
However, the Administration notes that the Governor's recommended budget and revenue plan balanced in part based upon an aggressive proposal to shore up primary health care services for Vermonters by increasing Medicaid reimbursements and lowering the so-called "cost shift" to private insurance payers,

which would in turn lower health insurance costs for businesses that provide coverage for their employees. This proposal, which relies upon a modest payroll tax, could if adopted address a number of the budgetary challenges, including covering increased Medicaid costs for many newly-insured Vermonters, bolstering the successful Blueprint for Health, and funding critical cost sharing support for Vermonters struggling to afford insurance through Vermont Health Connect. Although the House continues to consider a health care proposal, the current House bill does not fund some of these items and also utilizes revenue sources traditionally associated with state general fund spending, such as the sales tax which is proposed by the House to be imposed upon on new categories of merchandise.

The Administration continues to support the Governor's recommendations regarding health care reform and the budget. We urge the Senate to look again at the Governor's recommended health care proposal and its intersection with state budget obligations related to health care reform. We are happy to discuss that proposal in detail, as well as confer on any other provision of the budget as you continue your work this session.

The Administration appreciates your consideration of these comments, and look forward to working with the Legislature to resolve these policy and budgetary issues.

Sincerely,



Jim Reardon
Commissioner

cc: Representative Mitzi Johnson, Chair, House Appropriations Committee
Representative Janet Ancel, Chair, House Ways and Means Committee
Representative Shap Smith, Speaker, House of Representatives
Senator Tim Ashe, Chair, Senate Finance Committee
Senator John Campbell, President Pro Tempore, Senate
Steve Klein, Joint Fiscal Office
Justin Johnson, Secretary, Agency of Administration

Appendix I – Updates to the Tobacco Review Board Language to align roles and responsibilities with available funding

Sec. E.300.X 18 V.S.A. Sec. 9503 is amended to read:

Sec. 9503. Vermont tobacco prevention and treatment

(a) Except as otherwise specifically provided, the Tobacco Prevention and Treatment Program shall be administered and coordinated statewide by the Department of Health ~~and~~ with the advice of the Vermont Tobacco Evaluation and Review Board, pursuant to the provisions of this chapter. The Program shall be comprehensive and research-based, and shall include the following components:

- (1) community-based programs;
- (2) school-based programs;
- (3) tobacco cessation programs;
- (4) countermarketing activities;
- (5) enforcement activities;
- (6) surveillance and evaluation activities;
- (7) policy initiatives; and

(8) any other activities determined by the Commissioner ~~or the Board~~ to be necessary to implement the provisions of this section.

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each Program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the Department and~~ with the advice of the Board, shall ~~jointly~~ establish goals for reducing adult and youth smoking rates in the following two years, including goals for each Program component listed in subsection (a) of this section. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.

(c) The Department of Liquor Control shall administer the component of the Program that relates to enforcement activities.

(d) The Agency of Education shall administer school-based programs.

(e) The Department shall pay all ~~fees and~~ costs of the surveillance and evaluation activities, ~~including the costs associated with hiring a contractor to conduct an independent evaluation of the Program.~~

~~(f) The Board shall be represented on all Tobacco Program Advisory Committees, including, but not limited to, the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such Advisory Committee shall include at least one member other than the Commissioner of Health.~~

EXPLANATION: Amendments associated with making the Vermont Tobacco Evaluation and Review Board advisory to the Department of Health. The various groups listed in subsection (f) no longer exist.

Sec. E.300.X 18 V.S.A. Sec. 9504 is amended to read:

Sec. 9504. Creation of the Vermont Tobacco Evaluation and Review Board

(a) There is created and established, within the Office of the ~~Secretary~~ Commissioner, a an advisory body to be known as the Vermont Tobacco Evaluation and Review Board, ~~an independent State Board~~ created to ~~work in partnership with the Agency of Human Services and the Department~~ provide advice to the Commissioner of Health in establishing ~~the annual budget,~~ Program criteria and policy development, and review ~~and evaluation~~ of the Tobacco Prevention and Treatment Program.

(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education, or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low income

community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(c) The Governor shall appoint a Chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds voting majority of the Board. The Board may elect such other officers as it may determine. ~~The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations.~~ Meetings shall be held at the call of the Chair or at the request of three members Commissioner of Health; however, the Board shall meet no less more than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. ~~Actions taken by the Board to approve, authorize, award, grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.

(e) ~~The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

(f) ~~The Agency of Human Services~~ Department of Health shall provide administrative support to the Board for the purposes of this chapter.

(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship.

EXPLANATION: Amendments associated with making the Vermont Tobacco Evaluation and Review Board advisory to the Department of Health.

Sec. E.300.X REPEAL

(a) 18 V.S.A. Sec. 9505 (general powers and duties of the Vermont Tobacco Evaluation and Review Board) is repealed.

EXPLANATION: Amendments associated with making the Vermont Tobacco Evaluation and Review Board advisory to the Department of Health.

Sec. E.300.X 18 V.S.A. Sec. 9506 is amended to read:

Sec. 9506. Allocation system

(a) In determining the allocation of funds available for the purposes of this chapter, the ~~Department and Commissioner,~~ with the advice of the Board, shall consider all relevant factors, including:

(1) the level of funding or other participation by private or public sources in the activity being considered for funding;

- (2) what resources will be required in the future to sustain the Program;
- (3) geographic distribution of funds; and
- (4) the extent to which the outcomes of the project can be measured by reductions in adult or youth smoking rates.

(b) The ~~Department's and Board's~~ Commissioner's allocation system shall include a method, developed ~~jointly with the advice of the Board,~~ that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate, measuring the outcomes of the project through reductions in adult and youth smoking rates.

EXPLANATION: Amendments associated with making the Vermont Tobacco Evaluation and Review Board advisory to the Department of Health.

Sec. E.300.X 18 V.S.A. Sec. 9507 is amended to read:

Sec. 9507. Annual report

(a) On or before January 15 of each year, the ~~Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent Program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments~~ Department of Health shall, and in consultation with the Department of Liquor Control, and the Agency of Education, and the Board, ~~including a special~~ provide a joint report accounting ~~of~~ for all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;

~~(3) a recommended budget for the Program; and~~

~~(4) an explanation of the outcomes of approved programs, measured through reductions in adult and youth smoking rates.~~

EXPLANATION: Amendments associated with making the Vermont Tobacco Evaluation and Review Board advisory to the Department of Health.